Lex Humanitas Review, Vol.1, No.1, 2026
https://doi.org/
Research Article

Lex Humanitas Review

The Aceh Flag Dispute: Normative Conflict, Symbolic Politics, and Constitutional Accommodation under Indonesia's Asymmetric Autonomy Framework

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Abstract

The prolonged dispute over Aceh's regional flag exposes a central difficulty of post-conflict constitutionalism: how can a state honour a negotiated commitment to territorial identity while maintaining a coherent hierarchy of law? This article examines the relationship between the 2005 Helsinki Memorandum of Understanding, Law No. 11 of 2006 on the Governing of Aceh, Government Regulation No. 77 of 2007 on Regional Symbols, and Aceh Qanun No. 3 of 2013. Employing doctrinal legal research, close textual analysis, and a contextual reading of scholarship on peace agreements and identity politics, the article challenges the conventional presentation of the controversy as a straightforward conflict between lex superior and lex specialis. Article 246(4) of the Aceh law expressly subjects implementing qanun to applicable legislation, while the 2007 regulation expressly invokes that law among its legal bases. Beyond the contested flag design, additional inconsistencies concern flag placement and ceremonial use. The Constitutional Court's 2017 decisions on annulment of regional regulations further require a distinction between administrative supervision and judicial invalidation. The article argues that legal validity, implementability, and political legitimacy should be assessed separately. It proposes a sequenced settlement combining a published legal compatibility assessment, inclusive consultations, negotiated amendment where necessary, and access to judicial review if agreement fails. The contribution is a legally precise, peace-sensitive framework for reconciling special autonomy with national constitutional order.

Keywords: Aceh; asymmetric autonomy; regional flag; qanun; Helsinki Memorandum of Understanding; constitutional review;

1. Introduction

The 15 August 2005 Memorandum of Understanding (MoU) between the Government of the Republic of Indonesia and the Free Aceh Movement (Gerakan Aceh Merdeka, GAM) marked an institutional transition from armed conflict to negotiated self-government. Among its provisions, clause 1.1.5 recognises Aceh's right to use regional symbols, including a flag, a

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crest, and a hymn.[1] The adoption of Law No. 11 of 2006 on the Governing of Aceh subsequently transformed important elements of the agreement into domestic legislation.[2] Yet the legal recognition of a flag has not secured an uncontested right to use the particular design subsequently adopted by Aceh's legislature.

In 2013, the Aceh regional legislature and governor enacted Qanun No. 3 of 2013 on the Flag and Emblem of Aceh. Article 4 prescribes a red flag with white and black horizontal bands and a crescent-and-star device.[3] The design resembles the flag historically associated with GAM, giving the legislation an unusually dense symbolic significance. The central government objected by reference to Article 6(4) of Government Regulation No. 77 of 2007, which prohibits regional symbols substantially or wholly resembling those of prohibited organisations or separatist movements. The explanatory memorandum to that regulation expressly identifies the crescent flag used by a separatist movement in Aceh as an example. The controversy therefore involves both an identifiable legal prohibition and disagreement over whether a formerly insurgent symbol can acquire a legitimate, non-sovereign meaning within a peace settlement.[4]

Earlier legal scholarship has mapped the disagreement over the qanun's formation and validity and the relationship between central supervision and regional autonomy.[5] Political research further demonstrates that an emblem understood by some as reconciliation may be regarded by other communities as exclusionary representation.[6] These accounts establish the controversy's legal and political importance. However, the recurring description of a simple collision between lex superior derogat legi inferiori and lex specialis derogat legi generali obscures several crucial textual and institutional features.

First, Article 246(4) of the Aceh law expressly provides that further rules on the flag's form are to be prescribed by qanun in accordance with applicable legislation. Second, the preamble to Government Regulation No. 77 of 2007 explicitly lists Article 246(4) of the Aceh law as a legal basis: it cannot accurately be characterised solely as a general implementing measure unrelated to Aceh's special-autonomy statute. Third, the qanun contains operational provisions that already address the precedence of the national flag, yet potentially conflict with national rules governing placement and ceremonial use. Fourth, two Constitutional Court decisions issued in 2017 materially changed the national architecture of executive cancellation of regional regulations. Finally, a legal remedy that disregards the plural character of Acehnese society risks substituting formal clarity for contested social legitimacy.

