

Paying Attention to Privileges: Comparison of the Special Laws of Yogyakarta and Aceh from a Legal and Constitutional Perspective

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Article Info

Received: 2023-04-08

Revised: 2023-09-09

Accepted: 2023-12-09

Keywords:

Specialty Law, Yogyakarta, Aceh, constitutional law, regional autonomy, local identity, local wisdom

Abstract

This research aims to take an in-depth approach to examine the comparison between the implementation of the Yogyakarta and Aceh Special Laws from a Legal and Constitutional Perspective. The main focus is on implementing the two laws and how the unique aspects contained therein are reflected in practice. The research method used is comparative law as the primary basis, focusing on the Special Laws of Yogyakarta and Aceh in the Legal and Constitutional Perspective. Research data was obtained through a comprehensive literature study and analysis of relevant legal documents, including the texts of laws, government regulations and court decisions relating to the two provinces. After collecting the data, an analytical approach uses the legal and constitutional framework as a guide. The research results show that this comparison involves research into the history of the formation and legislative background of the Special Laws, the particular scope provided, and the implementation mechanisms stipulated by the two laws. Through this approach, this article provides a deeper understanding of the dynamics of law and regional autonomy in Indonesia, as well as the contribution of these two legal instruments in supporting local identity and wisdom within the framework of a unitary state.

I. Introduction

As a unitary country, Indonesia prides itself on the principle of ethnic and cultural diversity as the core of its national identity (Risnain, 2020). This principle is not only recognized but also appreciated as wealth that strengthens the integrity of the nation. Within the Unitary State of the Republic of Indonesia (NKRI) framework, diversity is not just an empty slogan. Still, it is the main foundation in the development and administration of the country (Asmorojati, 2020). In the 1945 Constitution, Article 18 strongly confirms the recognition and respect for regional governments with unique or special characteristics (Susanto, 2019).

These unique characteristics cover various aspects, ranging from government, social, and cultural to customs (Sunarso & SH, 2023). The central government provides ample space for regions with these characteristics to develop and maintain their identity as part of national wealth (Handoyo & SH, 2021).

The Unitary State of the Republic of Indonesia (NKRI) comprises various provincial regions with government autonomy. However, within the framework of this state, there is strong recognition of regional government units with unique or special characteristics, which are regulated through law (Lambelanova & Jaelani, 2022). The unique regional government units are Aceh and the Special Region of Yogyakarta (Nurfurqon, 2020). Recognition of these two regions is not just a formality but reflects the state's commitment to recognizing and respecting each region's uniqueness and specific needs (Sihombing & Oktavian, 2022). Aceh, for example, is governed by the Aceh Law, which provides broad authority in various aspects, including religion and the judiciary (Fadillah, 2022).

Meanwhile, the Yogyakarta Special Region is regulated through a Special Law, which gives authority to the Sultan as regional head, reflecting harmonious integration between local wisdom and a modern government system (Zahra, 2024). Recognition of these two regions confirms that the country not only understands but also appreciates the diversity and richness of Indonesian culture (Razak, 2023). Recognition of these unique regional government units within the unity framework reflects the state's commitment to building harmony between national unity and local diversity, one of the main foundations of strengthening the Indonesian nation (Robuan, 2022).

In the spirit of strengthening this nation in the form of particular regions, Article 18 paragraph of the 1945 Constitution gives the authority to the People's Representative Council (DPR) to determine the special status of an area (Thontowi, 2019). This determination process results from an in-depth evaluation that considers various factors, such as geographical, historical, and cultural conditions characteristic of the area. However, what is no less important is paying attention to the needs and aspirations of the people in the area. The DPR's approach to determining the status of particular regions is very responsive and inclusive (Hamid & Saripudin, 2022). They rely on formal considerations and listen to local communities' voices to understand their needs and expectations. Thus, determining the special status of an area is not just an administrative decision but also reflects the true desires and interests of the people who live there (Asnawi & Andrizal, 2021).

Two regions that have special status in Indonesia are Yogyakarta and Aceh. Yogyakarta Special Region or Yogyakarta Special Region carries a historical heritage that differentiates it from other provinces in Indonesia (Jamil, 2019). The "special" status given to him through the 2008 Privileges Law is not just administrative recognition but an appreciation of cultural riches, traditional values, and an essential role in the nation's history (Hindari, 2022). Behind its unique features is a long story about the struggle of the Indonesian people and the courage of the heroes who defended the country's sovereignty. The kingdom's history in Yogyakarta is a strong foundation that strengthens its identity as a centre of culture and local wisdom worth preserving (Mandella, 2023). The purpose of granting special status is not solely for political purposes but rather to protect and preserve the cultural heritage that is its characteristic. Through this privilege, Yogyakarta is given broader autonomy in managing its government affairs while still upholding the principle of the integrity of the Republic of Indonesia (Azizzi, 2023).

