THE URGENCY OF PROTECTING CUSTOMARY FORESTS BASED ON THE PRINCIPLE OF LOCAL WISDOM IN NORTH ACEH

a Budi Bahreisy, b Eko Gani Pg, c Ferdy Saputra, d Hidayat

ABSTRACT

Objective: One of the issues raised in the research on the recognition of customary forests in North Aceh District concerns the issue of customary forests after the Constitutional Court (MK) decision No. 35/PUU-X/2012 regarding customary forests. Indigenous forests are now officially recognised as belonging to indigenous communities, no longer to the state. This recognition comes from During 2016 to 2021, forests in Aceh have experienced deforestation of 100,510 hectares of forest, thus Aceh's forest cover is currently 3,004,532 hectares.

Methods: This research started from July 2023 to November 2023. This research is an empirical legal research with a qualitative approach that uses primary data and secondary data to obtain primary data, respondents and informants are determined.

Results: The purpose of this study is to maximise Criminal Law Enforcement Against Forestry Crimes in Aceh, seeking related agencies and law enforcers to provide protection of customary forests based on local wisdom in forestry crimes and recognition from the Aceh government to determine or sort out which land is state forest and which is customary forest land so as to provide welfare for Indigenous Peoples, especially in this study in Aceh.

Discussion: The recognition of customary forests in Aceh has been regulated in Qanun No. 7 of 2016 concerning Aceh Forestry, but in this study, namely North Aceh District and Central Aceh District, the recognition of customary forests is still not effective, among others, influenced by juridical factors, economic factors and community culture, and social factors.Against the Urgency of Indigenous Forest Protection Based on Local Wisdom Principles in Aceh, especially in this study in North Aceh District and Central Aceh District against law enforcement carried out in forestry crimes using customary sanctions in the form of paying fines such as, diyat, suloh, and sayam.

Keywords: urgency, protecting customary forests, the principle of local wisdom.

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URGÊNCIA DA PROTEÇÃO DAS FLORESTAS COSTUMEIRAS COM BASE NO PRINCÍPIO DA SABEDORIA LOCAL EM ACEH NORTE

RESUMO

Objetivo: Uma das questões levantadas na investigação sobre o reconhecimento das florestas consuetudinárias no distrito de Aceh Norte diz respeito à questão das florestas consuetudinárias após a decisão do Tribunal Constitucional (MK) n.º 35/PUU-X/2012 relativa às florestas consuetudinárias. As florestas indígenas são agora oficialmente reconhecidas como pertencentes às comunidades indígenas e não mais ao Estado. Durante o período de 2016 a 2021, as florestas de Aceh sofreram uma desflorestação de 100 510 hectares de floresta, pelo que a cobertura florestal de Aceh é atualmente de 3 004 532 hectares.

Métodos: Esta investigação teve início em julho de 2023 e terminou em novembro de 2023. Esta investigação é uma investigação jurídica empírica com uma abordagem qualitativa que utiliza dados primários e dados secundários para obter dados primários, os inquiridos e os informadores são determinados.

Resultados: O objetivo deste estudo é maximizar a aplicação da lei penal contra crimes florestais em Aceh, buscando agências relacionadas e aplicadores da lei para fornecer proteção de florestas consuetudinárias com base na sabedoria local em crimes florestais e reconhecimento do governo de Aceh para determinar ou classificar qual terra é floresta estatal e qual é terra florestal consuetudinária, de modo a proporcionar bem-estar aos povos indígenas, especialmente neste estudo em Aceh.

Discussão: O reconhecimento das florestas consuetudinárias em Aceh foi regulamentado no Qanun n.º 7 de 2016 relativo à Silvicultura de Aceh, mas neste estudo, nomeadamente no Distrito de Aceh Norte e no Distrito de Aceh Central, o reconhecimento das florestas consuetudinárias ainda não é eficaz, entre outros, influenciado por factores jurídicos, factores económicos e cultura comunitária e factores sociais. Contra a urgência da proteção das florestas indígenas com base nos princípios da sabedoria local em Aceh, especialmente neste estudo, no distrito de Aceh Norte e no distrito de Aceh Central, contra a aplicação da lei em crimes florestais, recorrendo a sanções consuetudinárias sob a forma de pagamento de multas, como diyat, suloh e sayam.

Palavras-chave: urgência, Proteção das florestas, princípios da sabedoria local.

1 INTRODUCTION


In this study looking at the regulations regarding customary forests in Aceh, there are only 3 regulations regarding forestry, namely contained in Aceh Qanun Number 7 of 2016 concerning Aceh Forestry, Aceh Jaya District Qanun Number 5 of 2017 concerning Mukim Customary Forests, and Bireuen District Qanun Number 5 of 2017 concerning...
Mukim Customary Forests. Related to this research, namely in North Aceh and Central Aceh there is no regional regulation or regional Qanun related to customary forests.