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[1] Memorandum of Understanding between the Government of the Republic of Indonesia and the Free Aceh Movement (signed 15 August 2005) cl 1.1.5 <https://www.peaceagreements.org/agreements/450/> accessed 24 October 2026.

[2] Undang-Undang Nomor 11 Tahun 2006 tentang Pemerintahan Aceh (Law No 11 of 2006 on the Governing of Aceh) arts 246–248.

[3] Qanun Aceh Nomor 3 Tahun 2013 tentang Bendera dan Lambang Aceh (Aceh Qanun No 3 of 2013 on the Flag and Emblem of Aceh) art 4.

[4] Peraturan Pemerintah Nomor 77 Tahun 2007 tentang Lambang Daerah (Government Regulation No 77 of 2007 on Regional Symbols) art 6(4) and its official explanation; E Wijaya, R Anggraeni and LR Apriani, 'Problem Pengesahan Bendera Aceh dalam Negara Kesatuan Republik Indonesia (Pemetaan Permasalahan)' (2016) 3(1) Padjadjaran Jurnal Ilmu Hukum 154.

[5] Alfurqan, 'Kedudukan dan Harmonisasi Qanun Aceh Nomor 3 Tahun 2013 tentang Bendera dan Lambang Aceh dalam Sistem Hukum Nasional' (2026) 4(2) Ameena Journal <https://doi.org/10.63732/aij.v4i2.290> accessed 24 October 2026; Arabiyani, 'Kepastian Hukum Qanun Aceh Nomor 3 Tahun 2013 tentang Bendera dan Lambang Aceh' (2018) 7(2) Jurnal Hukum dan Peradilan 195; M Ridwansyah, 'Pembentukan Qanun Aceh Nomor 3 Tahun 2013 tentang Bendera dan Lambang Aceh' (2018) 7(1) Jurnal Hukum dan Peradilan 109; Wijaya and others (n 4).

[6] OA Sari, T Maryanah and RC Kurniawan, 'Pertentangan Etnis Minoritas terhadap Agenda Politik Identitas Elite Pemerintah Aceh' (2022) 3(2) Journal of Governance and Social Policy 140.

This article asks three questions. How should the MoU, the special-autonomy statute, the implementing government regulation, and the qanun be interpreted within Indonesia's legal hierarchy? Which legal mechanisms remain available to clarify the qanun's normative status without confusing political non-implementation with judicial invalidation? Which peace-sensitive reform pathway can reconcile Aceh's recognised cultural self-government with national legality and plural representation? The central argument is that the most defensible solution separates (a) the statutory entitlement to a regional flag, (b) the legality of a particular design and its implementation rules, and (c) the political legitimacy of the emblem among Aceh's diverse communities. This differentiation yields a more precise and actionable framework than either unconditional deference to the qanun or unilateral security-based prohibition.

2. Research design and analytical framework

The study employs a qualitative doctrinal legal method, integrating statutory interpretation, analysis of constitutional jurisprudence, and contextual consideration of peer-reviewed scholarship. Its primary legal materials are the 1945 Constitution; the Helsinki MoU; Law No. 11 of 2006; Government Regulation No. 77 of 2007; Qanun Aceh No. 3 of 2013; Law No. 12 of 2011 as amended, including Law No. 13 of 2022; and Constitutional Court Decisions No. 137/PUU-XIII/2015 and No. 56/PUU-XIV/2016.7 The analysis draws on the promulgated texts and the courts' published holdings, rather than relying exclusively on media summaries. Scholarship on the legal status of peace agreements and Aceh's political transition supplies the conceptual context.[8]

The legal materials are examined through three linked analytical tests. The competence test identifies the institution empowered to legislate on regional symbols and the limits imposed by superior law. The compatibility test considers the text, purpose, and effects of the particular design and usage provisions, distinguishing a genuine legal contradiction from a politically contested interpretation. The institutional-remedy test identifies the procedures through which legal inconsistency may be corrected, including amendment, negotiated coordination, and judicial review. The political analysis then evaluates how each legally available option may affect historical recognition, intergovernmental trust, and the inclusion of non-GAM constituencies.