Likewise, Aceh also received special status through the 2006 Privileges Law (Yasa, 2019). However, the background and context are different from those in Yogyakarta. Aceh has a rich history, including a past full of struggles to defend its identity and rights to autonomy (Aziz, 2020). The special status given to Aceh cannot be separated from efforts to maintain cultural and religious diversity in Indonesia (Daudy, 2022). As a region whose majority population is Muslim and has distinctive cultural values, Aceh is recognized as having the privilege of maintaining and developing its unique identity while remaining integrated within the framework of national unity (Susanto, 2019). These two provinces, Yogyakarta and Aceh, proudly hold the title "special" as part of their identity, which is rich in history, culture and struggle. Their privilege is not just a privilege but also a responsibility to strengthen unity, improve society's welfare, and enrich Indonesia's cultural diversity as a whole (Huda, 2021).

In the context of Indonesian law and state administration. These two laws give special status to Yogyakarta and Aceh to protect and develop cultural values, maintain the integrity of the Unitary State of the Republic of Indonesia, and improve community welfare. However, despite having special status, their historical background, culture, and political context differ (Dahlia, 2020). Yogyakarta has a unique history closely linked to the traditional kingdoms of Java. In contrast, Aceh has a rich Islamic cultural heritage and a unique historical experience in the struggle against colonialism. In the legal and constitutional context, comparing the Yogyakarta and Aceh Special Region Laws is essential to study (Kelana, 2022). This relates to how the two provinces are given special autonomy in managing their government affairs while maintaining the integrity and unity of the Indonesian state (Berutu, 2020). By understanding the differences and similarities between these two Special Laws, this research can make a meaningful contribution to understanding the Indonesian legal and constitutional system and provide better insight into public policy and legal practice in these two Laws—provinces (Fahmi, 2023).

This research takes an in-depth approach to examine the comparative implementation of the Yogyakarta and Aceh Special Region Laws from a Legal and Constitutional Perspective. The main focus is on implementing the two laws and how the specific aspects are reflected in practice. By referring to the principle of privilege mandated in law, this research will explore various factors that influence implementation, which may have different characteristics in the two provinces. This research will highlight the challenges and opportunities in implementing the Privileges Law in Yogyakarta and Aceh through in-depth analysis. By considering each region's historical, cultural and political context, this research aims to provide a more comprehensive understanding of how privilege policies are realized in practice. The results of this research can significantly contribute to supporting the formation and development of particular regions in Aceh and the Special Region of Yogyakarta. Through a deeper understanding of the implementation of the Privileges Law, relevant policy recommendations can be found to increase effectiveness and fairness in implementing privileges policies in the two provinces.

2. Research Method

This research uses comparative legal methods as its primary basis, focusing on the Special Law of Yogyakarta and Aceh from a Legal and Constitutional Perspective. Research data was obtained through a comprehensive literature study and analysis of related legal documents, including legal texts, government regulations and court decisions relating to the two

provinces. After collecting the data, an analytical approach was taken using the legal and constitutional framework. This requires an in-depth study of various legal aspects contained in the two Special Laws, including but not limited to the special rights granted to Yogyakarta and Aceh, regional government regulatory mechanisms, and the legal implications for the state structure of Indonesia as a country. Intact.

By combining comparative legal analysis with a constitutional perspective, this research aims to understand better how the two provinces implement privilege policies within the applicable legal and constitutional framework. The results of this research will provide valuable insight for legal practitioners, policymakers and academics in understanding the dynamics of law and state administration in Indonesia and making a significant contribution to developing more effective and sustainable policies for both. Province.

