

**THE AUTHORITY OF THE SUPREME COURT REGARDING THE
MATERIAL EXAMINATION OF THE ACEH QANUN****Fauzi Iswahyudi****Ministry Regional Office Law And Right Fundamental Humans of North
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ABSTRACT

Problems position qanun aceh is equated with nomenclature ' Regional Regulation ' in Article 7 paragraph (1) of the Law Number 12 of 2011 concerning Formation Regulation Legislation , besides That need studied is qanun can tested in Court great . Method research used _ that is juridical normative . Results study show that Article 235 paragraph (2) of Law Number 11 of 2006 concerning the Government of Aceh arrange that Government can cancel conflicting qanuns _ with : a. interest general ; b. interqanun ; and c. regulation more legislation _ high , except another set in Constitution this . More carry on Chapter Article 235 paragraph (3) regulates that qanun can tested by Court great in accordance with regulation legislation . (4) Qanuns as meant on paragraph (3) which regulates about implementation Islamic Shari'at only can canceled through test material by Court great .

Keywords: *qanun aceh; sharia Islam; judicial reviews.*

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INTRODUCTION

As a regional regulation that contains Islamic law, the benefits and drawbacks of the Aceh Qanun are currently decreasing. This is due to the government's executive, legislative and judicial institutions strengthening the legal and formal existence of the Aceh Qanun. In addition, there has been an increase in legal awareness, especially among the people of Aceh, so that the Aceh Qanun can be accepted as positive law for the people of Aceh. The author is of the opinion, based on the findings of this study, that the Aceh government has the authority to issue qanuns with nuanced Islamic sharia, making Aceh qanuns in accordance with the hierarchy and system of laws and regulations.¹

¹Endri, "Juridical Analysis of The Legality of Qanun Aceh Number 6 Year 2014 on Jinayat Law," *Kanun Journal of Legal Studies* 20, no. 1 (2018): p. 123-147,

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Article 18 Paragraph (6) of the 1945 Constitution of the Republic of Indonesia, regional governments have the right to form regional regulations and other regulations. One of the instruments of "other regulations" referred to in the provision is the Regional Head Regulation. Regional Head Regulations are regional legal products whose content is to implement local regulations or are authorized by statutory regulations. The Regional Head Regulation, contains the formulation of administrative and governmental actions, but in the formulation it is certainly bound by the principles of the formation of good laws and regulations, the principles of the material content of statutory regulations, and the principles of good general governance.²

Through Law Number 44 of 1999 concerning Privileges of the Province of the Special Region of Aceh and Law Number 11 of 2006 concerning the Government of Aceh, Aceh Province is part of the Unitary State of the Republic of Indonesia (NKRI) with the name Special Region of Aceh. In Aceh, these regulations and laws have given full legitimacy to Islamic law as the basis for all aspects of life. This sets Aceh apart from other provinces in Indonesia in terms of enforcing regulations based on Islamic law.³

The Regional Guidelines for the Aceh Region, known as qanuns, are the legal result of legal guidelines which have limiting powers for all Acehnese government leaders and individuals who are Muslim as well as non-Muslim community groups. The same law applies to non-Muslims, except those relating to religious teachings and beliefs. This is one of the characteristics of the Aceh Province which has special authority and autonomy in running the Aceh government. The Government of Aceh has issued a number of qanuns relating to law, education, economics, justice, politics, social and culture since this particular law was enacted. Other qanuns are still in the process of drafting laws. The application of Islamic law in Aceh is a very interesting legal phenomenon to study from two aspects: (i) the position of the Qanun as a Regional Regulation in Aceh Province in the legal and regulatory hierarchical system; and (ii) the authority of the reviewing or reviewing agency for qanuns in the event of a conflict between the law or parties.

<https://doi.org/10.24815/kanun.v20i1.9625>.

² Eka N.A.M. Sihombing and Cynthia Hadita, "Administrative Measures Problems in Medan Mayor Regulation Number 11 of 2020 Concerning Health Quarantine in the Accelerated Handling of Covid-19," *Proceedings of the 1st International Conference on Law and Human Rights 2020 (ICLHR 2020)* 549, no. 11 (2021): 444–452.

