



Balancing Autonomy and Unity in Indonesia: Legal Validity of Aceh's Flag and Emblem Regulation

Dedek Fakrizal¹, Anis Mashadurohatun², Jawade Hafidz³, Ahmed Kheir Osman⁴

¹ Doctoral Program in Law, Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Indonesia

² Department of Law, Universitas Islam Sultan Agung (UNISSULA), Indonesia

³ Department of Law, Universitas Islam Sultan Agung (UNISSULA), Indonesia

⁴ Faculty of Law, Somali National University- Somalia

Article Info

Article History:

Published: 31 Oct 2025

Publication Issue:

Volume 2, Issue 10
October-2025

Page Number:

205-220

Corresponding Author:

Ahmed Kheir Osman

Abstract:

The granting of special autonomy to Aceh was intended to balance regional aspirations with Indonesia's national unity. However, the adoption of Qanun No. 3 of 2013, which designated the former Free Aceh Movement (GAM) banner as the provincial flag, triggered legal and political disputes. Aceh regards the flag and emblem as expressions of its special status, while the central government sees them as threats to sovereignty and the supremacy of national symbols under the 1945 Constitution. This tension risks undermining Indonesia's decentralization framework and the peace achieved in Aceh. This study examines the legal validity of Aceh's flag and emblem regulation within Indonesia's constitutional order, using a normative juridical method complemented by conceptual and historical approaches. Primary legal sources include the 1945 Constitution, Law No. 11 of 2006 on the Government of Aceh, and Qanun No. 3 of 2013, supported by secondary academic materials. Findings indicate that while Aceh's autonomy provides grounds for adopting regional symbols, the use of the GAM flag exceeds constitutional limits, highlighting ambiguities in autonomy regulations. The study recommends reconstructing the regulation to align with national law while respecting Aceh's identity. Clear legal guidelines and sustained dialogue are essential to prevent future disputes, maintain peace, and safeguard Indonesia's unity.

Keywords: Aceh, Flag, Emblem, Special, Autonomy.

1.0 INTRODUCTION

Aceh is one of Indonesia's 38 provinces, and among the nine granted special autonomous status. This status provides the authority to regulate and administer its own governmental affairs and local interests in line with national laws and regulations, within the framework and principles of the Unitary State of the Republic of Indonesia as set out in the 1945 Constitution, under the leadership of a Governor.¹

¹Hadi Iskandar et al, 'Function and Position of Aceh Syar'iyah Court in the Legal System in Indonesia' (2023) *Journal Of Law And Sustainable Development*, Volume. 11, number. 11 pages: 01-20 available at https://www.researchgate.net/publication/375655526_Function_and_Position_of_Aceh_Syar%27iyah_Court_in_the_Legal_System_in_Indonesia.

Geographically, the province occupies a strategic position along the India–China sea trade route with substantial natural resources of oil and natural gas.²

The granting of special autonomy to Aceh was largely a response to the region's long-standing conflict, which had intensified the Acehnese people's aspirations for independence from Indonesia. To accommodate these demands within the framework of the Unitary State, the central government introduced a special autonomy arrangement that provides Aceh with unique privileges.³ These include the authority to regulate religious life through the application of Islamic law for Muslims while safeguarding interfaith harmony; the preservation of traditions grounded in Islamic values; the delivery of quality education enriched with local content aligned with Islamic principles; the involvement of ulama in the formulation of public policies; and the administration of the Hajj in accordance with national legislation.⁴

To ensure that these privileges are not merely symbolic but are effectively realized, Aceh is supported by the Special Autonomy Fund. This fund serves as a vital source of revenue for the provincial government and is specifically earmarked to finance infrastructure development, promote economic empowerment, reduce poverty, and improve the quality of education, health, and social welfare.⁵ Together, the granting of special autonomy and the provision of dedicated funding reflect an integrated framework designed to address Aceh's historical grievances while fostering development, stability, and justice within the broader Indonesian State.

1.1 Indonesia's Experience with Secessionist Movements especially Aceh

Since gaining independence in 1945, Indonesia has faced ongoing difficulties in preserving national unity across its wide and diverse archipelago. These challenges have been most pronounced in Aceh, located in the far west, and Papua, in the far east, where unique historical trajectories, strong cultural identities, and rich natural resources have repeatedly driven calls for increased autonomy or full secession. In Aceh, the struggle escalated in 1976 with the emergence of the Free Aceh Movement (GAM), which launched an armed rebellion seeking to establish Aceh as an independent state.⁶ The

²Times newspaper, 'How an Escape Artist Became Aceh's Governor' (2008) at the Wayback Machine

³See, Law of The Republic Of Indonesia Number 11 of The Year 2006 Regarding Governing Of Aceh, available at <file:///C:/Users/previ/Downloads/968EN.pdf>.

⁴ *ibid*

⁵Ahmad Ainun, 'Special Autonomy Dilemma in The 1945 Constitution of The Republic of Indonesia' *Syiah Kuala Law Journal*, Vol.7 (1), pp.32-49, available at <https://jurnal.usk.ac.id/SKLJ/article/view/28611/18666>.