The study is interpretive rather than empirical. It does not report original interviews, public-opinion surveys, field observation, or a systematic search of all judicial dockets. Claims regarding stakeholder perceptions are accordingly attributed to published research or characterised as propositions requiring consultation. Likewise, the absence of a verified, case-specific judicial disposition in the legal materials examined is not treated as proof that no proceeding has ever been filed. This limitation matters because, if identified, a court's judgment would necessarily affect the assessment of the qanun's current legal status. The analysis is therefore confined

[7] Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan (Law No 12 of 2011 on Lawmaking); Undang-Undang Nomor 13 Tahun 2022 tentang Perubahan Kedua atas Undang-Undang Nomor 12 Tahun 2011 (Law No 13 of 2022 amending Law No 12 of 2011).

[8] E Aspinall, *The Helsinki Agreement: A More Promising Basis for Peace in Aceh?* (East-West Center 2005); C Bell, 'Peace Agreements: Their Nature and Legal Status' (2006) 100(2) American Journal of International Law 373; H Basri and others, 'From Separatism to Electoral Politics: Ethnic Mobilization and the Transformation of the Free Aceh Movement after the Helsinki MoU in Indonesia' (2026) 8 Frontiers in Political Science art 1794697 <https://doi.org/10.3389/fpos.2026.1794697> accessed 24 October 2026.

to the instruments and decisions specified above and the secondary literature cited below.

3. From negotiated peace to differentiated constitutional authority

3.1 The Helsinki MoU as a normative and political foundation

The Helsinki agreement is fundamental to the political legitimacy of Aceh's contemporary autonomy arrangements, but its legal status must be described with precision. It was concluded between the Indonesian government and a non-state armed movement within a peace process, not between two sovereign states as an ordinary inter-state treaty. It therefore does not enter Indonesia's hierarchy of legislative instruments merely by virtue of being signed. Nor does its lack of direct hierarchical status justify dismissing it as a wholly inconsequential "gentlemen's agreement." Scholarship on peace agreements recognises their distinctive interaction with domestic legislation, implementation institutions, and political obligations.[9] The MoU is a compelling interpretive and peace-process reference; directly enforceable domestic rights require examination of the legislation and other measures that implement it.

Clause 1.1.5 identifies an entitlement to regional symbols but does not specify the flag's exact colours, dimensions, historical provenance, or relationship to previously used insurgent insignia. This drafting choice created room for subsequent domestic specification. It did not itself settle whether every proposed design would be legally permissible. Conversely, a reading that empties the clause of meaningful practical operation would undermine the purpose of political accommodation. Both observations are important: the peace agreement supports a serious obligation to enable regional representation but does not provide a textual immunity for any chosen design.[10]

The interpretive relevance of the MoU arises most clearly when statutory ambiguity exists. In such circumstances, construing legal provisions consistently with the peace settlement's reconciliatory purpose is normatively preferable where the enacted language permits it. This is a principle of purposive interpretation, not a claim that a political agreement automatically outranks duly enacted legislation. Such an approach avoids both excessive legal formalism and the opposite error of treating the MoU as a free-standing constitutional amendment.

3.2 Article 246 of the Governing of Aceh Law

Article 246 of Law No. 11 of 2006 establishes four distinct propositions. Paragraph (1) affirms the Indonesian Red-and-White flag as the national flag. Paragraph (2) authorises the Aceh government to determine and establish a regional flag reflecting Aceh's special status. Paragraph (3) clarifies that the regional flag is neither a symbol nor an operative flag of sovereignty in Aceh. Most importantly, paragraph (4) requires the flag's form to be prescribed in an Aceh qanun that follows applicable legislation.11 Articles 247 and 248 separately deal with an emblem and hymn.

A doctrinal distinction follows. The statutory entitlement to adopt a regional flag is express; the entitlement to adopt a specific design is qualified. The language "in accordance with applicable legislation" supplies an internal limitation within the special statute itself. It is therefore inaccurate to argue that the central government has inserted a design restriction wholly absent from the Aceh law. A stronger autonomy-based argument would instead question whether the particular national restriction is

[9] Bell (n 8).

[10] Helsinki MoU (n 1) cl 1.1.5; Aspinall (n 8).

[11] Law No 11 of 2006, art 246.

consistent with the statute's object, the constitutionally recognised special status of Aceh, and the principle of proportionate implementation of a peace settlement.

Article 18B (1) of the 1945 Constitution recognises regional governmental units with special or distinctive status as regulated by statute.12 Recognition of diversity within a unitary state does not automatically exempt regional legislation from national judicial review. Equally, national rules should not be interpreted so broadly that the distinctive authority expressly granted by a special-autonomy law becomes illusory. The appropriate inquiry is thus not whether Aceh can have a flag—it can—but whether the selected design and specific provisions conform to the statutory and regulatory conditions that govern its use.

