

# MUKIM CONCEPT AS GOVERNMENT ADMINISTRATORS IN ACEH<sup>Ω</sup>

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## Abstract

*Mukim as administrators of Governance in Aceh was set by law and the qanun-qanun in Aceh, however be a resident of the organizing functions of governance have not been described in detail. This paper outlines the concept of Mukim as administrators in Aceh. The method used in this research is the study of normative law with specifications descriptive analytical study using normative juridical approach. Article 114 of Law No. 11 of 2006 shall be clearly stated that the governance is composed of government mukim and tuha peut or another name. Related functions, completeness/device, the process of selecting/filling positions and institutions in mukim level set in qanun district/city and urban areas or district/city capital does not have to be formed mukim .*

*Key words: mukim, qanun, gampong*

## Abstrak

*Mukim sebagai penyelenggara pemerintahan di Aceh sudah diatur dalam undang-undang dan qanun-qanun di Aceh, namun fungsi mukim dalam menyelenggarakan pemerintahan belum dijelaskan secara terperinci. Tulisan ini menguraikan konsep mukim sebagai penyelenggara pemerintahan di Aceh. Metode penelitian yang digunakan dalam penelitian ini adalah penelitian hukum normatif dengan spesifikasi penelitian deskriptif analitis yang menggunakan pendekatan yuridis normatif. Pasal 114 UU No. 11 Tahun 2006 perlu disebutkan dengan jelas bahwa Pemerintahan mukim terdiri dari pemerintah mukim dan tuha peut mukim atau nama lain. Terkait dengan fungsi, kelengkapan/perangkat, proses pemilihan/pengisian jabatan dan lembaga-lembaga di tingkat mukim diatur dalam qanun kabupaten/kota serta untuk daerah perkotaan atau ibukota kabupaten/kota tidak harus dibentuk mukim.*

*Kata kunci: mukim, qanun, gampong*

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## Introducton

The existence of Aceh as one of province that has special status and autonomy was set in Law No. 11 of 2006 about Aceh Governance, previous special autonomy was set in Law No. 18 of 2001 about Special Autonomy for DI Aceh Province as Nanggroe Aceh Darussalam Province. The feature that was given based on UU No. 44 of 1999 about Feature Aceh Province Administration.<sup>1</sup> Therefore, Aceh is special region and autonomy.<sup>2</sup> One of the specificity and privileges of

Aceh Province is known as mukim.<sup>3</sup>

Article 2 of Law No. 11 of 2006, states that Aceh divided into districts/cities, districts/cities divided into sub-districts, sub divided into mukim, mukim divided over sub-mukim and the gampong. Under these provisions, the composition of government agencies in Aceh include provincial, district/municipal, district, mukim and gampong, it is asserted that the existence of mukim is part of a hierarchical structure of

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<sup>1</sup> Zaki 'Ulya, "Refleksi Memorandum of Understanding (MoU) Helsinki dalam Kaitan Makna Otonomi Khusus Di Aceh", *Constitution Journal*, Vol. 11, No. 2, June 2014, Jakarta: Constitutional Court, page 378.

<sup>2</sup> Mukhlis, "Otonomi Gampong Dalam Kerangka Otonomi Khusus Di Aceh", *Nanggroe Journal*, Vol. 3 No. 2 of 2014, Lhokseumawe: Law Faculty of Malikussaleh University, page 1.