3. Results and Discussion

History and Background of the Formation of the Specialty Law

Yogyakarta, a charming city on the island of Java, has a vital role in Indonesian history, especially during the struggle for independence. The former centre of the Yogyakarta Sultanate, this area is not only rich in history but also has a special status respected by the Republic of Indonesia. It all has its roots in the extraordinary role of Sultan Hamengkubuwono IX, who sincerely supported the struggle for independence and even made Yogyakarta the temporary capital of the republic when Dutch troops were still colonizing Jakarta. The profound legacy of the battle for freedom is still felt strongly in Yogyakarta today. The traditions of royal kinship and the community's social structure are still well maintained, giving this city a unique and valuable feel. However, Yogyakarta does not only live in its history; it is also renowned for its quality educational institutions and dynamic cultural industry. Through renowned academic institutions and lively artistic and cultural performances, Yogyakarta has become an influential centre of intellectual and creative activity.

Interestingly, Yogyakarta has managed to maintain its rich local cultural identity amidst the growing wave of modernization. Combining traditional values with contemporary innovation, the city exudes unmatched charm. In an ever-changing environment, Yogyakarta remains an exciting place, offering a unique blend of past and present that inspires and captivates anyone visiting it.

On the other hand, Aceh stands out in its different and equally rich historical background. Aceh is the "Veranda of Mecca" and has a strong Islamic tradition, reflected in its culture and customs. Aceh once had the status of a centre for trade and the spread of Islam in the region before experiencing a series of resistance against invaders that lasted for centuries. This struggle climaxed in the modern conflict, which lasted until a peace agreement was reached in 2005. The Indonesian government recognized Aceh's uniqueness by granting it special autonomy status, which allowed the application of Islamic law and self-government. Aceh's uniqueness is also reflected in various aspects of life, including the customary legal system still in effect and the solid dedication to religious values.

Yogyakarta Specialty is the recognition and protection of the region's long history and unique culture, as stated in the Yogyakarta Specialty Law. This law is used to preserve cultural values and traditions that have existed for a long time in Yogyakarta. This includes habits and customs and the uniqueness of government where the Sultan of Yogyakarta acts as Governor

of the Special Region of Yogyakarta. This preservation is essential to maintain regional identity and ensure the continuity of traditions inherited from past to future generations.

On the other hand, the Aceh Special Law was formed to eliminate the conflict in Aceh and find solutions for post-conflict recovery. These privileges include providing greater autonomy and the ability to apply Islamic Sharia as part of its legal system. This law also allows Aceh to have its police force and special regulations relating to natural resource management. The main goal is to create sustainable peace in Aceh and rebuild the region after years of conflict that have caused much damage and misery to the local population.

Scope of Privileges

The two Privileges Laws offer different coverage of privileges according to the context and characteristics of each region. The Yogyakarta Special Law emphasizes the areas of government, culture and land. This reflects the focus on preserving the traditions and cultural values that have characterized Yogyakarta for centuries. By maintaining the uniqueness of government under the leadership of the Sultan as Governor of the Special Region and protecting the region's unique cultural heritage and land, this law ensures that Yogyakarta maintains its distinctive identity. Meanwhile, the Aceh Special Law covers government, culture, land, religion, customs and education. This reflects the complexity of Aceh as an area rich in historical and cultural heritage and the desire to preserve and respect this diversity. By giving Aceh the freedom to implement Islamic law, maintain customs, and manage education by local values, this law allows Aceh to maintain its uniqueness and realize the aspirations of its people. Thus, the difference in the scope of privileges between Yogyakarta and Aceh reflects the differences in history, culture and aspirations of the people of the two regions. However, both have the same goal, namely maintaining and strengthening local identity and providing space for sustainable development by the needs and values of local communities.

Yogyakarta's special status under the Special Law provides extraordinary autonomy, especially in government, culture, and land rights, creating a unique precedent in the Indonesian legal framework. The existence of the Yogyakarta Palace and its unique land system is a clear example of cultural heritage and traditional property regulations attached to the particular autonomy of this region. This law confirms Yogyakarta's recognition of the importance of history and its application in contemporary contexts within regional administrative and cultural networks, ensuring the preservation and management of Yogyakarta's unique identity. Thus, the system of government and culture in Yogyakarta is reflected in the physical existence of the palace and essential buildings and in the spirit of preserving cultural heritage and traditions, which are an integral part of the city's identity. By recognizing Yogyakarta's unique history and culture, the Specialty Law establishes a legal framework that ensures that the noble values and rich traditions of the past continue to be maintained and respected in today's developments. Thus, Yogyakarta is a physically charming place and embodiment of rich cultural continuity and respect for ancestral heritage.