The issue raised in research on adat in Aceh concerns the issue of customary forests, which are forests located in the territory of indigenous peoples as the main actors to improve their welfare (JDIH Kemenko Bidang Kaperitaman dan Investasi, 2023). Forests are now officially recognised as belonging to indigenous communities, no longer to the state. This recognition comes from the decision of the Constitutional Court (MK) Number 35/PUU-X/2012 regarding customary forests. This decision brings a number of consequences, including the mechanism for confirming the existence of customary law communities, determining the boundaries of customary law areas, and sharing authority between customary law communities and the state in forest governance (Dinas Lingkungan Hidup, 2023).

Forest data in Aceh can be seen in the following table:

<table>
<thead>
<tr>
<th>Id</th>
<th>KABUPATEN KOTA</th>
<th>Areal_Penggunaan_Lain</th>
<th>Hutan_Lindung</th>
<th>Hutan_Produkksi</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>ACEH BARAT KOTA</td>
<td>165,781</td>
<td>106,675</td>
<td>6,587</td>
</tr>
<tr>
<td>2</td>
<td>ACEH BARAT DAYA</td>
<td>69,938</td>
<td>52,291</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>ACEH BESAR</td>
<td>117,458</td>
<td>69,792</td>
<td>68,626</td>
</tr>
<tr>
<td>4</td>
<td>ACEH JAYA</td>
<td>134,195</td>
<td>168,361</td>
<td>14,057</td>
</tr>
<tr>
<td>5</td>
<td>ACEH SELATAN</td>
<td>107,291</td>
<td>154,302</td>
<td>15,194</td>
</tr>
<tr>
<td>6</td>
<td>ACEH SINGKIL</td>
<td>114,912</td>
<td>2,310</td>
<td>14,678</td>
</tr>
<tr>
<td>7</td>
<td>ACEH TAMANG</td>
<td>127,044</td>
<td>45,578</td>
<td>34,809</td>
</tr>
<tr>
<td>8</td>
<td>ACEH TENGAH</td>
<td>98,422</td>
<td>151,682</td>
<td>69,103</td>
</tr>
<tr>
<td>9</td>
<td>ACEH TENGGARA</td>
<td>49,874</td>
<td>80,816</td>
<td>26</td>
</tr>
<tr>
<td>10</td>
<td>ACEH TIMUR</td>
<td>270,756</td>
<td>168,981</td>
<td>96,235</td>
</tr>
<tr>
<td>11</td>
<td>ACEH UTARA</td>
<td>234,016</td>
<td>7,907</td>
<td>27,421</td>
</tr>
<tr>
<td>12</td>
<td>BANDA ACEH</td>
<td>15,256</td>
<td>67,444</td>
<td>52,688</td>
</tr>
<tr>
<td>13</td>
<td>BENER MERAH</td>
<td>110,029</td>
<td>30,679</td>
<td>32,39</td>
</tr>
<tr>
<td>14</td>
<td>BIREUEN</td>
<td>73,582</td>
<td>215,347</td>
<td>30,56</td>
</tr>
<tr>
<td>15</td>
<td>GAYO LUES</td>
<td>14,992</td>
<td>1,204</td>
<td>3,661</td>
</tr>
<tr>
<td>16</td>
<td>LANGSA</td>
<td>13,575</td>
<td>124,997</td>
<td>14,507</td>
</tr>
<tr>
<td>17</td>
<td>LHOKSEUMAWIE</td>
<td>178,018</td>
<td>175,039</td>
<td>35,631</td>
</tr>
<tr>
<td>18</td>
<td>NAGAN RAYA</td>
<td>12,878</td>
<td>48,512</td>
<td>12</td>
</tr>
<tr>
<td>19</td>
<td>PIDIE JAYA</td>
<td>3,222</td>
<td>12</td>
<td></td>
</tr>
<tr>
<td>20</td>
<td>SIMPULU</td>
<td>100,402</td>
<td>67,458</td>
<td>23,851</td>
</tr>
</tbody>
</table>

During 2016 Aceh experienced deforestation of 21,060 hectares, 2017 totalled 17,829 hectares (Junaidi Hanafiah, 2022). In 2018, Aceh's forest cover shrank by 15,071 hectares, while in 2019 the forest cover lost was 15,140 hectares, in 2020 from June to July there was a closure of 19,443 hectares, and in 2021 the loss of forest cover was 11,977 hectares (Kementerian Lingkungan Hidup dan Kehutanan, 2018). This leaves 3,004,532 hectares of forest cover in Aceh. Forest conversion and illegal logging are the
main triggers for forest destruction in Indonesia’s westernmost province. In this study, the research team took 2 research locations in Aceh, namely located in Central Aceh District and North Aceh District. With the consideration that these two locations are the largest deforestation areas in Aceh with the amount of Aceh Tengah District (1,924 hectares), followed by North Aceh (1,851 hectares). Based on the data above, it can be displayed in diagram form as follows:

Diagram I: Forest Deforestation in Aceh

In early 2016, flash floods occurred in Aceh Besar and Pidie districts, the floods occurred due to overflowing river water in the Seulawah Agam and Seulawah Inong mountain areas located in the company area, as a result thousands of people in the two districts had to evacuate, because their homes were flooded. Other environmental damages such as forest fires, landslides in recent years continue to occur in Aceh, this is due to the wrong planning for the development of forest areas (Junaidi Hanafiah, 2017).

