

The Legal Position of Tuha Peut in the Village Government System: A Comparative Study of the Village Consultative Body and Tuha Peut in East Aceh Regency

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Abstract

Village governance in Indonesia is established based on the principle of decentralization, which positions the Village Consultative Body (Badan Permusyawaratan Desa/BPD) as an institution responsible for legislative, supervisory, and community representation functions. In Aceh Province, these functions are performed by the Tuha Peut as the village consultative body (gampong), whose existence is recognized under the special autonomy framework. This study aims to analyze the legal position of the BPD within Indonesia's village governance system and to examine the legal status of the Tuha Peut in the administration of village governance in East Aceh Regency. This research employed an empirical legal method using statutory, conceptual, and socio-legal approaches, with qualitative data analysis. The findings indicate that the BPD serves as a key institution in implementing the principle of checks and balances through its legislative and supervisory functions over village administration. In the context of Aceh, the Tuha Peut holds a legal position equivalent to that of the BPD but possesses broader authority by also performing customary functions, including providing advice to the Keuchik (village head) and resolving customary disputes. The existence of the Tuha Peut demonstrates that the principle of checks and balances is maintained within gampong governance through the integration of modern governmental institutions with Acehese customary law under the framework of special autonomy.

Keywords: *Tuha Peut, Village Consultative Body (BPD), Gampong Governance, Checks and Balances, Aceh Special Autonomy*

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Introduction

Village government is an integral part of the national government system. As the government unit closest to the community, the village functions as a public service provider and becomes the first space for the implementation of democracy, development, and community empowerment. This strategic position has been strengthened since the birth of the decentralization policy that gives wider authority to regions, including villages, to regulate and manage their own interests in accordance with the characteristics of their respective regions. Through decentralization, villages are positioned as objects of simultaneous development as subjects who have authority in planning, implementing, and supervising the implementation of government and development at the local level.(Sugiman 2018)

The constitutional basis regarding the implementation of local government is affirmed in the provisions of Article 18 paragraph (2) of the 1945 Constitution of the Republic of Indonesia which explains that local governments regulate and manage their own government affairs according to the principle of autonomy and assistance duties. This provision shows that the constitution provides space for regions to conduct government independently in accordance with the authority given by laws and regulations. Furthermore, the provisions of Article 18 paragraph (6) give the right to local governments to form regional regulations as an instrument for the implementation of autonomy. The regulation shows that autonomy includes the authority to establish legal norms as the basis for the administration of government.(Gea 2024)

The concept of decentralization embraced by Indonesia is not built in a uniform pattern. The provisions of Article 18A paragraph (1) of the 1945 Constitution of the Republic of Indonesia affirm that the relationship of authority between the central government and local governments is carried out by paying attention to regional specificity and diversity. The constitutional norms provide space for the birth of forms of local government that have different characteristics according to the history, culture, and social conditions of the community. The regulation is then affirmed through Article 18B paragraph (1) which recognizes and respects special or special local government units, and Article 18B paragraph (2) which provides recognition of the unity of customary law communities and their traditional rights as long as they are alive and in line with the principles of the Unitary State of the Republic of Indonesia. These two provisions are the constitutional basis for the implementation of special autonomy in Aceh Province, including the recognition of various customary institutions that are part of the gampong government system.

The regulation of village government then took a more comprehensive form through the provisions of Law Number 6 of 2014 concerning Villages. This law places the village as a unit of legal society that has authority based on the right of origin and local authority on a village scale. In line with that, the lawmakers established the Village Consultative Body (BPD) as an institution that carries out the functions of legislation, channeling community aspirations, and supervising the implementation of village government. The provisions of Article 55 of Law Number 6 of 2014 explain that the BPD has the function of discussing and agreeing on draft village regulations with the Village Head, accommodating and channeling the aspirations of the community, and supervising the performance of the Village Head. This position is reaffirmed in Article 61 which gives the BPD the right to request information from the village government, express opinions on the implementation of village government, and obtain operational support in carrying out its duties and functions.