⁶ Fujikawa, Kentaro, 'Drifting between accommodation and repression: explaining Indonesia's policies toward its separatists' (2017) *The Pacific Review*, ISSN

secession of Timor-Leste in 2002 further underscored the fragility of Indonesia's territorial integrity, raising concerns that other regions might follow the same path.⁷

In 1999, large-scale protests erupted in Aceh, with demonstrators demanding a referendum to decide the province's political future. Responding swiftly to these pressures and guided by the People's Consultative Assembly (MPR) decree, Acehnese leaders became the first regional actors to take concrete steps toward institutional change. They immediately began drafting a new legal framework aimed at redefining Aceh's relationship with the central government.⁸ Developments in Aceh thus moved faster than in Papua, where demands for autonomy were still gaining momentum. Between late 1999 and the end of 2000, a small group of Acehnese political figures worked intensively on multiple draft versions of a special autonomy law, laying the groundwork for Aceh's eventual recognition as a region with distinctive privileges within Indonesia.⁹

The separatist movement in Aceh eventually gave up its demand for independence, influenced by a combination of decisive factors. The 2004 tsunami was particularly transformative; as GAM's "Prime Minister" Malik Mahmud observed, the disaster created a new reality in which pursuing independence was no longer seen as beneficial for Aceh. At the same time, the Indonesian National Armed Forces (TNI) had already dealt heavy blows to GAM through sustained military operations, significantly weakening its capacity.¹⁰ Further pressure came from the international community, with diplomats from countries such as the United States, Japan, Australia, and Malaysia urging GAM negotiators to recognize Indonesia's territorial integrity.¹¹

Despite these pressures, the movement insisted on one crucial condition: the establishment of local political parties. In the final peace talks of July 2005, GAM leaders made it clear that they would not sign an agreement unless this issue was resolved satisfactorily. The eventual peaceful settlement was therefore only possible because the Indonesian government offered significant concessions, including

0951-2748 at
https://eprints.lse.ac.uk/69388/1/Fujikawa_Drifting%20between%20accommodation%20and%20repression.pdf.

⁷Rodd McGibbon, 'Secessionist Challenges in Aceh and Papua: Is Special Autonomy the Solution?' (2004), Policy Studies 10: A Publication of the East-West Center Washington, 1819 L Street, NW, Suite 200 Washington, D.C. 20036 available at <https://www.files.ethz.ch/isn/26104/PS010.pdf>.

⁸*Ibid* (above note 6)

⁹*Ibid* (above note 6)

¹⁰Schulze et al, 'The Free Aceh Movement (GAM): Anatomy of a Separatist Organization' (2004), Policy Studies 2, Washington, DC: East-West Center. 2005.

¹¹Kingsbury et al, 'Military Business in Aceh.' In *Verandah of Violence: The Background to the Aceh Problem* (2006) pp. 199-224. Singapore; Seattle: Singapore University Press; In association with University of Washington Press.

recognition of local political participation, which provided GAM with a legitimate means of pursuing its goals within Indonesia's political system.

1.2 Problem Statements

Based on the background outlined above, the research problems can be formulated as follows: The granting of special autonomy to Aceh was intended as a constitutional mechanism to balance regional aspirations with the preservation of Indonesia's national unity. Among the privileges granted was the authority to regulate symbols of local identity, including the provincial flag and emblem. However, the exercise of this authority has raised serious legal and political questions. On the one hand, Aceh views these symbols as expressions of its special status and cultural identity, rooted in the 2005 peace agreement and subsequent autonomy laws.¹² On the other hand, the central government perceives Aceh's adoption of a flag and emblem resembling those of the former separatist movement as a threat to the principles of sovereignty, unity, and the supremacy of national symbols under the 1945 Constitution.¹³

This tension highlights a fundamental problem: how to reconcile Aceh's legally granted autonomy with the overarching requirement of national integrity. The lack of clear regulatory guidance has created ambiguity regarding the legal validity of Aceh's flag and emblem, fostering disputes between regional and national authorities. Left unresolved, this ambiguity risks undermining both the credibility of Indonesia's decentralization framework and the hard-won peace in Aceh.¹⁴

1.3 Conceptual Framework

Government of Aceh: According to Article 1 point 4 of Law No. 11/2006 on the Government of Aceh, the Government of Aceh refers to the provincial government within the system of the Unitary State of the Republic of Indonesia under the 1945 Constitution, which carries out governmental affairs

¹² Suharno et al, 'Aceh's special autonomy in the perspective of asymmetric decentralization policies' (2021), *Jurnal Civics Media Kajian Kewarganegaraan*, Vol. 18 No. 2, available at https://www.researchgate.net/publication/364616855_Aceh%27s_special_autonomy_in_the_perspective_of_asymmetric_decentralization_policies.

¹³ The 1945 Constitution of the Republic of Indonesia, available at <https://idih.bapeten.go.id/unggah/dokumen/peraturan/116-full.pdf>.