3.3 Why Government Regulation No. 77 of 2007 is not simply an external general rule

Government Regulation No. 77 of 2007 occupies a lower hierarchical position than a statute and a higher position than a provincial regional regulation under Indonesia's legislative hierarchy. Its preamble refers expressly to Law No. 11 of 2006, including Article 246(4), alongside other instruments. Its explanation of Article 5 also expressly includes Aceh qanun within the term "regional regulation".[13] These textual connections complicate the assumption that the government regulation applies only through a general regional-government regime while the Aceh law occupies an entirely separate legal domain.

The regulation recognises regional symbols as cultural markers rather than expressions of regional sovereignty (arts. 3–4). Article 6(4) prohibits designs substantially or wholly similar to separatist symbols; its official explanation gives a crescent-flag example in Aceh. A court assessing the provision would need to consider whether the implementing restriction properly operationalises Article 246(3)–(4) of the special-autonomy law, or instead unnecessarily narrows the autonomy that Article 246(2) was meant to protect. Crucially, the two provisions cannot be resolved solely by announcing the superiority of either lex specialis or lex superior, because special legislation itself incorporates a duty of regulatory compliance.

4. The Anatomy of The Regulatory Dispute

4.1 Design similarity and the proper operation of interpretive principles

The prohibition in Article 6(4) of Government Regulation No. 77 of 2007 is not a general ban on all regional flags containing crescents or stars. It is a rule directed at similarity to particular prohibited or separatist organisations or movements. Its explanation identifies a crescent flag associated with a separatist movement in Aceh. Qanun No. 3 of 2013, in turn, defines the flag by a combination of red background, black-and-white bands, and a central crescent and star.[14] The contested application therefore depends on the degree and legally relevant nature of the resemblance, not merely on whether each design employs a common religious motif.

The principle lex superior derogat legi inferiori gives superior instruments priority when a genuine and irreconcilable inconsistency exists. Yet it does not establish which factual elements satisfy the regulatory threshold of substantial similarity, whether the government regulation itself remains within statutory authority, or the consequences of a finding of incompatibility. The principle lex specialis derogat

[12] Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 (1945 Constitution of the Republic of Indonesia) art 18B(1).

[13] Government Regulation No 77 of 2007, preamble and explanation to art 5.

[14] Qanun Aceh No 3 of 2013, art 4.

legi generali can help interpret rules of comparable normative force or resolve the relationship between a special statute and general legislation. It cannot automatically elevate an Aceh qanun above a government regulation simply because the qanun implements a special statute. Otherwise, the distinction between the enabling legislation and the subordinate instrument would collapse.

A sound analysis therefore proceeds in sequence. It first verifies that the central regulation validly implements relevant legislation; second, interprets its design restriction in light of the purposes of special autonomy and national integrity; third, compares the actual legally defined designs; and fourth, identifies whether any conflict can be remedied through amendment or requires adjudication. Historical use by GAM is a material consideration, but the parties' divergent post-conflict interpretations remain relevant to the proportionality and prudence of available remedies. Importantly, the claim that a symbol has acquired a new civic meaning is not, without more, a judicial finding that its design satisfies Article 6(4).

4.2 Underappreciated inconsistencies in the flag-use provisions

The draft debate's focus on the design has obscured other potentially material inconsistencies. Government Regulation No. 77 of 2007 requires a regional flag used alongside the national flag to be smaller than the national flag (art. 10(2)); addresses its placement to the right when displayed together (art. 17(6)); and restricts its raising at specified official ceremonies (art. 18).[15] Qanun No. 3 of 2013, however, contemplates the Aceh flag being displayed alongside the Red-and-White flag at Aceh commemorations (art. 6(3)), places it to the left of the national flag in one provision (art. 7(2)), and sets a non-superiority requirement for flagpole height (art. 10(1)).[16] The regulations must be read with care because "right" and "left" may require a common reference point in implementation, but the apparent divergences warrant explicit legal comparison.

These clauses complicate a proposed solution consisting merely of requiring the Aceh flag to accompany the national flag: the qanun already contains several such arrangements. A joint protocol that repeats existing language without resolving incompatible dimensions, placement conventions, or ceremonial restrictions would not eliminate the dispute. The legal exercise should instead include an article-by-article concordance table, identify genuine irreconcilabilities, and formulate amendments directly addressing each one. Such drafting discipline can separate a technically curable mismatch from the more politically sensitive matter of historical design.