In contrast, the Aceh Special Autonomy Law expands its scope to cover broader areas, including government administration, cultural heritage, land, religion, customs and education. This overview reflects Aceh's unique historical background, including the experience of prolonged conflict and the peace process that followed. Including religious and customary law is essential, given the solid Islamic traditions in Aceh and the importance of

Sharia law alongside the national legal system. These broad provisions demonstrate a diverse approach to regional autonomy aimed at meeting the specific aspirations and needs of the Acehese people within the unitary state of Indonesia.

Implementation Mechanism

The implementation mechanism involves government structures and cultural institutions unique to the Yogyakarta Special Law. The implementation of this law is guided by traditional institutions, including the Sultan and the Yogyakarta Palace, which have an essential role in society's political and social life. Apart from that, the Yogyakarta Special Institution is a body specifically formed to manage and implement various aspects of this special status, including the land system and management of cultural resources. In contrast, the Special Aceh Law is implemented through a more formal mechanism and is integrated with modern government structures. This law is implemented by public officials and government institutions, such as the Governor of Aceh, whose function is to organize regional government based on this special status. The Aceh People's Representative Council is a regional legislative institution that determines policy direction, and the Aceh Special Agency regulates and supervises the implementation of special autonomy and privileges recognized by the central government.

The theory of decentralization is often associated with granting autonomy to regional governments to increase the efficiency and effectiveness of resource management and a government that is more responsive to regional needs. In the Indonesian context, this means delegating authority from the central government to provincial, district and city governments. Yogyakarta Special Region Province and Aceh Province are unique examples of implementing decentralization with particular characteristics. Based on the Privileges Law, these two provinces are given broader authority than others in Indonesia. In Yogyakarta, this privilege is related to recognizing the Sultan's position as governor and maintaining the palace's cultural heritage. In Aceh, the autonomy granted includes the ability to apply sharia law and more independent management of natural resources. The difference between Yogyakarta and Aceh lies in the history, culture and political background that shape their characteristics. In Yogyakarta, privilege is embedded in royal history and the Sultan's role as a leader who supported Indonesia's struggle for independence.

Meanwhile, Aceh has a background of conflict and a long battle to gain greater autonomy. It was finally formalized after signing a peace agreement with the Indonesian government in 2005, allowing Aceh to implement Sharia law as part of its privileges. In practice, this autonomy allows the two regions to regulate some aspects of their government that are not permitted in other provinces.

The theory of decentralization is often associated with delegating authority to local governments to increase the effectiveness and efficiency of resource management and government that is more responsive to local needs. In the Indonesian context, decentralization is implemented through regional autonomy, where the central government transfers some authority to provincial, district and city governments to regulate and manage local affairs independent of central intervention. However, the available sources need to mention the specific name of a figure who developed decentralization theory in the Indonesian context. However, the concepts of decentralization and regional autonomy have been debated and discussed by Indonesian leaders and policymakers since independence,

as seen in debates between historical figures such as Muhammad Yamin, Soepomo, and Sam Ratulangi, who discussed the structure of government at the time, of its formation—state constitution. Furthermore, amendments to the Indonesian Constitution in 1945 included broader provisions regarding decentralization policies, as in Article 18.

The theory of regional autonomy in Indonesia is a principle that allows provincial, district, and city governments to regulate and manage their domestic affairs using the authority granted by the central government. This is related to the principle of decentralization and the transfer of authority from the central government to regional governments. In particular law, this theory can be applied to Yogyakarta and Aceh, which have particular region statuses. Special laws allow them to regulate certain matters adapted to regional uniqueness. For example, the Yogyakarta Special Region can regulate culture, education and traditional leadership. In contrast, Aceh has the authority to apply Islamic Sharia in various aspects of its social and legal life. The Yogyakarta Special Law is contained in Law No. 13 of 2012 concerning the Specialties of the Special Region of Yogyakarta, which gives special authority to the Special Region of Yogyakarta to preserve and develop traditional and cultural values, including organizing a government that is different from other provinces in Indonesia, with the Sultan of Yogyakarta as governor.

On the other hand, Aceh is regulated by Law No. 11 of 2006 concerning the Aceh Government, which allows Aceh to have a Sharia-based legal system that applies simultaneously with national law, has its legislative institution, and particular policies in several areas such as education and natural resources. A comparison of the two regions shows that regional autonomy is implemented asymmetrically, meaning that each particular region is given special authority that varies according to the uniqueness and needs of each region. This asymmetry reflects recognition and respect for the diversity of cultures and traditions in Indonesia. The granting of this particular authority not only accommodates local identity but also aims to increase the effectiveness of regional government and improve the welfare of local communities. In a broader context, asymmetric regional autonomy is by the spirit of decentralization in Indonesia. It provides opportunities for regions to develop their respective potential while ensuring that the policies and regulations are inclusive and follow the principles of regional autonomy. Democracy, justice and equality are regulated within the framework of the Unitary State of the Republic of Indonesia.