¹⁴ Novianto, R. 'Regulatory Implementation in Aceh Special Autonomy Era by Local Government' (2024), *Nitiparitat Journal*, 4(2), 45-56. retrieved from <https://so06.tci-thaijo.org/index.php/NitiPariJ/article/view/271104>.

implemented by the Aceh Regional Government and the Aceh Regional House of Representatives, each in accordance with their respective functions and authorities.¹⁵

Flag of Aceh as Symbol of Identity: the decision of the Aceh provincial legislature on 25 March 2013 to adopt the former Free Aceh Movement (GAM) banner as the official provincial flag reflects the exercise of Aceh's special autonomy but simultaneously tests the limits of that autonomy, thereby exposing the unresolved tension between regional identity and national unity within Indonesia's decentralization framework.¹⁶

The emblem of Aceh functions as an official symbol of the province's special autonomy, representing unity, cultural identity, and the distinct status of Aceh within Indonesia, as recognized under **Law No. 11 of 2006 on the Government of Aceh** within the framework of the Unitary State of the Republic of Indonesia.¹⁷

Implications for Autonomy and National Unity: The adoption of Aceh's provincial flag carries broad implications for both autonomy and national unity. It tests the limits of special autonomy by raising questions about how far Aceh's privileges can extend within Indonesia's constitutional framework.

1.4 Research Methodology

This study employs a normative juridical approach, which emphasizes the analysis of laws, regulations, and legal principles relevant to the regulation of Aceh's flag and emblem within the framework of Indonesia's constitutional order. The normative juridical method is appropriate because the primary focus of the research is to assess the legal validity of Aceh's provincial symbols in light of national legislation, constitutional provisions, and special autonomy arrangements.

The normative juridical approach is complemented by a conceptual and historical approach. The conceptual approach is used to clarify the meaning of autonomy, special autonomy, legal symbols, and

¹⁵ Jacques Bertrand, 'Indonesia: 'Special autonomy' for Aceh and Papua' (2019), Occasional Paper Series Number 31, published by; Forum of Federations, 75 Albert Street, Suite 411 Ottawa, Ontario (Canada) K1P 5E7, available at [https://constitutionnet.org/sites/default/files/2019-06/Indonesia 31.pdf](https://constitutionnet.org/sites/default/files/2019-06/Indonesia%2031.pdf).

¹⁶ International Crisis Group: working to prevent conflict worldwide, 'Indonesia: Tensions Over Aceh's Flag' (2013)

¹⁷ Sara Schonhardt, 'Indonesia Flag Dispute Revives Separatist Fears' (2013) Voice of America, New York, available at <https://www.voanews.com/a/indonesia-flag-dispute-revives-separatist-fears/1634599.html>.

justice as applied to Aceh, while the historical approach is employed to trace the evolution of Aceh's special status and the political background that led to the adoption of its flag and emblem.

A. Sources of Legal Material

The research relies on three categories of legal material:

- Primary legal materials: the 1945 Constitution of the Republic of Indonesia, Law No. 11 of 2006 on the Government of Aceh, Bylaw (*Qanun*) No. 3 of 2013 on Aceh's Flag and Emblem, and other relevant statutory instruments.
- Secondary legal materials: scholarly writings, journal articles, legal commentaries, and previous studies concerning regional autonomy, Aceh's special status, and constitutional law in Indonesia and tertiary legal materials: supporting references such as dictionaries, encyclopedias, and official reports that clarify legal terms and concepts.

1.5 Legal and Political Controversies over the GAM Flag as a Provincial Symbol

The initial controversy arose when the Governor of Aceh approved the 2013 Bylaw on the province's flag and emblem, which legalized the use of the former GAM banner as Aceh's official flag. This decision triggered a dispute between the Aceh provincial government and the central government of Indonesia, each taking opposing positions over the legitimacy of adopting the GAM flag as a provincial symbol.¹⁸

The central government cautioned the Aceh administration that adopting the GAM flag contravened national law, as the 1945 Constitution of the Republic of Indonesia, particularly **Article 35**, designates the Red and White (*Sang Merah Putih*) as the sole national flag.¹⁹ However, the Aceh administration refused to change the flag as it cannot be regarded as the separatist flag since the signing of the 2005 peace agreement between GAM and the Indonesian government in Helsinki.

A flag is generally understood as a key marker of a nation's identity. In this context, debates surrounding the current Aceh flag can be seen as directly tied to questions of identity in relation to the

¹⁸Febri Nurrahmi, 'The Narrative of Identity in the Coverage of Aceh's Flag' (2018), *Jurnal Studi Komunika* Volume 2, Ed 2, Page 213 - 231 available at https://www.researchgate.net/publication/326400099_The_Narrative_of_Identity_in_the_Coverage_of_Aceh%27s_Flag

¹⁹The Constitution of Indonesia

Indonesian state. The controversy over the “provincial flag of Aceh” has received extensive attention, dominating coverage in both Aceh’s local media and the Indonesian national press.²⁰