Table 1. Material legal questions requiring a provision-by-provision compatibility assessment

Issue	Relevant texts	Legal implication
Entitlement and limitation	MoU cl. 1.1.5; Law 11/2006, art. 246(2)–(4)	Right to a regional flag is recognised, while its form remains legally conditioned.

15 Government Regulation No 77 of 2007, arts 10(2), 17(6) and 18.

16 Qanun Aceh No 3 of 2013, arts 6(3), 7(2) and 10(1).

Flag design	PP 77/2007, art. 6(4) and explanation; Qanun 3/2013, art. 4	Substantial resemblance must be assessed against the prohibited design category.
Relative size	PP 77/2007, art. 10(2); Qanun 3/2013, arts. 7(2), 10(1)	Height and dimensions should not be treated as equivalent legal standards.
Display position	PP 77/2007, art. 17(6); Qanun 3/2013, art. 7(2)	Apparently divergent rules need harmonised spatial conventions.
Ceremonies	PP 77/2007, art. 18; Qanun 3/2013, arts. 6(3), 11(4)	Commemorative use needs clarification beyond the design dispute.

4.3 Validity, application, and legitimacy are different inquiries

Three questions must be kept analytically distinct. Formal validity concerns whether a regulation was adopted and promulgated by a competent institution through the required procedure. Substantive legality asks whether its provisions comply with higher law. Administrative or political implementability concerns whether public institutions are prepared to apply the regulation. A qanun may have been promulgated while its operation remains contested; neither governmental objection nor political suspension is, by itself, a reason to assert that a court has annulled it. Conversely, publication alone does not prove that every provision satisfies the hierarchy of law.[17]

Legitimacy adds a fourth question: whether the symbol plausibly represents the political community to which it is attributed. The attainment of legitimacy is not reducible to institutional competence. Lawful adoption may still provoke opposition from minorities or civilians whose conflict experiences differ from those of former GAM supporters. Conversely, the existence of disagreement about a symbol does not, without a legally applicable restriction, establish the invalidity of a duly adopted qanun. The proper analysis resists both shortcuts.

5. Institutional Control after Constitutional Adjudication

5.1 Executive supervision is not synonymous with executive annulment

Historical accounts of the 2013 controversy discuss central executive evaluation and the possibility of administrative cancellation under the regional-government framework then in force. Such accounts must be placed in their temporal context. In 2017, Constitutional Court Decision No. 137/PUU-XIII/2015 restricted executive cancellation of regency and municipal regulations, and Decision No. 56/PUU-XIV/2016 invalidated relevant provisions authorising the minister to annul provincial regional regulations. The Court thereby reshaped the allocation of authority between administrative supervision and judicial review.[18]

[17] Kurniawan, 'Aspek Hukum Pembentukan Qanun No 3/2013 tentang Bendera dan Lambang Aceh' (2014) 16(1) Kanun: Jurnal Ilmu Hukum <https://jurnal.hukumonline.com/a/5cb493d401fb73000fce0cd2/aspek-hukum-pembentukan-qanun-no-3-2013-tentang-bendera-dan-lambang-aceh/> accessed 24 October 2026; Ridwansyah (n 5).

[18] Mahkamah Konstitusi Republik Indonesia, Putusan Nomor 137/PUU-XIII/2015 (5 April 2017); Mahkamah Konstitusi Republik Indonesia, Putusan Nomor 56/PUU-XIV/2016 (14 June 2017); Yuswanto and MY Al Arif,

These rulings do not remove all national oversight of regional law. The central government retains lawful channels of guidance, coordination, monitoring, and preventive review within applicable legislation. What they undermine is the claim that a ministerial objection, standing alone, necessarily extinguishes the legal force of an already promulgated provincial qanun. The legal position must be evaluated against the temporal operation of the rulings and any specific Aceh-related legal provisions; the 2017 judgments should not be projected uncritically onto every administrative step taken in 2013. Nonetheless, their implication for a present-day strategy is significant: binding invalidation of a subordinate normative instrument is principally a judicial task, not a substitute for political bargaining.