<sup>3</sup> Mukhlis, "Keistimewaan dan Kekhususan Aceh dalam Perspektif Negara Kesatuan Republik Indonesia", *Law Journal*, Vol. 4 No. 1 of 2014, Pekanbaru: Law Faculty of Riau University, pg. 76.

state government, especially local government in Aceh.<sup>4</sup>

Mukim in the structure of Aceh government has a long history.<sup>5</sup> In Sultanate era of Aceh in Government hierarchy is under Sultan they are *Panglima Sagoe*, *Ulhee Balang*, Mukim and Gampong.<sup>6</sup> The existence of mukim in Government particularly since the government enacted UU No.5 of 1974 on the main points in local government and Law No.5 of 1979 on Gampong Government, does not exist anymore, especially in urban areas, but with Law Number 11 Year 2006 regarding Aceh Government, where mukim recognized again as one administrative unit of its own under districts and governed by qanun each Regency/City.<sup>7</sup>

Recognition and strengthening of the mukim, mukim has been reshaped throughout Aceh. The existence of mukim as a unit of government also confirmed in a separate chapter, namely Chapter XV of mukim and gampong in Article 114 of Law No. 11 of 2006, states: (1) In the district/city, mukim is formed and consisted of several gampong; (2) Mukim led by *imeum mukim* as tasks organizer and mukim functions assisted by mukim *tuha peuet* resident or another name.

Mukim government as one of the executors of government in Aceh has not seemed conceptually. Updates are still limited to the organizational structure of government. Returns mukim as a typical government in Aceh, it takes an effort in the fight and at the same time strengthening the presence of mukim.

### Research Problem

Based on the description above, identify the issues to be discussed in this article is how

the concept of mukim as government administrators in Aceh?.

### Research Methods

The method used in this study is a normative legal research with the specification of descriptive analytical research using normative juridical approach. To obtain the data in this study used the research literature that comes from secondary data in the form of primary legal materials, secondary law and tertiary legal materials and supported by field studies. Data were analyzed using qualitative juridical approach.

### Discussion

The existence of mukim in Aceh can be divided into two functions, namely a function as a government administrator and functions as customs organizer.<sup>8</sup> Regarding the understanding of mukim function should be separated, because based on Law Number 11 of 2006 mukim functions is further regulated in different regulations, the mukim as government administrators set in qanun district/city, while the authority of mukim as the organizer of indigenous stipulated in Qanun Aceh province. Associated with the regulation is set in a custom implementation of Aceh Qanun No. 9 of 2008 concerning Indigenous Development and Aceh Qanun No. 10 of 2008 concerning Indigenous Institute.<sup>9</sup>

Government is the plural with the addition of the suffix "an" or it can mean more than one command.<sup>10</sup> The word here interpreted as the overall governance environment positions in an organization.<sup>11</sup> Mukim is an organization, then that organization should be simple and effective as well as attention and give the needs

<sup>4</sup> Mukhlis, "Kedudukan Qanun Mukim dalam Hierarki Peraturan Perundang-undangan di Indonesia", *Nanggroe Journal*, Vol. 2 No 2, August 2013, Lhokseumawe: Law Faculty Malikussaleh University, page 102.

<sup>5</sup> Taqwadin, "Revitalisasi Pemerintahan Mukim", *Transformation of Administration Journal*, Vol. 2 No. 1 2012, Banda Aceh: PKP2A IV LAN, page 222.

<sup>6</sup> Muhammad Nur, "Kedudukan Mukim dalam Sistem Pemerintahan Daerah (Studi di Nagan Raya)", *Tasimak Journal*, Vol. 2 No. 1 of 2011, Aceh Besar: LPPM Abulyatama University, page 77.

<sup>7</sup> Mahdi Syahbandir, "Sejarah Pemerintahan Imuem Mukim di Aceh", *Kanun Journal*, Vol. 62 2014, Banda Aceh: Law Faculty of Unsyiah, page 1.

<sup>8</sup> Irine H Gayati, 2008, *Dinamika Kelembagaan Mukim Era Otonomi Khusus Aceh*, Jakarta: LIPI, page 96.

<sup>9</sup> Mahdi, "Eksistensi Peradilan Adat di Aceh", *Hunafa: Journal of Studia Islamika*, Vol. 8, No.2, December 2011, Palu: IAIN, page 196.