The controversy over Aceh’s provincial flag bears striking resemblance to the experience of Bosnia-Herzegovina following the imposition of its national flag. When Bosnia adopted a new state flag in 1998, international representatives hailed it as a symbol of unity and a vision for the future, yet for many Bosnians it felt artificial, externally imposed, and disconnected from their cultural identity. Intellectuals even denounced it as a means of “killing the nation.” Both cases highlight the fragile balance between symbols of identity and symbols of unity: while flags are intended to unify, they can equally deepen contestation when their legitimacy is questioned or when they are perceived as imposed or politically charged.²¹

1.5 The Concept of the State, Sovereignty, and the Evolution of Symbols in Indonesia

Sovereignty in classical state theory is understood as the highest authority, requiring independence externally and ultimate control internally. In the absence of a global supreme power, sovereign states are bound only by mutually accepted obligations, giving rise to international legal rules designed to secure respect for sovereignty and mutual commitments. Without such rules, sovereignty would amount to little more than factual power.²² Within the Indonesian context, this principle is reflected in the 1945 Constitution, which grants the state legitimate authority to regulate society, enforce laws, and establish symbols as expressions of unity. *Article 35* explicitly designates the Red and White (*Sang Merah Putih*) as the national flag, underscoring its role as a symbol of sovereignty, national identity, and cohesion.²³

i. Sovereignty: Internal and External

Sovereignty represents the most essential attribute of the state, setting it apart from all other forms of association. It is generally divided into two types: internal and external sovereignty. Internal sovereignty refers to the state’s supreme authority over its citizens, their organizations, and all

²⁰ Pål Kols, ‘National symbols as signs of unity and division, *Ethnic and Racial Studies*’ (2006), *Ethnic and Racial Studies* Vol. 29 No. 4, pp. 676-701 available at https://www.researchgate.net/publication/232943007_National_symbols_as_signs_of_unity_and_division.

²¹ *ibid*

²² Samantha Besson, ‘Sovereignty’ (2011), *Max Planck Encyclopedia of Public International Law*, <https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e1472>.

²³ *ibid*

possessions within its territory. This authority grants the state the power to demand full obedience to its laws and to impose penalties on anyone who defies them, ranging from minor sanctions to the death penalty, depending on the seriousness of the offense. External sovereignty, on the other hand, denotes the state's independence in its relations beyond its borders. It implies that no external state, ruler, or authority can command it, and that it remains entirely free from such control. However, a state may choose to accept and comply with international law and obligations on a voluntary basis.²⁴

In Indonesia, the word *negara* has been known since ancient times. In Old Javanese, *negara* or *negoro* meant kingdom, palace, or the people. Etymologically, the word derives from Sanskrit *nagari* or *negara*, meaning “city,” which has been used since the 5th century.²⁵ This is evidenced by the naming of the *Tarumanegara* Kingdom in West Java. The word *negara* was also used as the name of famous kings, such as *Kertanegara* of Singosari in the 13th century, and *Jayanegara* and *Rajasanegara* of *Majapahit* in the 14th century. In 1365, the term *nagara* appeared in the famous *Majapahit* manuscript *Negarakertagama* by Mpu *Prapanca*, intended to describe the government of Majapahit. The term *negara* was also used to refer to social-political communities in Indonesia, such as *nagari* in West Sumatra. Thus, the term *negara* was already in use in Indonesia long before it was adopted in Europe.²⁶

The modern state, both in terminology and in meaning, developed over centuries of evolution. The term “state” in its modern sense appeared in the sixteenth century, at which point it came to signify a territorial organization of a nation exercising supreme authority to manage common interests and achieve shared goals. Since then, the state has been interpreted in various ways,²⁷ including as the ruler an individual or institution holding supreme power over a community living in a particular territory and/or as the community itself a nation inhabiting a region under a supreme authority governed by the same legal rules.²⁸

Based on scholarly views of the term ‘state’ its meaning can be distinguished into two perspectives: formal and material. In the formal sense, the state is understood as a power organization with a central

²⁴ Werner Somers, ‘Sovereignty and Independence: The State of Taiwan’ (2023), Chapter Publisher: Brill | Nijhoff Pages: 286-319, available at <https://brill.com/display/book/9789004538153/BP000015.xml?language=en&srsltid=AfmBOoproSPdrrHhed1dHvmU00ACmJh2oTI1LL7bEtEemRx-vd61--55#container-133839-item-133836>.

²⁵ Sugianto, 2018, *The Science of the State: A Study in the Perspective of State Theory in Indonesia*, Yogyakarta: Budi Utama

²⁶ *ibid*

²⁷ Fukuyama, F. ‘State-building: Governance and world order in the 21st century’ (2004) Cornell University Press. Retrieved from <https://dokumen.pub/state-building-governance-and-world-order-in-the-21st-century-9780801455360.htm>.

²⁸ *ibid*

government (*staat-overheid*). The characteristic of the state is the authority of the government to exercise legal coercion. In this sense, the state is always an organization of power covering territory, people, and government.²⁹ In the material sense, the state is understood as a community (*staat-gemeenschap*) or as a social union, a fellowship of people akin to a family. This aligns with Plato's view that the state is an association of people with common interests within a certain territory. From this perspective, the state is seen as a social institution among other institutions within society.³⁰

The dual meaning of the state formal and material also appears in the *Kamus Besar Bahasa Indonesia (KBBI)*³¹, which defines *negara* as:

1. An organization within a territory possessing the highest legitimate authority obeyed by its people; and
2. A social group occupying a certain area, organized under effective political and governmental institutions, with political unity, sovereignty, and the right to determine its national goals.