5.2 Judicial review, justiciability, and the limits of adjudication

Under Article 24A(1) of the 1945 Constitution, the Supreme Court has authority to review regulations below the level of statute against statutes.19 An appropriately entitled applicant may seek legal review of a qanun under the relevant legislation and procedural rules, subject to standing, time, and admissibility requirements. The identity of a prospective applicant should not be assumed: a general claim that a ministry may always file such a petition needs independent procedural verification. Similarly, disagreement over the legality of the government regulation itself may require a distinct challenge to that instrument. In either situation, litigants must specify the impugned provisions, the statutory benchmarks, and the relief sought.

A court can clarify the legal consistency of a particular provision, but it cannot by itself manufacture shared political meaning. An adverse ruling could be perceived as disregarding the promises of the peace settlement; an autonomy-favouring ruling could be regarded by critics as inadequately protecting national cohesion. These risks are not reasons to reject judicial review as a legal safeguard. They support making litigation part of a transparent and constitutionally defensible sequence, preceded—where practicable—by a good-faith effort at negotiated legislative clarification. Resort to the judiciary is most useful when the parties are willing to implement the judgment and explain its reasoning publicly.

An especially important distinction concerns the basis of review. The Supreme Court reviews subordinate regulations against legislation; it does not ordinarily resolve a freestanding political disagreement about the historic meaning of the flag. Therefore, a well-framed case would focus on delegated regulatory authority, lawful construction of Article 246, the interaction with Government Regulation No. 77 of 2007, and any procedural defects identified in the legislative record. Scholarly recommendations must avoid presenting an untested outcome as inevitable.

6. Symbolic Politics, Peace Implementation, and Inclusive Representation

6.1 From insurgent insignia to a contested provincial emblem

Flags compress history into visual form. In a post-conflict setting, the same design may signify survival, sacrifice, regional dignity, and negotiated recognition to one constituency while recalling coercion, exclusion, or the possibility of renewed secession to another. The Aceh

'Diskursus Pembatalan Peraturan Daerah Pasca Putusan MK No 137/PUU-XIII/2015 dan No 56/PUU-XIV/2016' (2019) 15(4) Jurnal Konstitusi 710.

19 1945 Constitution, art 24A(1).

crescent-and-star controversy illustrates how a peace settlement may demobilise armed actors without immediately stabilising the public meaning of their symbols. Aspinall situates Aceh's settlement in a broader bargain of political participation and self-government; Bell explains why the implementation of peace agreements cannot be reduced to conventional treaty classification.[20] Together, these insights indicate why symbolic disputes often persist after the principal security arrangements have been implemented.

The symbol's electoral salience also matters. Research on the transformation of GAM into local political competition describes the deployment of identity markers in political mobilisation.[21] This does not establish that all former combatants or all Acehnese endorse one political interpretation. It does suggest that a flag may serve several functions at once: remembrance, incorporation into legitimate political institutions, partisan differentiation, and a claim to represent the entire territory. A law that converts a historically factional emblem into a legally designated provincial symbol changes its institutional audience. That transition can be defended, but it should not be presumed socially uncontroversial.

6.2 Plural communities and the limits of a single symbolic narrative

The political community of Aceh contains linguistic, historical, and regional diversity, including Gayo, Alas, Tamiang, and other communities with distinct experiences of the conflict and of post-2005 political competition. Interviews reported by Sari and colleagues indicate that responses among minority respondents were not uniform: some supported the flag framework while others objected to what they regarded as elite appropriation of provincial identity.[22] Their findings support an inclusion problem, but they do not justify numerical claims about majority or minority support across specific districts in the absence of representative data.

Inclusivity should therefore be treated as a test of process, not as a rhetorical assurance that one motif is "universally accepted." For example, adding a rencong motif may help some stakeholders identify with the flag, but its acceptance by all ethnic and social constituencies cannot be assumed. Nor should any visual change be treated as automatically removing the substantial-similarity concern in Article 6(4); the final appearance would still require legal assessment. An inclusive settlement would involve an accountable consultation process encompassing provincial and district institutions, relevant adat bodies, former combatants, civil society, women's groups, and communities that perceive themselves as under-represented.

Such consultation should make the decision criteria visible. Stakeholders should know whether the process concerns retention of an existing design, limited modification, adoption of a new emblem, or legislative reform at the national level. It should also distinguish disagreement about the historical symbolism from questions of the national flag's supremacy, which the Aceh law itself already recognises. This distinction can reduce the false choice between recognition and sovereignty.

