Social concepts of traditional justice and methods of settlement of traditional law in Aceh

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ABSTRACT: Customary law is the same as other laws that live and develop in society. Customary law is a role model and implementation of attitudes or character (geist) from daily practice in the life order of people who are more ethnic or community groups in a country. The nature and shape are traditional and basically unwritten and sourced from their own customs or habits. The research was carried out in Aceh Province from 2020 to 2021. The research method used was the observation method. Observations were made to the people of Aceh, then analyzed qualitatively. The use of meunasah as a place of customary peace cannot be separated from the long history of meunasah itself, in general Meunasah, some call it meulasah, beunasah, beulasah, comes from the word madrasa in Arabic, which is an educational institution, the meunasah is used as a place to stay for the men who have reached puberty in the gampong, as well as the adult men who stop by in the gampong but do not have a wife in the gampong.

Keywords: Aceh, law, social, traditional

INTRODUCTION

Customary law is the same as other laws that live and develop in society. Customary law is a role model and implementation of attitudes or character (geist) from daily practice in the life order of people who are more ethnic or community groups in a country. The nature and shape are traditional and basically unwritten and sourced from their own customs or habits (Mantra, 2004).

As is the case with customary law that applies throughout Indonesia, especially Aceh. The law developed in the life order of the Acehnese, which of course differed in customs from customary law in other parts of Indonesia. We should be happy because customary law in aceh has shown progress, even though its practice in everyday life is still not as expected. However, Aceh already has the authority in the constitution. This means that the customary law in force in Aceh has received recognition from the government.

Although the location of Aceh’s customary law is not equivalent to positive law, Aceh is given the opportunity for customary law officials to resolve cases within 1 month (Nurdin & Kartini, 2017).

Customary law is a very effective alternative for local communities, especially Aceh. There are three main reasons why non-litigas are used in dispute resolution, especially the settlement out of court by way of peace. First, in Indonesia, the procedure for resolving peaceful disputes has long been and is commonly used by the people of Indonesia (Devi et al., 2020).

This can be seen from the customary law which places the customary head as an intermediary and gives customary decisions for disputes between residents. Second, there is dissatisfaction with the settlement of cases through the courts, such as the high cost of the case, the length of time and the complexity of the proceedings, so that various countries in the world, including Indonesia, have begun to turn to non-litigation of case settlements out of court. Third, in the Indonesian people (Aceh) there is a tendency to resolve disputes using customary methods. As a means of resolving non-litigation legal disputes, so far it is still effective, although not entirely in both civil and criminal aspects (Q Saleha, 2017).

The definition of a crime according to the term is the most common translation for the term "strafbaar feit" in Dutch although there is no official translation of strafbaar feit. According to Simons, it is an act or...
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Deed that is threatened with punishment by criminal law, is contrary to criminal law and is carried out in error by someone who is capable of being responsible (Martianto et al., 2009).

According to E. Utrecht, with the content of a criminal event which he often calls an offense, because the event was an act (positive handelen or doen) or a neglect (negative natalen), as well as the consequences (conditions caused by the act or neglect). According to Moeljatno, the definition of a criminal act means an act that is prohibited and is threatened with punishment, against anyone who violates the prohibition. This act must also be felt by the community as an obstacle to the social order that the community aspires to (Qoriah Saleha, 2013).

Based on the above opinion, it can be concluded that the definition of a criminal act is an act that is carried out by a responsible human being where the act is prohibited or ordered or permitted by criminal law laws which are sanctioned in the form of criminal sanctions. To distinguish an act as a criminal act or not, is whether the act is given criminal sanctions or not (Heryanto, Mahra et al., 2016).

METHOD

The research was carried out in Aceh Province from 2020 to 2021. The research method used was the observation method. Observations were made to the people of Aceh, then analyzed qualitatively. Customary disputes or disputes According to Qanun no. 9 of 2008, covering: domestic disputes; disputes between families related to faraid; disputes between citizens; meusum seclusion; disputes over property rights; theft in the family (minor theft); Disputes on common property, minor theft; pet cattle theft; violation of adat regarding livestock, agriculture, and forest; disputes at sea; disputes in the market; minor abuse; forest burning (on a small scale to the detriment of indigenous communities); harassment, slander, sedition, and defamation; environmental pollution (mild scale); threatening threats (depending on the type of threat); and other disputes that violate customs and customs. Meanwhile, according to regulation no. 7 of 2000 article 19 states that the sanctions given are also the same as those in the qanun above (Mantra, 2004).