As a comparison, Black's Law Dictionary defines state as:³² (i) the political system of a body of people who are politically organized; the system of rules by which jurisdiction and authority are exercised over such a body of people; and (ii) an institution of self-government within a larger political entity.

1.7 Several philosophers have also provided definitions of the state:

Aristotle (384–322 BCE), a Greek philosopher, defined the state as a community association formed from families and villages, aiming to achieve the highest good for humankind.³³ Marsilius of Padua (1280–1317), a medieval philosopher, described the state as an organism with the ultimate purpose of organizing and preserving peace. Logemann, in *Staatsrecht van Nederlands-Indië*, defined the state as a social organization that, through its authority, regulates and manages society (De staat is een maatschappelijke organisatie die tot doel heeft om met haar gezag een bepaalde samenleving te ordenen en

²⁹ Wright et al, 'The Montevideo Conference and Organization for Peace' (1934) *World Affairs*, 97(2), 100-103. <http://www.jstor.org/stable/20662425>.

³⁰ Hestu Cipto Handoyo, 'Democratic Consolidation in Indonesia: Beyond Procedure to Democratic Culture' (2015) *Hukum Tata Negara Indonesia*, p. 415 - 421, Publication: Yogyakarta: Cahaya Atma Pustaka, available at <https://simpus.mkri.id/opac/detail-opac?id=9275>.

³¹ *Kamus Besar Bahasa Indonesia (KBBI)* is the official dictionary of the Indonesian language, published by the Language Development and Fostering Agency, under the Ministry of Education and Culture, first edition, Year-1988

³² Black's Law Dictionary, 'State' *Revised Fourth Edition*, By The Publisher's Editorial Staff, St. Paul, Minn. West Publishing Co. 1968

³³ Gaurav Pandey, 'Aristotle Concept of State' (2023) SCRIBD, available at <https://www.scribd.com/document/643990969/aristotle-concept-of-state>.

te verzor gen). Woodrow Wilson described the state as a people organized under law within a specific territory.³⁴

Thus, the theoretical and historical foundations of the state and sovereignty are directly relevant to the legal and political controversies over Aceh's flag and emblem. On one hand, the Constitution underscores national symbols as expressions of sovereignty and unity; on the other hand, Aceh's special autonomy reflects a localized interpretation of *negara*, where regional identity is expressed through distinctive symbols. The dispute over Aceh's adoption of the former GAM flag therefore illustrates the central dilemma of this research: how to balance regional autonomy and cultural identity with the overarching framework of national unity and constitutional order in Indonesia.

1.8 Regional Autonomy under Indonesian Laws

The term autonomy comes from the words *outo*-self and *nomes*-governance. According to *Amrah Muslimin*, autonomy means self-government. Autonomy can be interpreted as the right to regulate and manage the affairs of one's own region, meaning that the key element of regional autonomy is authority specifically, the extent of authority held by a region to initiate policies, implement them, and mobilize resources for their execution.³⁵

In the context of Indonesia, regional and special autonomy have been central to the practice of local governance. Regional autonomy was designed to give regions greater authority in managing their own governmental functions based on local priorities. It aimed to promote faster development, enhance the quality of public services, and foster broader community involvement in governance. Meanwhile, special autonomy conferred additional powers on regions with unique characteristics, such as Aceh and Papua, allowing them to exercise greater control over their governmental affairs.³⁶

Under **Article 18 of the Indonesian Constitution** establishes a system of regional autonomy within the Unitary State of Indonesia, dividing the country into provinces, regencies, and municipalities, each with its own regional authority and the right to administer its own affairs under the law. It specifies that each level of regional authority will have a Regional People's House of Representatives (DPRD)

³⁴ LotusArise, 'State and its Elements' (2023), available at <https://lotusarise.com/state-and-its-elements-in-political-science>.

³⁵ Shane Joshua Barter, 'Understanding Self-Government: Varieties of Territorial Autonomy' (2024), *Journal of Autonomy and Security Studies* 8(1) 2024, 6-30, available at <https://doi.org/10.61199/jass.142991>.

³⁶ Chandra Dewi Puspitasari, 'Regional Autonomy and Special Autonomy: An Examination of Integration in Regional Governance from the Perspective of Civic Education' (2024), MENDAPO: Journal of Administration Law, Volume 5, Number 3, Pages 316-328 at <file:///C:/Users/previ/Downloads/ekounja,+316-328.pdf>.

elected by general elections, and heads of regional government (governors, regents, mayors) will be democratically elected.³⁷

The Regional autonomy which defined under the *Indonesia's Basic Constitutional Law No. 23 of 2014*, Article 1 paragraph 6 on Regional Government, is the right, authority, and responsibility of autonomous regions to regulate and manage their own governmental affairs and the interests of local communities within the framework of the Unitary State of the Republic of Indonesia.