6.3 A peace-implementation principle of justified accommodation

The normative test proposed here is justified accommodation: a public authority restricting a peace-related regional symbol should articulate a specific legal basis, demonstrate how that basis applies to the actual design or use, explain why less restrictive lawful alternatives are inadequate, and preserve the meaningful operation

[20] Aspinall (n 8); Bell (n 8).

[21] Basri and others (n 8).

[22] Sari and others (n 6).

of special autonomy wherever possible. Correspondingly, the Aceh institutions asserting the right to use a particular symbol should explain how the choice complies with the express limitations of Article 246(3)–(4), rather than relying solely on historical entitlement. This is an analytical standard recommended by the article, not a claim that Indonesian courts have already adopted a named "justified accommodation" test for Aceh's flag.

Its value lies in reciprocal justification. The centre cannot dismiss the institutional promise contained in the peace settlement as a matter of administrative convenience; Aceh cannot treat statutory recognition as eliminating the requirements of subordinate-law compatibility. Both must supply reasons capable of public scrutiny. A reason-giving model also creates a basis for review if political negotiations do not succeed.

7. A Sequenced Constitutional Settlement

7.1 Stage I: Joint audit and publication of a legal compatibility memorandum

The first step should be a time-limited, joint legal audit between representatives of the Aceh government and legislature and relevant national institutions. The mandate would be to produce a written schedule of every potentially conflicting provision in Qanun No. 3 of 2013 and Government Regulation No. 77 of 2007, beginning with Articles 4, 6, 7, 10, and 11 of the qanun and Articles 6, 10, 17, and 18 of the regulation. Each row should specify the relevant legal text, the asserted conflict, whether an interpretation could reconcile it, and the minimum amendment needed if reconciliation is impossible.

Publication is essential. A confidential negotiation without a reasoned public explanation is liable to reproduce the perception of indefinite administrative obstruction. The memorandum should explain the distinct legal consequences of a regulatory amendment, a qanun amendment, and judicial invalidation. It should avoid claiming either that a qanun is void by political objection or that promulgation provides immunity from legality review. As a realistic institutional measure, the audit should also verify the latest regulatory status and the existence, if any, of case-specific court proceedings or implementing instruments.

7.2 Stage II: Inclusive consultation and lawful design alternatives

Once the legal audit specifies the actual issues, a structured consultation can address the question that doctrinal analysis alone cannot settle: which design sufficiently represents the province while accommodating the legitimate concerns of peace-implementation actors and under-represented communities? At least three alternatives deserve appraisal. The first is retention of the existing design coupled with a formal legal reinterpretation or an amendment to the relevant national rules, if supportable under the special-autonomy law and the Constitution. The second is a narrowly modified design that preserves recognisable historical elements while meeting the substantial-similarity test. The third is a new, more inclusive provincial symbol chosen through a transparent process; this may be politically more difficult but should not be excluded in advance.

No alternative should be declared legally effective solely on the basis of a political communiqué. A design modification would require a legally valid amendment to the qanun and its annex where relevant. A national exception would require a properly enacted amendment to the government regulation and legal justification compatible with Article 246. Even a carefully drafted intergovernmental protocol would have only the legal force conferred by its form and enabling framework; it could not, by itself, repeal an existing statutory or regulatory prohibition. The value of a protocol is chiefly to document shared interpretive commitments, implementation steps, and non-sovereign ceremonial principles.

7.3 Stage III: Precise textual harmonisation and implementation

The parties should prioritise changes that are capable of prompt legal correction without predetermining the design issue. For example, flag dimensions, placement orientation, and public-ceremony protocols can be placed into a technical harmonisation schedule. The distinction between flagpole height and cloth dimensions must be explicit. National and regional officials should also agree on a common spatial reference point for “left” and “right,” avoiding disputes generated by the position of the observer. Where conflicting ceremony provisions are identified, the parties should use an appropriate legal amendment rather than assume that customary practice overrides the written text.

Implementation should follow a published timetable and include a mechanism for explaining the final rules to provincial agencies and the public. Compliance monitoring would focus on whether officials apply the agreed legal provisions consistently, whether the national flag’s constitutional position is preserved, and whether procedures for contesting alleged misuse are foreseeable. Security authorities should act on a clearly identified, current legal basis and employ proportionate enforcement rather than rely on ambiguity as a standing justification for coercion.