<sup>10</sup> Andre Kurniawan, "Tugas Dan Fungsi Keuchik, Tuha Peuet Dalam Penyelenggaraan Pemerintahan Gampong Lampisang Kecamatan Peukan Bada Kabupaten Aceh Besar Berdasarkan Qanun Nomor 8 Tahun 2004 Tentang Pemerintahan Gampong", *Jurnal Dinamika Hukum*, Vol. 10 No. 3 of 2010, Purwokerto: Law Faculty of Unsoed, page 302.

<sup>11</sup> Bagir Manan, 2001, *Menyongsong Fajar Otonomi Daerah*, Yogyakarta: Law Study Center, Law Faculty of Islam Indonesia University, page 100.

and realities in society. Government here is all the affairs conducted by the state in organizing welfare, maintain security and increase the degree of people's lives as well as in ensuring the country's own interests that the task is also carried out by mukim in Aceh.

Mukim as government administration can be seen in Article 112 paragraph (3b) of Law No. 11 of 2006 is mentioned the words "government mukim". Further provisions on mukim as government administration has also arranged with the regulation of its own, namely NAD Qanun No. 4 of 2003 concerning the Government Mukim. Qanun NAD title No. 4 of 2003 explicitly mentioned about Government Mukim. This means, mukim is government. Furthermore, Article 3 of the Qanun clearly stated that, mukim has the task to organize the administration, implementation of development, social development and the improvement of the implementation of Islamic Shari'ah. Article 1 point 6 Qanun Aceh No. 3 of 2009 states that imeum mukim is the head of government mukim. Under these provisions confirms that the mukim is a government agency, which is headed (led) by imeum mukim. Mukim in Aceh also has a role to maintain gampong, so gampong run in accordance with the arrangements which agreed upon by consensus of gampong.<sup>12</sup> The role of mukim based on the values of Islam.

The Aceh Government has issued Decree No. 140/600/2011 Aceh governor on the Determination of Names and Numbers Subdistrict Administration Area Code, Mukim and Gampong in Aceh. Based on the decision, the composition of the gampong in a mukim is very varied, each one mukim consisting of at least 2 (two) gampong and at most 75 (seventy five) gampong. That mukim decision included as one of the administrative area in addition to the sub-district and gampong levels. The existence of mukim amount needs to be organized (evaluated) back, that there is a district that has only one mukim in one

district, so what's the difference districts with mukim. Realignment of the mukim that consist of at least three (3) gampong or in accordance with Law No. 11 of 2006, which mukim consists of several gampong.

The existence of mukim in the new order is only regarded as a traditional institution and does not have the power to rule, in contrast to earlier times, the existence of mukim not only gained recognition society, but also has the support of juridical (legitimacy) and political of power holders at that time.<sup>13</sup> Mukim as governance should be updated in accordance with the new demands of the people of Indonesia and in Aceh in particular advanced and modern. As one of the regional administration, mukim have the status and position in Aceh. To avoid misunderstandings, which are intended to have the status and position as province, district or city, is the status and legal position.<sup>14</sup>

Regulation of mukim in the legislation would provide legal certainty (legality) in running the function and position in the constitutional system of the Republic of Indonesia, especially in Aceh. Mukim setting is a prismatic conception in the law formation which in line with the views of Eugen Ehrlich in *sociological jurisprudence* flow, who spoke living law or laws that live in the community.<sup>15</sup>

Based on the study, from 23 districts/cities in Aceh, a number of two (2) cities and 12 (twelve) counties have set about Mukim as command Article 114 paragraph (5) of Law No. 11, 2006. Regarding the qanun name district/city varies in name, there is mention of government mukim and there is also a mention only of mukim. Under those qanun indicates that the qanun district/city give name to their qanun who governing mukim by name or on the governance of mukim more (11 districts/cities) as compared to name just a mukim (3 districts/cities), by that mukim is a government agency.

<sup>12</sup> Effendi Hasan, Erman Anom, "Politik Desentralisasi Satu Alternatif Pembentukan Local Government di Aceh", *Science Forum Journal*, Vol. 4. No. 03 of 2014, page 149.