An autonomy regime must be distinguished from a federal system.³⁸ While both involve integrating distinct entities into a single state, federalism entails a broad decentralization of powers, dividing the entire state into constituent units such as provinces or territories that enjoy equal degrees of self-government. In contrast, an autonomy regime grants extraordinary powers of self-rule only to selected regions, creating an exception to the general rule of centralized authority.³⁹

Under general international law, states are not obliged to create autonomy regimes; their existence is usually determined by the constitution or national legislation. Breaches of autonomy provisions are therefore generally addressed through domestic legal mechanisms. However, in some cases, autonomy is established through treaties or international recommendations, which may elevate disputes into matters of international responsibility.⁴⁰

The successful implementation of regional autonomy in the spirit of good governance requires collaboration between the government and the community. Its development has produced several positive outcomes, including more equitable regional growth, better public services, and the optimization of local human resources. To sustain this progress, autonomy must encourage creativity and innovation, beginning with individuals and extending to groups and organizations, so that all elements of society contribute to strengthening local governance.⁴¹

³⁷ Aksel Tømte, 'Constitutional Review of the Indonesian Blasphemy Law' (2012), *Nordic Journal of Human Rights*, Vol.30, Iss.2, available at <https://www.scup.com/doi/10.18261/ISSN1891-814X-2012-02-04>.

³⁸ See, Rudolf Bernhardt, 'Federalism and Autonomy, in Models of Autonomy' 23, 23 (Yoram Dinstein ed., 1981).

³⁹ Yofi Permatasari et al, 'Regional Autonomy in the Context of Regional Regulations' (2023), *Asian Journal of Social and Humanities*, Vol. 1 No. 09, available at https://www.researchgate.net/publication/372407391_Regional_Autonomy_in_the_Context_of_Regional_Regulations.

⁴⁰ *ibid*

⁴¹ Roy Marthen Moonti, 'Regional Autonomy in Realizing Good Governance' (2019), *Substantive Justice International Journal of Law*, Volume 2, Issue 1, available at https://www.researchgate.net/publication/345450515_Regional_Autonomy_in_Realizing_Good_Governance.

In Aceh, these goals of regional autonomy are intertwined with the province's special status. Autonomy was intended not only to promote development but also to accommodate Aceh's distinctive cultural and political identity. Yet, the passage of *Qanun No. 3 of 2013*, which adopted the former GAM flag as the provincial symbol, illustrates how efforts to exercise autonomy can clash with national sovereignty. This highlights the central challenge of autonomy in Indonesia: empowering regions to govern according to their unique needs and traditions while ensuring alignment with constitutional principles and the unity of the Republic.

During the New Order era, the government enacted Law No. 5 of 1974 on the Fundamentals of Regional Government, which in practice provided very limited space for regional leaders to assert local identity or political influence. The law was primarily intended to consolidate central control rather than to empower the regions.⁴²

As Siti Zuhro explains, this policy produced several consequences. First, rather than curbing centralization, autonomy under the New Order reinforced the dominance of the central government, leaving regions heavily dependent on Jakarta for funding and development programs. Second, democratic institutions at the local level, particularly the Regional People's Representative Council (DPRD), were deliberately marginalized and reduced to mere extensions of the executive, eroding the separation of powers and weakening oversight of local governance. Third, regions rich in natural resources perceived themselves as exploited, since revenues were monopolized by the center under the pretext of promoting equity, while in reality serving to preserve the political status quo.⁴³

This legacy of centralized control underscores the challenges Indonesia has faced in realizing genuine autonomy. It also provides essential context for understanding Aceh's special autonomy. Unlike the restrictive framework of the New Order, Aceh's autonomy under Law No. 11 of 2006 was designed to grant real authority, including the right to adopt regional symbols. Yet, as seen in the controversy over *Qanun No. 3 of 2013* on Aceh's flag and emblem, the tension between central authority and regional identity continues to shape the debate on how far autonomy should extend within the unitary state.

⁴² Muhammad Mutawalli et al, 'Regional Government Autonomy in Indonesia: The Ambiguity of the Federalism or Republic Model' (2025), *Malaysian Journal of Syariah and Law*, Vol. 13, No. 1, pp. 35-57, available at https://www.researchgate.net/publication/390055191_REGIONAL_GOVERNMENT_AUTONOMY_IN_INDONESIA_THE_AMBIGUITY_OF_THE_FEDERALISM_OR_REPUBLIC_MODEL.

⁴³ *Ibid*

2. Conclusion, finding and Recommendation

The experience of Aceh illustrates both the promise and the challenges of Indonesia's experiment with special autonomy. On the one hand, special autonomy was designed as a constitutional instrument to accommodate Aceh's distinct cultural, political, and historical identity while preserving the integrity of the Indonesian state. It granted Aceh broad authority to regulate its own affairs, including the adoption of regional symbols, thereby transforming decades of violent conflict into a framework of peaceful coexistence. On the other hand, the decision to adopt the former GAM banner as Aceh's official flag through Qanun No. 3 of 2013 exposed the fragility of this balance.