³ Denni Indrayana, *Kompleksitas Peraturan Daerah Bernuansa Syari'at: Perspektif Hukum Tata Negara* Dalam Negara Antara Ada Dan Tiada: Reformasi Hukum Ketatanegaraan, (Jakarta: Kompas, 2008)

The main thing, considering that the administration of the Indonesian state is a legal state that has a variety of religions, identities and customs that are obliged to obtain legal guarantees from the state as stated in Article 1 paragraph (3) of the 1945 Constitution. 1945).) That Indonesia is a constitutional state is the third amendment. This provision confirms that Indonesia is a country that adheres to the rule of law and is referred to as a rule of law country. In Indonesia's positive law system, one of the most important legal principles is the rule of law. As a general rule, law and order is one of the overall legal standards in the legal order contained in a country's common legal instruments .⁴

One of the legal principles as a derivative of the rule of law is the legality principle contain principle every action government must guided on regulation legislation invitation or law Which formed more formerly before action government the done . Principle in principle legality is principle restrictions government power over aspects of the lives of individual citizens. Limitation of power The government is carried out based on law (*wetmatigeheid van bestuur*) or based on law (*rechtmatigeheid vans bestuur*). Principle legality reflect something methodrestrictions power with objective prevent abuse power And action arbitrariness that breeds oppression. As a consequence of the principle of legality of various various forms of legal norms and statutory regulations need to be formed in an country .⁵

Various kinds or types of provisions and rules issued by a legal state in a manner general called regulation legislation. Term regulation legislation contains a broader meaning than law in a formal sense. In phrases legislation includes the meaning of the law in the formal sense and the law law in the material sense which includes all forms of legislation. Abdul Hamid Attamimi put forward his view about understanding phrase regulation legislationinvitation, that 'Laws and regulations (*wetteijke-regel*) can literally be interpreted regulations relating to law, whether the regulation is in the form of law itself as well as lower regulations which are attribution or delegation of laws...'.⁶

Moreover, the refinement of the qanun as a guideline for the Aceh Region which has the refinement of the Shari'a after the enactment of the law on Aceh's honor continues to be created according to needs and interests. In a formal sense, qanuns can be equated with provincial and regional/city regional laws or regulations. In contrast, Article 7 paragraph 1 of Law Number 12 of 2011 Concerning the Formation of Legislation makes qanuns an indirect reference in

⁴Hasan Basri, "Kedudukan Syariat Islam Di Aceh Dalam Sistem Hukum Indonesia," *Kanun Jurnal Ilmu Hukum* 13, no. 55 (2011): p. 75–92

⁵Denni Indrayana, Denni Indrayana, *Kompleksitas Peraturan Daerah*

⁶Hasan Basri, "Kedudukan Syariat Islam...", p. 75–92.

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the hierarchy and regulatory system.⁷

Second, if there are parties who feel aggrieved by the existence of the qanun, a significant review can be carried out by the competent authority if it contains statutory provisions that are binding on the community. the qanun has contradictory content or if the parties consider that the enacted qanun violates their rights as citizens.⁸

METHOD

The method used in this research is normative juridical law research method. Normative juridical research that uses a statute approach by examining various legal rules.⁹

DISCUSSION

Position Qanun Aceh In System Regulation Legislation

The position of the Aceh Qanun in the juridical-formal system of laws and regulations can be explained through the following theories: (i) Parliamentary System Theory; (ii) ii) The Occupational Order Hypothesis; and (iii) the formalization of Islamic Sharia theory. The theory of the parliamentary system as the owner of authority in the formation of laws is the basis for the use of these theories in this theory. The position of a rule is then explained by the theory of hierarchical rules. Meanwhile qanuns that are promulgated into the national legislation system are strengthened by the theory of formalization of Islamic law. The three theories can be theoretically explained as follows.¹⁰

According to the Parliamentary System Theory, a Qanun is an institution authorized to form laws and regulations in a country based on legal principles through a legislature or so-called people's representatives. This theory also provides an explanation of the position of a qanun. In each nation, the term "representative body of the people" or "parliament" is referred to by various names based on the language spoken. The form, structure, position and authority also differ depending on the development needs of each nation. This is because, in the context of participating in determining the course of government, people's representative institutions are considered as the absolute representation of citizens. As with the doctrine of parliamentary supremacy (the principle of parliamentary supremacy), whatever is decided by the parliament is the decision of the sovereign people. As a result, judges cannot contest or even evaluate laws as parliamentary products; their only authority is to implement it, not evaluate or

⁷Efendi, "Kedudukan Qanun Bidang Sumber Daya Alam Dalam Sistem Hukum Nasional," *Jurnal Dinamika Hukum* 10, no. 1 (2014): 30

⁸M. Solly Lubis, "Aceh Mencari Format Khusus," *Jurnal Hukum* 01, no. 01 (2005): 6.