The legal pluralism theory offers a framework for analyzing how special laws in Indonesia, such as those granted to the Special Region of Yogyakarta and the Province of Aceh, recognize and accommodate customary and local legal systems. This theory shows that in countries that implement legal pluralism, various legal systems—including national law, religious law, customary law, and even elements of international law—can coexist and interact. In the case of DIY, the Privileges Law gives special recognition to the structure and culture of the regional government, including the traditional institutions of the Yogyakarta Palace and Pakualaman. This reflects a form of respect for unique local traditions, manifested in applying specific laws in that region. In Aceh, the Privileges Law also accommodates the application of Islamic Sharia, so this province has a legal system that integrates religious principles with national law. Aceh can apply religious law in several aspects of its social life because it is recognized as part of local identity and values.

Through the principle of legal pluralism, the differences between the two special laws can be analyzed to see how each law respects and facilitates aspects of customary law and

local law while maintaining integration with the Indonesian national legal system. The analysis reveals the importance of adapting national laws to local needs and values to create a just and effective legal order. The theory of legal pluralism, which recognizes the diversity of legal systems operating simultaneously in a country, helps understand how specific laws in Indonesia, such as those in force in the Special Region of Yogyakarta and Aceh, accommodate customary and local laws. In Yogyakarta, the characteristics are mainly related to the sultanate government structure, in which the Sultan acts governor. This is a form of recognition of the traditional royal system and local customs, which are maintained even though they are within the national legal framework of the Republic of Indonesia.

Meanwhile, Aceh has a unique law that allows the application of Islamic Sharia in various aspects of social and legal life. Aceh has more authority in determining its laws, including the application of punishments based on Islamic law, which reflects Acehnese society's unique cultural and religious traditions. In the context of legal pluralism, these two provinces provide an example of how Indonesian national law recognizes and accommodates the diversity of local and customary laws by providing special autonomy and legislative privileges. This situation reflects respect for customary law and local practices while maintaining the integrity of national law, thereby creating a plural system because it accommodates various laws that apply simultaneously. The decentralization and recognition of customary and religious law reflects the legal pluralism in the broader Indonesian legal system.

The self-determination theory gives a nation or society the right to determine its destiny. In the context of the Special Autonomy Law, this theory can be applied to analyze how the law provides a framework for particular regions, such as Yogyakarta and Aceh, to produce policies and regulations that align with the needs and aspirations of local communities. Although Yogyakarta and Aceh have been granted special status under Indonesian law, their approaches to self-determination are different. Yogyakarta focuses on preserving its unique cultural heritage and maintaining the leadership of traditional sultans within the framework of Indonesian sovereignty. On the other hand, Aceh has been authorized to implement Sharia law and enjoys a higher level of autonomy, especially in the fields of religion, education, and local government, after the Helsinki Agreement in 2005, which reflects a more comprehensive implementation of auto-determination within a country. Unitary state of Indonesia. These two provinces are examples of the diversification of autonomy and regional government, which shows that Indonesia upholds the principle of auto-determination while ensuring the integrity and unity of the nation.

4. Conclusion

The Special Laws that Yogyakarta and Aceh have are a concrete manifestation of recognition and respect for these two regions' unique history, culture and social structures. With its historical background as a sultanate and unique status, as stated in the Constitution, Yogyakarta has a different land and government system while maintaining the values of privilege and autonomy in regional and cultural management. On the other hand, Aceh, with a long history of struggle and a peace agreement that ended the conflict, has also been granted special autonomy, which includes the ability to implement sharia as part of its legal system.

In the future, the Central Government and regional governments must continue to

evaluate and adapt the implementation of the Privileges Law to ensure that the privileges provided remain relevant to the latest developments and dynamics of local communities. Consideration of the aspirations of local communities and the preservation of traditional practices and cultural values must be a priority while ensuring that the implementation of these privileges does not conflict with the principles of a unitary state. Harmonious cooperation and constructive dialogue between the central and regional governments will strengthen the foundation of the upheld privileges and help ensure that these privileges positively impact the welfare of the people in Yogyakarta and Aceh.

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