If examined further, the construction of authority shows that BPD is a representative institution of the village community and part of the power control mechanism in the implementation of village government. The legislation function owned by the BPD provides space to be involved in the formation of Village Regulations, while the supervision function is an instrument to ensure that the implementation of village government continues to run in

accordance with the provisions of the law and the interests of the community. The arrangement is an implementation of the principle *check and balances* which places the village legislative institution as a counterweight to the authority of the Village Head. As James Madison put it, power must be controlled through other powers so that it does not develop into an uncontrollable authority. This view was affirmed by Lord Acton through the adagium *power tends to corrupt, and absolute power corrupts absolutely*, which reminds that any exercise of power requires effective oversight mechanisms.(Aryani et al. 2025)

However, the institutional design of village government in Indonesia is not fully uniformly implemented. The specificity of Aceh Province gave birth to a gampong government structure that integrates the modern government system with customary institutions that had lived long before the formation of the Unitary State of the Republic of Indonesia. In this system, the function of the Village Consultative Body is carried out by Tuha Peut as the gampong consultative body. The existence of Tuha Peut gained legitimacy through Law Number 11 of 2006 concerning the Government of Aceh, then elaborated further in Qanun Aceh Number 10 of 2008 concerning Customary Institutions and Qanun of East Aceh Regency Number 4 of 2018 concerning Tuha Peut Gampong. The provisions of Article 18 of Qanun Aceh Number 10 of 2008 give authority to Tuha Peut to discuss and approve qanun gampong, discuss the income and expenditure budget of the gampong, supervise the implementation of the gampong government, channel the aspirations of the community, formulate policies with Keuchik, provide advice to Keuchik, and resolve customary disputes with traditional stakeholders. The arrangement shows that Tuha Peut has a wider scope of authority than the BPD because it carries out government functions as well as customary functions.(Jatami 2017)

The institutional construction is interesting to study further. On the one hand, Tuha Peut is an institution that carries out the functions of legislation and supervision as owned by the BPD in the village government system nationally. On the other hand, Tuha Peut also bears the responsibility of maintaining indigenous life and solving various social problems in the gampong community. These characteristics show that Aceh has developed a village government model that combines the principles of the state of law with customary law values. Consequently, the legal position of Tuha Peut can be understood through the approach of the Village Law and analyzed within the framework of Aceh's special autonomy which is recognized directly from the constitution.

East Aceh Regency as one of the districts in Aceh Province which has 513 gampongs and 212 definitive Keuchik is a relevant area to examine the implementation of the position of Tuha Peut in the implementation of gampong government. The large number of gampong governments shows that Tuha Peut holds a strategic position in maintaining a balance of relations between Keuchik and the community through the implementation of legislation, supervision, and deliberation functions. The study of the legal position of Tuha Peut is important to explain how the concept of the Village Consultative Body in positive Indonesian law has been adjusted in the framework of Aceh's special autonomy without eliminating the basic principles of the implementation of village government.

Based on this description, this study is directed to analyze the position of the Village Consultative Body in the village government system according to positive Indonesian law and to examine the legal position of Tuha Peut as a gampong consultative body in East Aceh Regency. This study is expected to provide a more comprehensive understanding of the relationship between the village government system nationally and the specificity of gampong government in Aceh, as well as enrich the development of local government law within the framework of asymmetric decentralization in Indonesia.

Research Methodology

This study uses an empirical legal research method with a legislative approach (*statute approach*), conceptual approach (*conceptual approach*), and sociological approaches (*socio-legal approach*). Data were obtained through a literature study supported by observations on the implementation of gampong government in East Aceh Regency, then analyzed qualitatively with a descriptive-analytical method to examine the legal position of Tuha Peut in the village government system and its implementation within the framework of Aceh's special autonomy.(Sembiring et al. 2024)

Results

3.1 The Position of the Village Consultative Body in the Village Government System in Indonesia

The implementation of village government is an integral part of Indonesia's constitutional system which is built on the principle of decentralization. The presence of villages as the closest government unit to the community is intended to expand the reach of public services and become a forum for the implementation of democracy at the local level. Through the implementation of village government, the community is given space to participate in the process of development planning, policy formation, and supervision of the running of government. Consequently, the administration of government must be built through mechanisms that are able to maintain a balance between village government organs.(Endah 2018)

The basis for the implementation of local government is regulated in the provisions of Article 18 of the 1945 Constitution of the Republic of Indonesia. The provisions of Article 18 paragraph (2) explain that local governments regulate and manage their own government affairs according to the principle of autonomy and assistance duties. The arrangement shows that the constitution gives authority to the regions to administer government independently in accordance with the division of affairs stipulated by laws and regulations. This authority is then strengthened through Article 18 paragraph (6) which gives the right to local governments to establish regional regulations as an instrument for the implementation of autonomy.