⁹Eka NAM Sihombing, Cynthia Hadita, *Penelitian Hukum* (Malang: Setara Press, 2022).

¹⁰Hassan Muarif Ambariy, *Menemukan Jejak Arkeologis dan Historis Islam*, (Jakarta: Logos, 1995).

repeal it .¹¹

Parliament which consists of one representative body is called a unicameral system which consists of two institutions is called bikamarel. Most countries are shaped Unitary states tend to have a one-chamber (*unicameral* or *monocameral*) parliament. Almost All federal states have a two-chamber parliamentary structure, but there are also unitary states the large ones have the form of a bicameral parliament, although the positions are not equal to each other. Because That, system bicameral That distinguished between (i) bicameral Which strong (*strong bicameralism*) And (ii) bicameral Which simple or weak (*soft bicameralism*) .¹²

Meanwhile, Indonesia is a unitary state with a very wide area and a very large number of people who adhere to the principle of "all must be represented" from the start institutionalize the three principles of political representation, territorial representation, and functional representation as well as in its membership in the People's Consultative Assembly (MPR) as stated in Article 2 paragraph (1) of the 1945 Constitution reads: "The MPR consists of members of the DPR, plus with envoys from regions and groups according to established rules with Constitution".¹³

MPR membership reflects political representation, territorial/regional representation, and functional representation in equal measure. Because the MPR itself does not carry out a legislative function in the sense of being involved in the process of forming laws, the existence of other MPR institutions. apart from that the DPR does not cause the structure of the Indonesian parliament to be called a two-chamber or bicameral parliament. The MPR institution which was previously the highest state institution was changed to become a high state institution which is equivalent to the DPR, DPD, President, and other high institutions as a result of amendments to the 1945 Constitution. In a broad sense in exercising legislative power, no country in the world has three different institutions such as DPR, DPD, and MPR. Meanwhile, it is said that the power of the MPR is not included in the meaning of the institution of legislative power because in a narrow sense it is not or is involved in making laws .¹⁴

However, it is also within the power of the constituent legislatures to make constitutional amendments that establish fundamental norms or regulations.

¹¹Syahrizal, I *Pemikiran Hukum Dalam Implementasi Syariat Islam Di Aceh*, (Banda Aceh: Islamic Sharia Service, 2007).

¹²Sopyan Mei Utama, "Eksistensi Hukum Islam dalam Peraturan Perundang- Undangan Di Indonesia Perjuangan Umat Islam Indonesia," *Wawasan Yuridika* 2, No. 1 (2018): 57–66.

¹³Syahrizal, I *Pemikiran Hukum dalam Implementasi Syariat Islam di Aceh*.

¹⁴Hartono Marjono, *Menegakkan Syariat dalam Kontaks Keindonesiaan*, (Bandung: Mizan, 1997). 16Kamarusdiana, "Qanun Jinayat Aceh dalam Perspektif Negara Hukum Indonesia," *Ahkam* 16, n

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Parliaments and other representative institutions of the people usually have a unicameral or bicameral structure. If there is only one institution in the parliamentary structure, it is said to be unicameral. If there are two institutions in the parliamentary structure, it is referred to as bicameral. The DPR, DPD and MPR are now each determined independently in Indonesia. Jimly Asshiddiqie, an expert on constitutional law, once referred to this parliamentary structure, which has three institutions, as the "Tricameral" system.

The Hierarchical System of Legislation Theory is another theory that has the potential to explain the position of the Qanun. "Indonesia is a country based on law," reads Article 1 number 3 of the Third Amendment to the 1945 Constitution. The fact that the country of Indonesia is governed by a legal principle known as the rule of law principle is emphasized in this provision. In the Indonesian positive law system, one of the most important legal principles is the legal principle.