From a legal standpoint, the controversy demonstrates a clear tension between Aceh's autonomy rights and the supremacy of national symbols under *Article 35 of the 1945 Constitution*, which enshrines the Red and White (*Sang Merah Putih*) as the sole national flag. While Aceh's emblem may be justified as an expression of identity under *Law No. 11 of 2006 on the Government of Aceh*, the use of a symbol historically associated with separatism blurs the line between regional autonomy and national unity. This has led to protracted disputes between the Aceh provincial government and the central government, raising concerns not only about the validity of the regulation but also about the durability of Indonesia's decentralization model.

The findings of this research highlight three important points. First, the absence of clear and detailed legal provisions regarding the scope of regional symbols under special autonomy has created ambiguity that fuels conflict. Second, the political dimension of identity symbols such as flags extends far beyond legal arguments, touching upon questions of history, collective memory, and reconciliation. Third, the Aceh case underscores the urgent need to strengthen Indonesia's legal framework on autonomy in order to ensure that the exercise of local identity does not compromise national sovereignty.

Moving forward, the reconstruction of Aceh's flag and emblem regulation must strike a careful balance between respect for Aceh's special status and adherence to constitutional principles. This requires legal reform that clarifies the permissible scope of regional symbols, backed by constructive dialogue between the central and regional governments. More broadly, the case of Aceh serves as a reminder that autonomy is not merely a legal arrangement but also a political process that must be nurtured with sensitivity, inclusivity, and justice.

Ultimately, the Aceh flag controversy is not just about a symbol it is about the ongoing project of nation-building in a diverse archipelagic state. Indonesia's unity will endure not by suppressing

diversity but by managing it within a legal and political framework that protects sovereignty while respecting regional identity. The challenge is complex, but with stronger legal certainty, meaningful dialogue, and mutual trust, the balance between autonomy and unity can be achieved.

The central and Aceh governments should jointly revise *Qanun No. 3 of 2013* to ensure that Aceh's flag and emblem reflect its cultural identity without conflicting with the supremacy of national symbols under the *1945 Constitution*. A clear legal framework on regional symbols will strengthen constitutional integrity while preserving the spirit of Aceh's special autonomy and peace agreement.

References

1. Ahmad Ainun, 'Special Autonomy Dilemma in the 1945 Constitution of the Republic of Indonesia' (2023) 7(1) *Syiah Kuala Law Journal* 32, available at <https://jurnal.usk.ac.id/SKLJ/article/view/28611/18666>
2. Aksel Tømte, 'Constitutional Review of the Indonesian Blasphemy Law' (2012) 30(2) *Nordic Journal of Human Rights*, available at <https://www.scup.com/doi/10.18261/ISSN1891-814X-2012-02-04>
3. Chandra Dewi Puspitasari, 'Regional Autonomy and Special Autonomy: An Examination of Integration in Regional Governance from the Perspective of Civic Education' (2024) 5(3) *MENDAPO: Journal of Administration Law* 316, available at <file:///C:/Users/previ/Downloads/ekounja,+316-328.pdf>
4. Febri Nurrahmi, 'The Narrative of Identity in the Coverage of Aceh's Flag' (2018) 2(2) *Jurnal Studi Komunikasi* 213, available at https://www.researchgate.net/publication/326400099_The_Narrative_of_Identity_in_the_Coverage_of_Aceh%27s_Flag.
5. Gaurav Pandey, 'Aristotle Concept of State' (2023) *Scribd*, available at <https://www.scribd.com/document/643990969/aristotle-concept-of-state>.
6. Hadi Iskandar and others, 'Function and Position of Aceh Syar'iyah Court in the Legal System in Indonesia' (2023) 11(11) *Journal of Law and Sustainable Development* 1, available at https://www.researchgate.net/publication/375655526_Function_and_Position_of_Aceh_Syar%27iyah_Court_in_the_Legal_System_in_Indonesia.
7. Hestu Cipto Handoyo, 'Democratic Consolidation in Indonesia: Beyond Procedure to Democratic Culture' (2015) *Hukum Tata Negara Indonesia* 415, Yogyakarta: Cahaya Atma Pustaka, available at <https://simpus.mkri.id/opac/detail-opac?id=9275>
8. Kentaro Fujikawa, 'Drifting Between Accommodation and Repression: Explaining Indonesia's Policies Toward Its Separatists' (2017) *The Pacific Review* https://eprints.lse.ac.uk/69388/1/Fujikawa_Drifting%20between%20accommodation%20and%20repression.pdf.
9. LotusArise, 'State and its Elements' (2023), available at <https://lotusarise.com/state-and-its-elements-in-political-science>.
10. Muhammad Mutawalli and others, 'Regional Government Autonomy in Indonesia: The Ambiguity of the Federalism or Republic Model' (2025) 13 *Malaysian Journal of Syariah and Law* 35, available at https://www.researchgate.net/publication/390055191_REGIONAL_GOVERNMENT_AUTONO