RESULT AND DISCUSSION

In Aceh's historical literature, the term adat meulangga is known in this kind of case, the keuchik acts as if he is the representative of both parties, but in essence acts as the judge of the dispute. The reason for enforcing the breaking custom is generally a real wound or insult. Settlement of minor crimes cases with peace has long been carried out in Aceh but the term adat justice was now first popularized by the Aceh Customary Council (MAA) and has now been standardized into an official term in Aceh Qanun. then the customary court is included in the MAA's work program (Ramadhan et al., 2014).

In general, the implementation of the Customary Peace Court is carried out by institutions called Gampong and Mukim. The same applies to all of Aceh. However, in certain areas, such as Aceh Tengah and Aceh Tamiang, they use other terms. However, its function remains the same, namely as a dispute resolution institution or customary case (Yuwita et al., 2021).

CUSTOMARY COURTS

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Settlement of cases in the customary courts in the Gampong is carried out by the village apparatus while the composition of the customary justice team in the Gampong is by traditional leaders consisting of:
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Keuchik, imeum meunasah; tuha peut; village secretary; ulema, scholars and other relevant traditional leaders; imeum mukim; oh imeum chik, tuha peut; mukim secretary; ulema, scholars and other relevant traditional leaders (Purnawan et al., 2020).

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Gampong Customary Court Structure

The customary courts in Gampong have the following structure: Keuchik, as Chair of the Session; Gampong Secretary, as Registrar, Ulee Jurong as Recipient of Initial Report, Tuha Peuet as Member; Imam Meunasah as Member, Ulama, Scholars, traditional leaders as members.

The Gampong customary court can handle all customary cases that are reported to him in accordance with the Aceh Qanun (Suharyatun et al., 2018).

1. Cases that occur between villages that are under the jurisdiction of Mukim
2. An appeal case is a case that has been handled at the Gampong level, but one of the parties is not satisfied with the decision. Specifically regarding cases that have been tried at the Gampong level and forwarded to the Mukim level.

Place of Customary Court

Aceh Qanun No. 9 of 2003, Article 15 stipulates that, the deliberation session for the settlement of disputes is held at the Meunasah or another name at the Gampong level or by another name and at the Mosque at the Mukim level or other places designated by the Keuchik or another name and the Ilmue Mukim or other names other (Abubakar & Ndoen, 2019).

Keuchik as chairman of the session in the implementation of the Gampong customary trial, assisted by the Gampong apparatus as an active member of the trial. The trial is usually until the conclusion of the main points of the dispute is found and at the same time can apply the necessary legal norms as the basis for a decision that can be accepted amicably by both parties. The verdict of the trial was announced and executed through a traditional ceremony in public at the meunasah (Febrianti, 2015).

The use of meunasah as a place of customary peace cannot be separated from the long history of meunasah itself, in general Meunasah, some call it meulasah, beunasah, beulasah, comes from the word madrasa in Arabic, which is an educational institution, the meunasah is used as a place to stay for the men who have reached puberty in the gampong, as well as the adult men who stop by in the gampong but do not have a wife in the gampong. When Islam was firmly established in Aceh, the men's place of stay was also used as a place of worship (Meunasah) for gampong residents, as is also found in Java as Langgar, Bale or Tajug.

According to Taufik, Abdullah meunasah in a terminological sense is a place for various activities, both those related to world problems (customs), and those related to religious issues, which are headed by the teungku meunasah. In another sense, meunasah is a place for galvanizing the gampong or village community, so that the gampong community becomes human beings who believe and are devoted to Allah SWT (Fauzi et al., 2019).

Scope of Responsibilities of Indigenous Leaders

The main responsibilities of adat leaders in the adat justice process include (Anggraini et al., 2022):

1. Implementing the customary judicial process: Customary stakeholders are responsible for every stage of the customary court, from receiving reports, examining issues to the stage of the final trial preparation meeting and up to the giving of customary court decisions.
2. Decide fairly: Customary stakeholders must ensure that any decisions taken from an adat tribunal process as far as possible fulfill the sense of justice of the disputing parties, where decisions are made based on the results of the evidence and deliberation process, not based on the interests of one of the
disputing parties. Being involved in solving cases is a big responsibility. Community members put their trust in customary leaders to resolve disputes fairly and peacefully.