<sup>13</sup> Taqwadin, "Kewenangan Mukim dalam Pengelolaan Sumber Daya Alam", *Kanun Law Journal*, No. 48 of XIV April 2009, Banda Aceh: Law Faculty of Unsyiah, page 330.

<sup>14</sup> Bagir Manan, *op.cit*, page 159.

<sup>15</sup> Sulaiman, "Kearifan Tradisional dalam Pengelolaan Sumber Daya Perikanan di Aceh pada Era Otonomi Khusus", *Jurnal Dinamika Hukum*, Vol. 11 No. 2 May 2011, Purwokerto: Law Faculty of UNSOED, page 287.

Arrangements regarding functions of mukim in the district/city qanun to honor the hallmark of the district/city, as mentioned above. In fact if further investigated the function of mukim in qanun district/city, yet providing clarity clear, especially with regard to the function of mukim in the government, there is even a qanun district/city (further settings) devolution again it's setting to (in) form of regulation regent/mayor, should be confirmed in the form of the regulation, not in regulation regent/mayor again.

Devolution back or further guidance on the functions of mukim in the decree is a matter that is less appropriate, and unreadiness in the law making process. The devolution can be interpreted as a political effort in the performance of their functions which reasons rules that regulate the terms are yet to be implemented. Based on that the law making the district/city of mukim only obligations or orders of the provisions of Article 114 paragraph (4) of Law No. 11, 2006.

At present, the further provisions regarding the organization, duties, functions, and completeness as outlined in the district qanun as mandated by Article 114 paragraph (4) of Law No. 11, 2006. Regarding this can be traced to a variety of local regulations (qanun) districts/cities have compiled qanun for mukim. The provisions of Article 114 paragraph (4) and (5) of Law No. 11 of 2006 raises the question, why further provisions regarding the organization, duties, functions, and completeness mukim governed by qanun district/city, while provisions on the procedure of electing the imeum mukim governed by Qanun Aceh, the same also applies to the gampong in Aceh.

The existence and organization, duty, function, fittings and working mechanisms qanun mukim arranged in each district/city. In this term Taqwaddin states that the purpose of recognition of indigenous and cultural pluralism people of Aceh. Thus, mukim in Aceh coast may be different organizations and fittings with mukim in the central part of Aceh.<sup>16</sup>

Provisions regarding the procedure of electing the *imeum mukim* governed by Qanun Aceh namely Aceh Qanun No. 3 of 2009 concerning Election and Dismissal Procedures *Imuem Mukim*, it is because with regard to the burden of the budget relates to institutional charged to the Province in the form Budget Aceh (APBA) caused *imeum mukim* is one of the implementing agencies of special autonomy. Setting *imeum mukim* election procedures are governed by Qanun Aceh for the uniformity in the selection *imeum mukim*. It is less relevant due to that the desire of the article is to give freedom to the district/city to the recognition of the diversity of the district/city.

Based on this fact, it would be better when the functions, duties and completeness/devices institutions and the process of selecting/charging position of the institution (mukim) set in the regulation (qanun). Similarly, with regard to the functions, duties and completeness/devices institutions and the electoral process/filling positions gampong institutions (*Keuchiek*) set in the regulation (qanun) separate to respect and appreciate the diversity of regions or districts/cities in Aceh. In other words, the setting of all delegated only to the district/city.

Technical Governance Handbook Mukim In Aceh Province Administration Bureau issued by the Regional Secretariat of NAD in 2004 describes the task of mukim in governance, among others: determination of Mukim Government organizations; determination Mukim devices; Determination of the formation of social institutions; determination formation Mukim Consultative Assembly; determination of Budget Mukim; Empowerment and the preservation of traditional institutions; the adoption of legislation (reusam) Mukim; cooperation between Mukim; delimitation Mukim region; determination of retribution as revenue Mukim; determination management wealth, indigenous lands, assets Mukim and customary rights of local communities; guidance and supervision of gampong governance. Unfortunately, these tasks are not explicitly included in the regulation or bylaw of the other,

<sup>16</sup> Taqwadin, *loc.cit.*

so that the implementation is not executed. The book is not much used as guidelines by the district/city governments in governance by mukim, even the book is stored only in the warehouse district office/town.