The Constitution also pays attention to the diversity of regional characteristics in the administration of government. The provisions of Article 18A paragraph (1) of the 1945 Constitution of the Republic of Indonesia explain that the relationship of authority between the central government and local governments is carried out by paying attention to regional specificity and diversity. This norm shows that the government system in Indonesia has room for regions to develop institutional forms of government in accordance with their respective social, cultural, and historical conditions. This recognition is further emphasized through Article 18B paragraph (1) which recognizes special or special local government units, and Article 18B paragraph (2) which respects the existence of customary law communities and their traditional rights. This provision then became the constitutional basis for the birth of various forms of local government that have specificity, including the gampong government system in Aceh Province.(Scott, Alfie, and Rusdia, 2018)

In the context of village government, the implementation of the principle of decentralization was realized through the birth of Law Number 6 of 2014 concerning Villages. This law places the village as a legal community unit that has the authority to regulate and manage its own interests based on the rights of origin, customs, and local authority on a village scale. The construction shows that the village as a government entity has autonomy in organizing government affairs, development, community development, and community empowerment.

The granting of greater authority to the village was followed by the establishment of an adequate supervision mechanism. Lawmakers realize that unsupervised authority has the potential to give birth to abuse of power. On that basis, Law Number 6 of 2014 establishes the Village Consultative Body (BPD) as an institution that represents the village community in the implementation of government. The provisions of Article 55 of Law Number 6 of 2014 explain that BPD has three main functions, namely:

1. Discuss and agree on the Draft Village Regulation with the Village Head;
2. Accommodating and channeling the aspirations of the village community, and
3. Supervise the performance of the Village Head.

The formulation shows that BPD is placed as an institution that has the authority to ensure that the implementation of village government runs in accordance with the principles of democracy, accountability, and community interests. If examined further, the three functions illustrate that BPD carries out two main functions that are very strategic, namely the legislation function and the supervisory function. The function of legislation is reflected through the authority to discuss and agree on the Draft Village Regulation with the Village Head. This arrangement shows that the formation of Village Regulations must go through a discussion process with BPD as a representation of the village community. The presence of BPD in the legislation process ensures that every policy that will be enforced gains social legitimacy while meeting the needs of the village community.(Yulia 2025)

This role is strengthened in the provisions of Article 83 of Government Regulation Number 43 of 2014 which explains that the Village Consultative Body can also propose a draft Village Regulation. This provision shows that BPD has the right of initiative in the formation of village legal products. Thus, the relationship between the Village Head and BPD is built as an institutional relationship that works together in shaping public policy at the village level. The presence of the right of initiative emphasizes that the BPD's legislative function is active in responding to various legal needs of the village community.

In addition to carrying out the legislative function, BPD also has a supervisory function over the implementation of village government. The provisions of Article 61 of Law Number 6 of 2014 give the BPD the right to supervise the implementation of village government, ask for information from the village government, and express opinions on the implementation of government, development, community development, and community empowerment. This authority shows that the supervision carried out by the BPD includes the financial aspects of the village and the overall process of government administration. With this right, BPD has a strong enough position to ensure that all village government policies are implemented in accordance with the provisions of the law and the interests of the community.(Roza and Arliman 2017)

The scope of supervision was then clarified in the Minister of Home Affairs Regulation Number 110 of 2016 concerning the Village Consultative Body. The provisions of Article 46 explain that supervision is carried out from the stage of planning village government activities, the implementation of activities, to reporting on the implementation of village government through monitoring and evaluation mechanisms. Furthermore, Article 48 stipulates that the BPD evaluates the report on the implementation of village government based on the principles of democratic, transparent, accountable, responsive, and objective principles. The regulation shows that the supervisory function is intended as a control mechanism to ensure that every village government policy runs in accordance with the development plan, budget use, and community interests.

The construction of BPD authority as regulated in various laws and regulations is basically a real implementation of the theory *check and balances*. This theory departs from the idea that each power must be limited by other powers so that it does not develop into an absolute authority. James Madison in *The Federalist Papers* emphasizing that each institution must have the ability to control other institutions so that there is no concentration of power in one institution. The idea was later affirmed by Lord Acton through the adagium *power tends to corrupt, and absolute power corrupts absolutely*. In the context of village government, both views have strong relevance because the Village Head is given broad authority in managing village government, development, and finances. Without an institution that carries out the functions of legislation and supervision, this authority has the potential to cause irregularities that can harm the community.(DWITA 2022)

When associated with the regulation of BPD, the principle of *checks and balances* is realized through two forms of supervision that complement each other. First, preventive supervision (*ex ante control*), which is supervision carried out before a policy is determined through discussion and mutual approval of the Draft Village Regulation and other strategic policies. Second, repressive supervision (*ex post control*), which is supervision carried out after policies are implemented through monitoring, evaluation, and assessment of reports on the implementation of village government. Both mechanisms show that the relationship between the Village Head and BPD is built in an institutional relationship that is balanced in accordance with the principle of *checks and balances*.