Looking at the research location, namely in Central Aceh Regency and North Aceh Regency, recently, on 24 March 2023, flash floods have occurred in the Central Aceh area which resulted in two bridges leading to Telege Sari Gegearang Village from Paya Dedep Village, and Telege Sari Village, Jagong Jeget, being buried by wooden materials that were carried away by flash floods (Samsuddin, 2023).

North Aceh District is also an area that is subscribed to flooding and experiences disasters every rainy season, in this case also caused by the Krueng Keureuto Reservoir Project has contributed to the reduction of forest and land area. The existence of PT MPT and RPPI and the North Aceh HGU have also been the same, thus increasing the amount...
of rainwater discharge to residential areas according to Walhi Executive Director, M Nur (Sarina 2018). Based on the above background as a study to improve the welfare of indigenous peoples and see the urgency of customary forest protection based on local wisdom, the title can be raised: The Urgency of Customary Forest Protection Based on Local Wisdom Principles in Aceh (Study of North Aceh District and Central Aceh District). Based on the above background, it can be raised as a problem, namely: Whether the Recognition of Indigenous Forests in Positive Law in Aceh has been effective and How is the Urgency of Indigenous Forest Protection Based on the Principles of Local Wisdom in Aceh.

2 THEORETICAL FRAMEWORK

The theoretical framework is the foundation of thinking used to find a solution to a problem. Every research needs a starting point or foundation to solve or discuss the problem, for this reason it is necessary to compile a theoretical framework that contains the main points of thought that describe where the problem is observed (hadari Nawawi, 2015). With regard to the theory used as an analytical knife in this research is to use the Autonomous Self-Regulation Theory approach to answer the first problem formulation, Law Enforcement Theory to answer the second problem formulation and Living Law Theory to answer the third problem formulation.

a. Autonomous Self-Regulation Theory

Autonomous Self-Regulation theory is a sharpening of legal pluralism as proposed by prominent figures, such as: March Galanter, Sally Flak Moore, Peter Fitspatrick, Roger Cotterrel, Gunter Teubner, Bona Venture de Sousa Santos, Sally Engle, Merry, and Masaji Chiba. He formulated legal pluralism as not all the phenomena related to law and not all that are law like have their source in government. That non-state rules are scattered in the container of the state legal system where normal and original institutions made by groups of people in various forms, still exist and apply properly in regulating their lives (Brian Z. Tamanaha, 2000).

Based on this concept, every rule that fulfils these characteristics in every community, especially indigenous communities, is customary law. The diversity and position of law in the community gave birth to legal pluralism. Legal pluralism is the diversity of legal norm systems, which contradict each other, but both exist and apply in a society (I Dewa Made Suartha, 2015).
b. Law Enforcement Theory

The second theory used to analyse the problems in this study also uses law enforcement theory. Law is a tool in which values or concepts of justice, truth, social benefit and so on are contained, where the content of the law is abstract. According to Satjipto Rahardjo (2015), law enforcement is essentially the enforcement of those abstract ideas or concepts. Law enforcement is an effort to realise those abstract ideas or concepts into reality.

Soerjono Soekanto (2005) argues that there are several important factors that can affect the enactment of law in law enforcement. These factors are as follows:

1. The legal factors themselves.
2. Law enforcement factors, namely the parties who form and apply the law.
3. Factors of facilities and facilities that support law enforcement.
4. Community factors, namely the environment in which the law applies or is applied
5. Cultural factors, namely as a result of work, creation and taste based on human spirit in the association of life.

Satjipto Rahardjo (2005), argues that in order for the law to run or be able to play a good role in people's lives, the following things must be considered:

1. Get to know the problem as well as possible, including recognising the target of the work.
2. Understand the values that exist in society. This is important in the event that social engineering is to be applied to a society with multiple sectors of life, such as: traditional, modern and planning. At this stage it is determined which sector's values are chosen.
3. Making hypotheses and selecting the most feasible ones to be implemented.
4. Following the implementation of the law and measuring its effects.

b. Living Law Theory

Law is a relationship between people. Law is existential and not formal. Therefore, Ehrlich built his theory of law around the idea of society. According to Ehrlich, society is a general idea that can be used to signify all social relations, namely families, villages, social institutions, states, nations, world economic systems, and so on. In this
context, social relations mean that people are gathered in a higher unity, which is authoritative over them (Bernard L. Tanya, 2010).