The existence of Mukim as the administrators governance in Aceh explicitly in the rule of Law (Law and qanun) not only stated by the rule of socio-culture of community in Aceh, but it already adopted in formal juridically level. The application and the maintenance of law has already get strong support from the formal institution of state and government.<sup>17</sup> The structure of government in Aceh under the maintenance of Government office nowadays is formed by Gampong and Mukim administration, thus such in all regency/city in Aceh under the government office is formed by Gampong and Mukim administration.

The Mukim autonomy in practically can be called as autonom, which is proven by the executive institution under the *imuem mukim* or *tuha peut* carry out the function of legislative or a conference institution in a form of the rule of Mukim and the agency institution or a conference in Mukim level in carrying the function out, this mentioned in Law of 1 in 19 UU No. 11 of 2006 is the unity of law community under the subdistrict, a group of Gampong which has the limitation of area who led by lmeum mukim or the subdistrict's head. Even as explained in Law 1 in 12 Law No. 18 of 2001 that Mukim is a group of Law community who has its area and has its own assets who led by *imuem mukim*. It means that, mukim is an autonom area.

Mukim definition which is given in the law only mentions sentence under the law community unit district, and it places under district and has certain boundaries but did not have the right to organize and take care or the right to conduct its own internal affairs. The definition which is given to the Mukim in the legislation is a doubt, different from the definition given to the Gampong.

The Formulate definition of Mukim can be formulated that law community unit consisting a several group of gampong which has specific region which is authorized to regulate and administer governmental affairs, the interests of local communities based on community initiatives, the right of origin, and/or traditional rights which are recognized and respected in the government system of the Republic of Indonesia.

Based on this, that Mukim is the main organizer of Mukim's administration tasks in order of governance, coordination of development, social development, and customs. The government consists of *imuem Mukim* and *mukim*. *Imuem mukim* serves as head of mukim government. Mukim serves as an element of *imuem mukim* and responsible to the *Imuem habitation*. Mukim government in carrying out its functions, structure or organizational structure includes: *imuem mukim/other names*, *tuha peut mukim/other names*, *imum chiek* and customary institutions habitation.

*Tuha peut* habitation is an organizer of the rule-based mukim equivalent to *imuem mukim* and *imuem chiek*. *Tuha peut* habitation is an element of community representatives the mukim consisting of elements of the clergy, traditional leaders, community leaders, scholars, women's leaders and youth leaders chosen by consensus mukim then be appointed and dismissed by the Regent/Mayor on the proposed sub-district head of the result of deliberation habitation.

Relating to the authority of habitation is currently difficult to detailed, but an outline in accordance with modern times such as today include: preparing various policies in the administration and development of habitation; improvement and enforcement of Islamic law; preparing qanun habitation (including qanun habitation on APBM (Budget Mukim)); maintenance of infrastructure in the area of habitation; disaster management in the region of habitation, maintenance of infrastructure in the area of habitation, and Mukim synchronization of regional planning;