The principle of legality is one of the legal principles originating from the rule of law. The idea that every government action must be regulated by statutory regulations or laws that have been drafted before the action is taken is part of the principle of legality. Limiting the power of the ruler (government) to influence the lives of individual citizens is a basic principle of legality. *Wetmatigeheid van bestuur* or *rechtmatigeheid van bestuur* is a legal basis for limiting the power of the ruler. approaches to) limiting power completely aim at preventing the abuse of power and the erratic activities that give rise to persecution.¹⁵

As consequence principle legality, various type form norms law And laws and regulations need to be formed in a country. Terminology Laws and regulations contain a broader meaning than laws in a formal sense. In the phrase statutory regulations, the meaning of law is included in the formal sense and law in the material sense which includes all forms of regulation legislation. Abdul Hamid Attamimi expressed his views on understanding phrase regulation legislation, that "Regulation legislation (*wettelijke-regels*)Literally it can be interpreted as regulations relating to laws, both regulations in the form of lower laws and regulations as attribution or delegation Constitution . . .".¹⁶

As a result of the principle of legality—one of the components of a rule of law—there are various laws and regulations in Indonesia. According to Law Number 12 of 2011 concerning the Formation of Legislation, various types of laws and regulations are arranged hierarchically (tiered) as follows:

¹⁵ Hartono Marjono, *Menegakkan Syariat dalam Kontaks Keindonesiaan*, (Bandung: Mizan, 1997). ¹⁶Kamarusdiana, "Qanun Jinayat Aceh dalam Perspektif Negara Hukum Indonesia," *Ahkam* 16, no. 2 (2016): 151–162.

¹⁶Ali Geno Berutu, "Faktor Penghambatan Dalam Penegakan Hukum Qanun Jinayat Di Subulussalam Aceh" (UIN Syarif Hidayatullah Jakarta, 2003).

Article 7 paragraph 1 determines the categories of laws and regulations as follows: (i) the 1945 Constitution; (ii) MPR/MPRS Decree; (iii) Laws/Government Regulations in Lieu of Laws; (iv) Government Regulations; (v) Presidential Decree; (vi) Regional Regulations; and (vii) Regency/City Regional Regulations.¹⁷

Chapter 8 paragraph (1) form regulation legislation the consists on (i) Assembly deliberative People, (ii) Regulation Board Representative People, (iii) Regulation Regional Representative Council, (iv) Supreme Court Regulations, (v) Constitutional Court Regulations, (vi) Regulation Body examiner Finance, (vii) Regulation Commission judicial, (viii) Regulation Bank Indonesia, (ix) Regulations Minister, (x) Regulations Body or Regulations institution or Regulation Commission Which level Which formed with Constitution or Government on order Constitution, (xi) Regulation Board Representative People Area Province, (xii) Regulation Governor, (xiii) Regulation Board Representative People Area Regency/City, (xiv) Regulation Regent/Mayor and (xv) Regulatory chief Village.¹⁸

The forms of statutory regulations are arranged hierarchically on the basis of three important reason. First, each form of legislation has a relationship functional with higher and lower statutory regulations except the Constitution NRI of 1945. For example, laws in a formal sense have a functional relationship which are hierarchical, namely upwards with the 1945 Constitution of the Republic of Indonesia and downwards with Regulations Government.¹⁹

Second, because the scope of the contents of each form of statutory regulation is different, each form must meet the principle or requirements of the conformity of the form with the contents. For example, the substance of the type of legal guideline called the 1945 Constitution of the Republic of Indonesia is not the same as the substance of statutory regulations from the right point of view. Likewise, the scope of regulations issued by the government is different from those issued by the president. Each type of legislation has a different objective function based on its characteristics, which results in differences in its content. Islamic Law in the Age of Development, Mura P. Hutagalung.

Third, each type of law has a different purpose. Fundamental aspects of the state, such as state institutions, citizens' rights, human rights, and government systems, are regulated by the 1945 Constitution of the Republic of Indonesia. Because the function of law in a formal sense as a form of legislation is different from the function of the 1945 Constitution of the Republic of Indonesia , the

¹⁷Kamarusdiana, "Qanun Jinayat Aceh Dalam Perspektif Negara Hukum Indonesia."