Based on this description, it can be understood that the Village Consultative Body has a very strategic position in the village government system in Indonesia. BPD is not a village legislative institution that carries out the function of forming village regulations and supervising the implementation of village government. This position shows that the institutional design of village government in Indonesia has been built based on the principle of balance of power so that each authority of the Village Head gains control through legislation and supervision mechanisms. This construction then became the starting point to understand the existence of Tuha Peut as a gampong consultative body in Aceh which, although developed within the framework of special autonomy and customary institutions, still carried out the same basic function in the village government system.

3.2 The Legal Position of Tuha Peut in the Implementation of Gampong Government in East Aceh Regency

The village government system in Indonesia is basically built through a relatively uniform institutional construction as stipulated in Law Number 6 of 2014 concerning Villages. Nevertheless, the constitution provides space for regions that have specificity to organize government in accordance with the characteristics of history, culture, and values that live in their society. The recognition is the implementation of Article 18A and Article 18B of the 1945 Constitution of the Republic of Indonesia which provides legitimacy for the implementation of special local government while recognizing the existence of customary law communities and their traditional rights. It is within this framework that the gampong government system in Aceh Province develops as part of an asymmetrical decentralization that combines a modern government system with customary institutions.(NITARIA 2023)

The recognition of this specificity was then realized through Law Number 11 of 2006 concerning the Government of Aceh which placed the gampong as a legal community unit that has the authority to regulate and manage its interests based on customs and the provisions of laws and regulations. One of the consequences of this arrangement is that the nomenclature of the Village Consultative Body is not used as applicable nationally, but rather uses the Tuha Peut Gampong as a consultative body that is part of the gampong government structure. The difference in nomenclature is not just a change in terminology, but reflects the state's recognition of customary institutions that have lived and developed in Acehnese

society long before the birth of the modern village government system.(Iqbal, Nasution, and Anwar 2026)

The legal position of Tuha Peut is further emphasized through the provisions of Article 18 of the Aceh Qanun Number 10 of 2008 concerning Customary Institutions. The provision explains that Tuha Peut has the task of discussing and approving the Gampong Revenue and Expenditure Budget, discussing and approving the Qanun Gampong, supervising the implementation of the gampong government, accommodating and channeling the aspirations of the community, formulating policies with Keuchik, providing advice to Keuchik, and resolving disputes that arise in the community with traditional stakeholders. When compared to the provisions of Article 55 of Law Number 6 of 2014 concerning Villages, it can be seen that the functions of legislation, supervision, and the distribution of aspirations are still maintained. The difference lies in the additional function of resolving customary disputes and providing advice to Keuchik which is a typical character of Aceh's customary institutions.

The construction shows that Tuha Peut has a wider scope of authority than the Village Consultative Body. On the one hand, Tuha Peut carries out government functions through the discussion of gampong qanun, budget approval, and supervision of the implementation of gampong government. On the other hand, Tuha Peut also functions as a guardian of traditional values that live in the community. These two functions run simultaneously so that Tuha Peut is an institution that connects the formal government system with the social system of the Acehnese people. This characteristic distinguishes gampong government in Aceh from village government in general.

When analyzed using the perspective of *checks and balances*, the existence of Tuha Peut actually shows that the principle of balance of power remains part of the design of gampong government. The function of discussing the qanun gampong and approving the APBG is a form of preventive supervision (*ex ante control*) because every strategic policy of Keuchik must obtain approval through a deliberative mechanism. Meanwhile, the authority to supervise the implementation of gampong government is a form of repressive supervision (*ex post control*) that is carried out after the policy is implemented. Thus, the relationship between Keuchik and Tuha Peut is built in a balanced institutional relationship as stated by James Madison. Through this mechanism, every use of authority by the Keuchik obtains institutional control so that the risk of abuse of power can be minimized.