7.4 Stage IV: Judicial determination if negotiations do not resolve the conflict

If the parties cannot agree within an announced period, an eligible applicant can seek review of the pertinent subordinate instrument through the legally available procedure, with the disputed clauses and statutory benchmarks clearly identified. Judicial review should not be framed as punishment for failed negotiation. It is the constitutionally authorised method for resolving an enduring question of normative legality where political institutions remain divided. A parallel public commitment to accept lawful outcomes and preserve the peace settlement’s core guarantees would make this route more credible.

A further legislative option is available if judicial reasoning identifies a structural gap between the special-autonomy statute and subordinate regulation. The national rulemaker could then consider a narrowly tailored regulatory clarification rather than a blanket exception that automatically authorises any emblem claimed by an autonomous region. A broad exemption based solely on special status risks disregarding legitimate constraints on non-sovereign symbolism and may produce unintended disputes elsewhere. Any special accommodation must specify its conditions, legal rationale, and non-sovereign effect.

Table 2. Relative strengths and legal limits of proposed settlement instruments

Instrument	Potential contribution	Constraint and safeguard
Amend the Aceh qanun	Corrects specific design and use provisions; preserves local legislative agency.	Requires a lawful provincial amendment and representative consultation.
Amend PP 77/2007	Clarifies national criteria and possible tailored accommodation.	Cannot override the Constitution or exceed the delegation in Law 11/2006.
Joint implementation protocol	Builds trust, allocates responsibilities, and records practical rules.	Does not itself repeal conflicting positive law.
Supreme Court review	Provides a judicial determination on specified subordinate-law issues.	Standing, object of review, and statutory benchmarks must be established.

8. Discussion: implications beyond Aceh

The Aceh flag controversy illustrates a recurring problem in asymmetric autonomy regimes: constitutional recognition is often drafted as a broad political promise while implementation takes place through ordinary administrative categories. The resulting legal instruments may describe different aspects of the same policy in incompatible terms. Here, the special-autonomy statute establishes a right and an accompanying restriction; the national regulation supplies design and ceremonial rules; and the qanun converts a historically significant symbol into a detailed operational code. Each step is intelligible individually, yet their interaction generates contestation.

The analysis yields three broader implications. First, the legal status of negotiated peace commitments must be translated into an explicit domestic implementation architecture rather than assumed from the agreement alone. Second, conflict resolution requires attention to both a norm's substantive content and the institution authorised to interpret or invalidate it. The post-2017 limits on executive cancellation reinforce the need for procedural precision. Third, symbolic autonomy is most durable when its implementation is publicly justified not only to former adversaries but also to diverse constituencies within the autonomous region.

These propositions contribute to scholarship on decentralisation and legal pluralism by rejecting a categorical opposition between national sovereignty and local recognition. A national legal order can protect regional distinctiveness while enforcing constitutional constraints, provided that restrictions are lawful, narrowly explained, and reviewable. Equally, a peace-based autonomy claim can be strongest when framed as a right exercised within clearly articulated statutory conditions. The constitutional task is to preserve both dimensions rather than sacrifice one to the other.

9. Conclusion

The dispute over the Aceh flag is neither a question of visual symbolism alone nor a self-executing choice between lex superior and lex specialis. Clause 1.1.5 of the 2005 Helsinki MoU supplies the peace-process foundation for regional symbols, while Article 246 of Law No. 11 of 2006 establishes their domestic legal basis and explicitly conditions the flag's form on conformity with applicable legislation. Government Regulation No. 77 of 2007 both invokes this special-autonomy statute and imposes a design restriction that is directly relevant to the emblem prescribed by Qanun No. 3 of 2013. Other provisions concerning dimensions, flag position, and ceremonies warrant detailed comparison. The Constitutional Court's 2017 rulings further require present-day analysis to distinguish administrative supervision from judicial annulment.

A sustainable response must respect three separate demands: legal consistency, fulfilment of the peace agreement's meaningful promise, and inclusive political representation. The article therefore recommends a sequenced process: a published intergovernmental legal audit, representative consultation on lawful symbolism, precisely drafted amendments and implementation arrangements, and judicial review where negotiations fail. This framework does not presume that modifying the design is the only acceptable outcome, that retention requires unconditional exemption, or that a court has already resolved the dispute. Instead, it makes each option answerable to the same requirements of legality, reasoned justification, and peace-sensitive constitutional accommodation.

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