¹⁸Frietz R. Tambunan Pr, Syari`at di Wilayah Syari`at di Pernik-Pernik Islam di Nangroe Aceh Darussalam (Banda Aceh: Dinas Syariat Islam, 2002).

¹⁹See Article 1 paragraph (3) of the 1945 Constitution as a result of the 2002 amendments.

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material content of the law is different from the material content of statutory regulations in a formal sense. Each type of legislation has its own characteristics. different responsibilities in administering the state.²⁰

In context difference function each form regulation legislation the conveyed by Abdul Hamid S. Attamimi, that "Each type of legislation The invitation has its own function. The law for example, works between other arrange more carry on things Which strictly speaking 'requested' by provision Constitution AndMPR decree. Also what is not strictly 'requested' but further regulates the basic law the. Therefore, the law is a container for regulating things that are material-load Which typical for him." .²¹

The position of statutory regulations under the 1945 Constitution and laws in a formal sense, such as government regulations, presidential regulations, or ministerial regulations, also carry out various functions. Government regulations, for example, have the function of further regulating matters regulated by law whether expressly 'requested' or not," Abdul Hamid Saleh Attamimi added. regulated by Law or Government Regulation regulated by Presidential Decree (now known as Presidential Regulation based on Law Number 12 of 2011).

According to Law Number 12 of 2011 Concerning the Formation of Legislation, the Aceh Qanun is a Regional Regulation of the Province of Aceh with sharia nuances, its position in a tiered system of laws and regulations can be explained. The hierarchy of laws and regulations in Indonesia is the subject of a number of hypotheses and alternatives. Qanuns can be placed on neutral ground with regulations (from a conventional perspective) or with General and Regional/City Guidelines. However, the Qanun which contains the content of laws and regulations in the hierarchy and system of laws and regulations is not directly mentioned in Article 7 paragraph 1 of Law Number 12 of 2011 .²²

Article 7 paragraph (1) The Law of the Republic of Indonesia Number 12 of 2011 concerning the Formation of Legislation regulates that The types and hierarchies of Legislation consist of:

- a. The 1945 Constitution of the Republic of Indonesia;
- b. Decree of the People's Consultative Assembly;
- c. Laws/Government Regulations in Lieu of Laws;
- d. Government regulations;
- e. Presidential decree;
- f. Provincial Regulation; And
- g. District/City Regional Regulations

²⁰Ibid., p. 9.

²¹K.N. Sofyan Hasan, Pengantar Hukum Zakat dan Wakaf (Surabaya: Al-Ikhlas Publisher, 1995), p. 10.

²²Abdurrahman, Kompilasi Hukum Islam di Indonesia (Jakarta: Akademika Pressindo, 1992), p. 1

Although in hierarchy regulation legislation No know term qanun but rather 'Regional Regulation' but Authority Court great in test Aceh Qanun regulated in Article 235 paragraph (2) of Law Number 11 of 2006 concerning the Government of Aceh arrange that Government can cancel conflicting qanuns _ with : a. interest general ; b. interqanun ; and c. regulation more legislation _ high , except another set in Constitution this . More carry on Chapter Article 235 paragraph (3) regulates that qanun can tested by Court great in accordance with regulation legislation . (4) Qanuns as meant on paragraph (3) which regulates about implementation Islamic Shari'at only can canceled through test material by Court great .

However, it is stated in Article 1 point 21 of Law Number 11 of 2006 concerning the Government of Aceh that the Aceh Qanun is a statutory regulation in the form of a provincial or regional regional regulation that regulates the governance and life of the people of Aceh. According to Syahrizal Abbas, the meaning of this qanun implies that there are two types of qanuns in Aceh, namely qanuns that regulate government affairs and qanuns that regulate the implementation of Islamic law in the life of the people of Aceh. Aceh Qanun is the name given to all products of laws and regulations made with the assistance of the Governor and the People's Representative Council (DPRA) in Aceh.²³