East Aceh Regency is one of the regions that still maintains the gampong government structure based on the provisions of Aceh's special autonomy. Administratively, this district consists of 24 sub-districts with 513 gampongs, while the number of definitive Keuchik reaches 212 people. The large number of gampong governments shows that Tuha Peut has a very strategic position in maintaining the balance of government administration at the local level. Through its legislation and supervision functions, Tuha Peut becomes a representative of the community in ensuring that every Keuchik policy continues to run in accordance with legal provisions, development needs, and the interests of the gampong community.

However, the institutional characteristics of Tuha Peut show a difference in orientation when compared to Village Consultative Bodies in other areas. In the practice of implementing gampong government, the existence of Tuha Peut is often better known as an institution for resolving customary disputes and a guardian of social harmony of the community. This condition cannot be separated from the strong culture of deliberation and customary-based conflict resolution that has long developed in Aceh. As a result, the social function of Tuha Peut is more prominent in people's lives than the function of legislation and supervision which is actually also the mandate of laws and regulations. This phenomenon shows that the specificity of the Aceh government lies in the institutional structure and legal culture of the community which still places customary institutions as the main instrument in solving various social problems.(Paradise 2025).

Aspects	Village Consultative Body (BPD)	Tuha Peut Gampong	Analysis
Kedudukan	Village consultative institutions that represent the community in the implementation of village government.	The gampong consultative body is part of the gampong government structure as well as customary institutions.	Substantively, it has the same position as a representative institution of the community, but Tuha Peut has a customary institutional dimension that the BPD does not have.
Function of Legislation	Discuss and agree on the Draft Village Regulation with the Village Head.	Discuss and approve the Qanun Gampong and the Gampong Revenue and Expenditure Budget with Keuchik.	The function of legislation is still maintained, only different in the nomenclature of legal products adapted to the Aceh government system.
Supervision Function	Supervise the implementation of village government and the performance of the Village Head through monitoring and evaluation.	Supervise the implementation of gampong government, the implementation of the APBG, and Keuchik policies.	Both institutions carry out <i>checks and balances</i> functions on executive power at the village/gampong level.
Representation Function	Accommodating and channeling the aspirations of the village community.	Accommodating and channeling the aspirations of the gampong community in the implementation of government and development.	The representative function remains the main character of the two institutions as representatives of the community.
Customary Functions	It is not specifically regulated in the Village Law.	Provide advice to Keuchik and resolve customary disputes with customary stakeholders.	This function is the peculiarity of Tuha Peut as an institution that combines the formal government system with Acehnese customary institutions.
Relationship with the Village Head/Keuchik	Partnership relationships in the implementation of village government.	Partnership relationships in the implementation of gampong government accompanied by consultative and customary functions.	The relationship between the two institutions is not hierarchical, but is built on the principle of <i>checks and balances</i> .
Institutional Character	Village government institutions.	Gampong government institutions that also function as customary institutions.	Tuha Peut has a more complex character because it integrates government functions and socio-customary functions in one institution.

Source: Author (2026)

Based on this description, it can be understood that the legal position of Tuha Peut in the gampong government system has a different character from the Village Consultative Body nationally. These differences do not change the substance of the basic function as a consultative institution that carries out the functions of legislation, supervision, and the distribution of community aspirations, but rather expands the scope of its authority through the implementation of customary functions. Thus, Tuha Peut is a form of institutional development of village government that was born from the constitutional recognition of the specificity of Aceh. Its existence shows that the principle of *checks and balances* in the implementation of village government can still run within the framework of special autonomy without eliminating the social and cultural identity of the Acehnese people.

Conclusion

The position of the Village Consultative Body in the village government system in Indonesia is the implementation of the principle of *checks and balances* which is built through the functions of legislation, supervision, and distribution of community aspirations as stipulated in Law Number 6 of 2014 concerning Villages and its implementing regulations. The construction shows that the relationship between the Village Head and the Consultative Body is an institutional relationship that balances each other to realize the implementation of democratic, transparent, and accountable village government.

In the context of Aceh's special autonomy, this function is implemented through the existence of Tuha Peut as a gampong consultative body that obtains constitutional and juridical legitimacy through Law Number 11 of 2006 concerning the Government of Aceh as well as the Aceh Qanun and the East Aceh Regency Qanun. Unlike the Village Consultative Body, Tuha Peut carries out the functions of legislation, supervision, and distribution of community aspirations as well as carries out customary functions in the form of providing advice to Keuchik and resolving customary disputes. This character shows that Tuha Peut is a form of institutional development of village government that integrates the principle of *checks and balances* with customary law values as a characteristic of the implementation of gampong government in Aceh

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