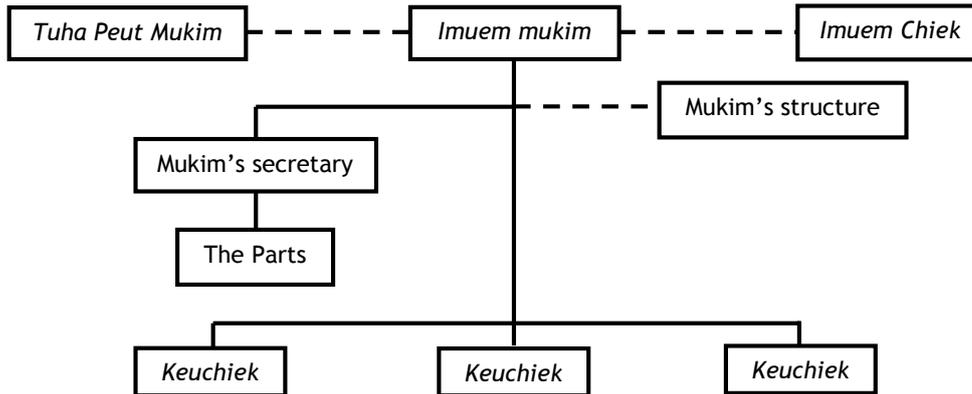
<sup>17</sup> Taqwaddin, Keterpaduan Hukum Islam dan Hukum Adat dalam Pelaksanaannya pada Masyarakat Aceh, *Paper*, presented as discussion topic on *Training of Trainers*

*Adat Capacity Enhancement*, held by ACE-MAA, Banda Aceh, 24<sup>th</sup> January 2009.

legalization transition indigenous land rights; life coaching and the community's economy habitation; acquisition and utilization of forest, blang (rice), Pante (beach) sea, Pante Krueng (coastal river), natural reservoirs, Pantan/Teupin kuala, desert vast, cavern/swallow nest, marsh/swamp; determination and citations retribu-

tion as Mukim revenue; enforce the rules of Mukim customary; formation of the village administration; resolve disputes at the level of mukim and village boundary dispute; inauguration Keuchiek and tuha peut village.

The concept of Government Structure In Mukim level in Aceh are :



Based on the structure of government above, then all of these institutions are the institutions that run the government in Mukim, but in this case can be divided into two levels, namely. *Firstly*, the position of the main Institutions, imuem habitation, tuha peut mukim and immunity chiek, Structurally is equal, although Imuem chiek positioned as traditional institutions. Imuem habitation and habitation peut tuha concurrently two elements/positions, element/position as the customs agency and element/position as government. *Secondly*, the Institute is supporting the (auxiliary), which consists of the traditional institutions keujruen blang, Haria week, laot handler, the handler uteun, peutua seunubok, existing Mukim level, these institutions are institutions that are autonomous and independent.

Avoid the authority conflicts, the district/city government should harmonize the legislation due to the transfer and recognition of Mukim and Gampong. Even related to the source of the budget/revenue, for example the maintenance of natural resources (SDA), the Mukim efforts that has been withdrawn by the district need to be transferred back to the Mukim so that government intervention in Mukim and customary institutions can be reduced, these institutions

can flourish independently (autonomously) and will run the government more effective and efficient. Urban area or district/city capital does not have to be formed by Mukim.

Mukim Government institutions in a modern and rational, in order to create Mukim properly and effectively, especially in the areas of governance is required to give the guidance to indigenous institutions, budget support for the implementation of government at the level of Mukim, a construction of facilities and infrastructure, a clear budget support for government personnel Mukim and need a place at the local government budget allocations, as well as improving the quality of human resources in the government at the level of habitation.

**Closing Summary**

The Mukim concept as the government administrators in Aceh that Mukim is a legal community unit which consists of a combination from several gampong that has certain boundaries. Mukim authorized to regulate and administer governmental affairs in accordance with the interests of the community, based on community initiatives, the origins rights, local customs

that recognized and respected in the system of government of the Republic of Indonesia.

### Suggestion

Article 1 point 19 of Article 2 of Law No. 11 of 2006, it is advisable to do the changes (revisions) particularly with regard to the position of Mukim which is Aceh region is divided into districts/cities, districts/cities divided into Mukim, Mukim divided over the village. Article 114 of Law Number 11 Year 2006 needs to be clearly stated that the Government is composed of Mukim government and tuha peuet resident or another name. Mukim as a government administration is regulated in detail both in relation to the completeness/device, the process of selecting/filling positions and institutions at the level of the qanun mukim district/city, as well as to urban areas or district/city capital does not have to be formed by mukim.

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