The theory of the formalization of Islamic law can be proposed in relation to the Aceh Qanun as the implementation of Islamic law. Islamic Sharia is a set of rules revealed by Allah through His Messenger to regulate how humans interact with Allah. man; furthermore, the relationship between humans and the world is normal. The application of Islamic law is not only an expression of a Muslim's faith but also a human right. In Islamic law, every Muslim is required to always adhere to Allah's rules because of the obligation to do so in every legal process. The creed that has existed in the human heart since Allah gave him a spirit in the womb which has testified by saying Allah is my Lord is reflected in the obligation to follow Islamic law .²⁴

Compared to the Aceh Qanun which regulates governance, the Aceh Qanun which deals with sharia has specificities and differences. In terms of governance, the Aceh Qanun has the same position as general regional regulations. Provincial Regulations or Aceh Qanun, have different purposes from Governor Regulations, Regent Regulations, or Mayor Regulations. In general, the state institutions that make up these laws and regulations and their territories can be used to explain

²³Jumni Nelli, "Kritik Terhadap Kompilasi Hukum Islam (KHI) Tentang Pasal Sahnya Perkawinan dan Pencatatan Perkawinan," *Jurnal Hukum dan HAM*, Cet. 1st, (Pekanbaru 2012), p. 20-21.

²⁴Ichtijanto, *Hukum Islam dan Hukum Nasional* (Jakarta: Ind-Hill Co, 1990), p. 86-87.

the differences in function between these laws and regulations. regulatory form.²⁵

Although it is not specifically stated in Law Number 12 of 2011 concerning Formation of Legislation, based on this theory it can be explained that the Aceh Qanun and the qanuns under it are considered to have the same position as the Regional Qanun. District/City Regional Regulations. Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 53 of 2011 concerning the Formation of Regional Legal Products reinforces the legal argument that Qanuns are equated with regional regulations, which states that: The process of forming regional laws and regulations which includes planning, preparation, formulation, discussion, ratification, promulgation, and socialization, referred to as the formation of local law products. Point 1 of Article I). Laws and regulations established by the DPRD together with the approval of the Regional Head are referred to as Provincial Regulations or other names and Regency/City Regional Regulations or other names referred to in this document as Regional Regulations.

The authority of the Supreme Court in examining Qanun as a regulation Legislation- Invitation

The theory that can be used to teach the Aceh Qanun as a formal form of legislation is the theory of Right to Judicial Review. Qanuns have the potential to be used materially as statutory regulations that have been studied by others. According to theory, Qanun tests can only be carried out if Qanun and other people have a relationship with an undeniable nature, or if Qanun and other people have a relationship with a person who has Qanun personality.²⁶

Global legal traditions and rule of law are represented by International Toetsing Rights and Judicial Review. What is meant by “toetsing right” is the right to be heard, while “review” is the right to appeal to a third party. One way to do that day is to use the same method, namely the authority to review or review. The specificity of the judicial review method is based on the fact that other people's rights, such as the right to legal proceedings, can be exercised by other people in other countries .²⁷

According to Sri Soemantri there is There are two kinds of rights to examine (*toetsingsrecht*), namely: (i) Rights formal examination (*formele toetsingsrecht*) is the authority to evaluate a legislative product like Constitution. Matter This done through procedure as determined in regulation legislation. Testing in a manner formal usually related with problem procedural And

²⁵Said Agil Husein Al Munawwar, *Islam dalam Pluralitas Masyarakat Indonesia* (Jakarta: Kaifa, 2004), p. 176.

²⁶Bustanul Arifin, *Dimensi Hukum Islam dalam Hukum Nasional* (Jakarta: Gema Insani Press, 1999), p. 33.

²⁷*Ibid.*, p. 101.

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regarding with legality competence institution Which make regulation the legislation; And (ii) Right test material (*material toetsingsrecht*) is something the authority to investigate and assess the contents of laws and regulations with more high degree and certain powers (*verordenende macht*) have the right to issue regulations legislation certain. Testing in a manner material related with possibilityconflict material something regulation with regulation other Which more tall orConcerning the specificities of a rule compared to the normsWhich generally applies .²⁸

In the framework of reviewing laws and regulations, Indonesia has institutions within its constitutional structure: (i) the Supreme Court, which examines laws and regulations based on laws against laws in the event of conflict with said laws or between laws; and (ii) the Constitutional Court which determines whether the law violates the constitutional rights of citizens in accordance with the 1945 Constitution.²⁹