3. Protect the rights of the disputing parties. Customary stakeholders are responsible for fulfilling the rights of the disputing parties starting from the process of receiving reports, examining issues, the trial process to the stage of implementing decisions in court. Included in the implementation of decisions such as compensation/fines, such as the expression, "Injuries, blood does not measure", (the size of the wound and the amount of blood must be measured. This means that in determining the law, it must be proportional to the losses incurred.

4. Recording Judicial Processes and Decisions. Every process and decisions that have been taken must be recorded accurately in the administrative documents of customary justice.

5. File case files. Case files including agreement letters containing customary decisions must be stored or archived safely by customary stakeholders, this is important to ensure and expedite the judicial process for other cases and the same cases are repeated, so that customary stakeholders have references in carrying out their duties. judicial process and make decisions on customary disputes.

The Aceh Qanun of 2008 concerning customary institutions, emphasizes that traditional institutions that have developed in the lives of Acehnese people from the past until now have an important role in fostering cultural values, customary norms and rules to create security, order, peace, harmony and prosperity for the community. Acehnese society in accordance with Islamic values.

In Aceh Qanun Number 9 of 2008 concerning the Guidance of Life and Customs, it has been explicitly regulated in a separate chapter on dispute resolution and its mechanism. Article 13 paragraph (1), it is emphasized that the types of disputes/disputes between customs and customs include: domestic disputes between families related to faraid; disputes between residents; meusum seclusion; disputes over property rights; theft in the family (minor theft); common property disputes; petty theft; theft of pets; violations of adat regarding livestock, agriculture and forests; disputes at sea; disputes in the market; minor abuse; forest burning (on a small scale to the detriment of indigenous communities); harassment, slander, sedition and defamation; environmental pollution (light scale); threatening threats (depending on the type of threat); and other disputes that violate customs and customs (Hendri & Yulinda, 2021).

Especially in Aceh, that has proven that customary law is still very much maintained with the issuance of a Joint Decree between the Governor of Aceh, the Head of the Aceh Regional Police and the Chair of the Aceh Customary Council, No. 1054/MAA/XII/2011 concerning the Implementation of Gampong and Mukim Customary Courts or other names in Aceh. Settlement of cases in customary courts in Gampong is carried out by gampong apparatus. As mentioned in the first, second, and third sections which say that (Febrianti, 2015):

1. Part One: Disputes/disputes that occur at the Gampong and Mukim levels which are mild in nature as referred to in Article 13, Article 14, and Article 15 of Qanun Number 9 of 2008 concerning the Guidance of Customary Life and Customary Tradition must be resolved first through the Gampong and Mukim Customary Courts or Other Names in Aceh;
2. Second Part: Police officers provide the opportunity for any dispute/dispute as referred to in the first dictum to be resolved first through the Gampong and Mukim Customary Courts or other names in Aceh;
3. Third Part: The decisions of the Gampong and Mukim Adat courts or other names in Aceh are final and binding and cannot be submitted to the general court or other courts.

CONCLUSION

Especially in Aceh, that has proven that customary law is still very much maintained with the issuance of a Joint Decree between the Governor of Aceh, the Head of the Aceh Regional Police and the Chair of the Aceh Customary Council, No. 1054/MAA/XII/2011 concerning the Implementation of Gampong and Mukim Customary Courts or other names in Aceh. As mentioned in the first, second, and third sections
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which state that: (1) First Part: Disputes/disputes that occur at the Gampong and Mukim levels are mild as referred to in Article 13, Article 14, and Article 15 Qanun Number 9 of 2008 concerning the Guidance of Customary Life and Customary Tradition must be completed first through the Gampong and Mukim Customary Courts or other names in Aceh; (2) Part Two: Police officers provide the opportunity for any dispute/dispute as referred to in the first dictum to be resolved first through the Gampong and Mukim Customary Courts or other names in Aceh; (3) Part Three: Decisions of the Gampong and Mukim Customary Courts or other names in Aceh are final and binding and cannot be submitted again to the general court or other courts.

REFERENCE


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