MY IN INDONESIA THE AMBIGUITY OF THE FEDERALISM OR REPUBLIC MODEL

11. Novianto R, 'Regulatory Implementation in Aceh Special Autonomy Era by Local Government' (2024) 4(2) *Nitiparitat Journal* 45, available at <https://so06.tci-thaijo.org/index.php/NitiPariJ/article/view/271104>.
12. Pål Kols, 'National Symbols as Signs of Unity and Division' (2006) 29(4) *Ethnic and Racial Studies* 676, available at https://www.researchgate.net/publication/232943007_National_symbols_as_signs_of_unity_and_division.
13. Roy Marthen Moonti, 'Regional Autonomy in Realizing Good Governance' (2019) 2(1) *Substantive Justice International Journal of Law*, available at https://www.researchgate.net/publication/345450515_Regional_Autonomy_in_Realizing_Good_Governance
14. Rudolf Bernhardt, 'Federalism and Autonomy' in Yoram Dinstein (ed), *Models of Autonomy* (1981) 23.
15. Shane Joshua Barter, 'Understanding Self-Government: Varieties of Territorial Autonomy' (2024) 8(1) *Journal of Autonomy and Security Studies* 6, available at <https://doi.org/10.61199/jass.142991>
16. Suharno and others, 'Aceh's Special Autonomy in the Perspective of Asymmetric Decentralization Policies' (2021) 18(2) *Jurnal Civics: Media Kajian Kewarganegaraan*, available at https://www.researchgate.net/publication/364616855_Aceh%27s_special_autonomy_in_the_perspective_of_asymmetric_decentralization_policies
17. Wright and others, 'The Montevideo Conference and Organization for Peace' (1934) 97(2) *World Affairs* 100, available at <http://www.jstor.org/stable/20662425>.
18. Yofi Permatasari and others, 'Regional Autonomy in the Context of Regional Regulations' (2023) 1(9) *Asian Journal of Social and Humanities*, available at https://www.researchgate.net/publication/372407391_Regional_Autonomy_in_the_Context_of_Regional_Regulations

WORKING PAPERS / REPORTS

19. Jacques Bertrand, 'Indonesia: "Special Autonomy" for Aceh and Papua' (2019) Occasional Paper Series No 31, Forum of Federations, available at https://constitutionnet.org/sites/default/files/2019-06/Indonesia_31.pdf.
20. International Crisis Group, 'Indonesia: Tensions Over Aceh's Flag' (2013).
21. Kirsten E Schulze and others, *The Free Aceh Movement (GAM): Anatomy of a Separatist Organization* (Policy Studies 2, East-West Center, Washington DC 2004).
22. Rodd McGibbon, *Secessionist Challenges in Aceh and Papua: Is Special Autonomy the Solution?* (Policy Studies 10, East-West Center, Washington DC 2004), available at <https://www.files.ethz.ch/isn/26104/PS010.pdf>

NEWS / MEDIA SOURCES

23. Sara Schonhardt, 'Indonesia Flag Dispute Revives Separatist Fears' (2013) *Voice of America* (New York), available at <https://www.voanews.com/a/indonesia-flag-dispute-revives-separatist-fears/1634599.html>

BOOKS

24. Francis Fukuyama, *State-Building: Governance and World Order in the 21st Century* (Cornell University Press 2004), available at <https://dokumen.pub/state-building-governance-and-world-order-in-the-21st-century-9780801455360.htm>

25. Sugianto, *The Science of the State: A Study in the Perspective of State Theory in Indonesia* (Budi Utama 2018).
26. Damien Kingsbury and others, 'Military Business in Aceh' in Anthony Reid (ed), *Verandah of Violence: The Background to the Aceh Problem* (Singapore University Press; University of Washington Press 2006) 199.

ENCYCLOPEDIA ENTRIES / BOOK CHAPTERS

27. Samantha Besson, 'Sovereignty' in Rüdiger Wolfrum (ed), *Max Planck Encyclopedia of Public International Law* (Oxford University Press 2011), available at <https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e1472>.
28. Werner Somers, 'Sovereignty and Independence: The State of Taiwan' in [Book Title] (Brill | Nijhoff 2023) 286, available at <https://brill.com/display/book/9789004538153/BP000015.xml?language=en&srsrtid=AfmBOopr oSPdrrHhed1dHvmU00ACmJh2oTI1LL7bEtEemRx-vd61--55#container-133839-item-133836>

DICTIONARIES

29. *Kamus Besar Bahasa Indonesia (KBBI)*, 1st edn (Language Development and Fostering Agency, Ministry of Education and Culture 1988).
30. *Black's Law Dictionary*, Revised 4th edn (West Publishing Co, St Paul, Minn 1968).

31. CONSTITUTIONS / LEGISLATION

32. *The 1945 Constitution of the Republic of Indonesia*, available at <https://jdih.bapeten.go.id/unggah/dokumen/peraturan/116-full.pdf>.
33. *Law of the Republic of Indonesia Number 11 of 2006 regarding Governing of Aceh*, available at <file:///C:/Users/previ/Downloads/968EN.pdf>