The authority to examine laws and regulations that violate laws is given to the Supreme Court. As stated in Article 24A of the 1945 Constitution, "The Supreme Court has the authority to adjudicate at the cassation level, examine statutory regulations that are enforced contrary to law, and exercise other powers conferred by law."³⁰

Meanwhile, the Constitutional Court is authorized to examine laws that violate the 1945 Constitution. The Constitutional Court has the authority to try citizens whose constitutional rights have been violated by certain laws. As stated in Article 24C paragraph 1 of the 1945 Constitution:

Court Constitution authorized judge on level First And final Which the decision is final to review the Act against the Constitution, disconnect dispute authority institution country Which authority given by Constitution Base, disconnect dissolution party political And disconnect dispute about general election results.

Based on Article 24C paragraph (1), the authority of the Supreme Court can be examined by judge in level cassation against laws and regulations in under the law and other powers granted by law. While the Qanun is hierarchical as explained in the theory of hierarchy of laws and regulations are considered equivalent to regulation area assumed can canceled through Regulation President on suggestion from Ministry Domestic.³¹

²⁸Ibid.

²⁹Minister of Religion of the Republic of Indonesia in the New Order Era.

³⁰Rr. Rina Antasari, Istinbath/No. 16/Th. XIV/June/2015/89-108, p. 1.

³¹Hans Kelsen, Teori Hukum Murni, Dasar-Dasar Ilmu Hukum Normatif sebagai Ilmu Hukum EmpirikDeskriptif, Soemardi Linguist (Jakarta: Rimdi Press, 1995), p. 126.

According to Permendagri Number 53 of 2011 concerning Formation of Regional Legal Products, the agency has the authority to examine Regional Regulations in a juridical-formal manner, which is specifically called "clarification". Articles 80, 81, 82 and 83 include procedures and institutions authorized to examine Regional Regulations or other designations such as Qanun. Provincial Regulations are also called by other names and Regency/City Regional Regulations are also called by other names (qanun) which in this document are called Perda, are regional regulations mentioned in the Permendagri.³²

Through the judicial review right, only the Aceh Qanun can be canceled by the Permendagri. This Qanun regulates the governance and life of the people of Aceh in general. Qanuns with sharia nuances are not necessarily canceled by the Permendagri. Likewise with efforts to dissolve the Aceh Qanun whose contents contain jinayah cannot be revoked through the Service Guidelines but must go through a legal survey component at the High Court of the Republic of Indonesia.³³

The use of qanuns in the practice of state administration in the Aceh region since 2003 was true, despite widespread community opposition. However, Faisal A. Rani claims that up to this point, the Supreme Court has never used the right of judicial review to annul an Aceh Qanun. In this way, an approved legal work to repeal qanuns, including Qanun Jinayah, must be made through legal survey. The ability of the government to supervise Qanuns is emphasized in Article 235 paragraph 1 of Law Number 11 of 2006 regarding Aceh's governance. Even draft qanuns (raqan) can be evaluated prior to legislative and regional head approval.³⁴

CONCLUSION

The position of the Aceh Qanun is necessary emphasized And mentioned the nomenclature become Wrong One type in hierarchy regulation legislation as arranged _ in Article 7 paragraph (1) of Regulation Number 12 of 2011 concerning Formation Legislation remember The Government of Aceh, which was granted special autonomy rights, has full authority to form statutory regulations with the name Qanun Aceh . hierarchy regulation legislation No know term qanun but rather ' Regional Regulation ' but Authority Court great in test Aceh Qanun regulated in Article 235 paragraph (2) of Law Number 11 of 2006 concerning the Government of Aceh arrange that Government can cancel

³²Padmo Wahjono, "Budaya Hukum Islam dalam Perspektif Pembentukan Hukum di Masa Datang", in Amirullah Ahmad, *Dimensi Hukum Islam dalam Sistem Hukum Nasional: Mengenang 65 th. Prof. Dr. H. Bustanul Arifin, S.H.* (Jakarta: Gema Insani Press, 1996), p. 167.

³³Ibid., p. 172.

A. Djazuli, "Beberapa Aspek Pengembangan Hukum Islam", in Juhaya S. Praja, *Hukum Islam di Indonesia: Pemikiran dan Praktek* (Bandung: Remaja Rosdakarya, 1994), p. 260.

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