The basis of the theory put forward by Ehrlich is that there is a difference between positive law on the one hand and the law that lives in society (living law) on the other. Positive law will only have effective force if it contains, or is in harmony with the law that lives in society. The centre of legal development is not in laws, judicial decisions, or legal science, but in society itself. Thus, the main source and form of law is custom. In addition, the law is subject to certain social forces. Law is effective not because of its official application by the state, but because of the social recognition of society (S. Darmodiharjo & D. Darmodiharjo, 1999).

Thus, according to Ehrlich, the focus of legal development lies not in legislation, court decisions, or legal science, but in society. In fact, the rules that are followed in people's lives are the real living law, the law has a much broader scope than the norms created and applied by government institutions. This means that the law will be effective if it reflects the values that live in society (Sunaryati Hartono, 1991).

3 METHODOLOGY

This research is an empirical legal research with a qualitative approach that uses primary data and secondary data to obtain primary data, respondents and informants are determined. The research location is in Aceh, namely located in Central Aceh Regency and North Aceh Regency. With the consideration that the two locations are the largest deforestation areas in Aceh with the amount of Central Aceh Regency (1,924 hectares), followed by North Aceh (1,851 hectares).

4 DISCUSSION

4.1 FIELD STUDY

The implementation of the research was carried out by the research team by directly collecting data and conducting interviews in North Aceh District, which is one of the districts in the Aceh Province Region, located at the westernmost tip of the island of Sumatra in the State of Indonesia, and is located on the coast and highlands. The district consists of 27 sub-districts, 70 settlements, 852 Gampong. Currently, it has a forest area of 43,000 hectares (Nuradin, 2019). North Aceh District is one of the districts in Aceh Province, located at the westernmost tip of the island of Sumatra in Indonesia, and is on the coast and highlands.
North Aceh Regency is geographically located at coordinates 96.52.000-97.31.000 East Longitude and 04.46.000-05.00.400 North Latitude. Administratively, North Aceh Regency has an area of 3,296.86 km² with the following boundaries: North bordering Lhokseumawe City and the Malacca Strait; South bordering Bener Meriah Regency; East bordering East Aceh Regency; and West bordering Bireuen Regency. The following is a map of North Aceh Regency.

Map of North Aceh Regency

Aceh Tengah District, which is located in the central part of Aceh Province, has a very strategic position and role. This strategic position is due to the fact that the district is located in the Leuser Ecosystem, which is the lungs of the world, as well as connecting several districts on the south west coast of Aceh and districts on the east coast of Aceh. As a district located in the Leuser Ecosystem, Aceh Tengah becomes a buffer zone for other districts/cities in Aceh Province, both as a buffer for water resources, as well as a buffer for protected and conservation areas. From a social, economic and cultural point of view, this position is strategic enough to develop the service role of Kabupaten Aceh Tengah, but on the other hand it must also strengthen its competitiveness to be able to maintain and strengthen this position.

Kabupaten Aceh Tengah is a highland with an altitude between 200 - 2600 metres above sea level with an area of 4,454.50 km². The area of Kabupaten Aceh Tengah is administratively divided into 14 sub-districts, with a total of 295 villages, where the
largest sub-district is Linge Sub-district with 48% of the total area. Based on its geographical position, Aceh Tengah District has the following boundaries:

- The north is bordered by Bener Meriah Regency
- East bordered by East Aceh Regency
- South bordering Gayo Lues Regency
- West bordered by Nagan Raya Regency

Area and Height - An overview of the 12 sub-districts in Kabupaten Aceh Tengah can be seen in the following chart.

Table II. Sub-district Capitals, Areas, and Elevations in Aceh Tengah District by Sub-district 2020

<table>
<thead>
<tr>
<th>Kecamatan</th>
<th>Ibukota Kecamatan</th>
<th>Luas Wilayah (km²)</th>
<th>Persentase Luas Wilayah</th>
</tr>
</thead>
<tbody>
<tr>
<td>Linge</td>
<td>Isaq</td>
<td>2,075.28</td>
<td>48%</td>
</tr>
<tr>
<td>Atu Lintang</td>
<td>Merah Mege</td>
<td>82.53</td>
<td>2%</td>
</tr>
<tr>
<td>Jagong Jeget</td>
<td>Jeget Ayu</td>
<td>105.04</td>
<td>2%</td>
</tr>
<tr>
<td>Bintang</td>
<td>Bintang</td>
<td>429.00</td>
<td>10%</td>
</tr>
<tr>
<td>Lut Tawar</td>
<td>Takengon Timur</td>
<td>99.56</td>
<td>2%</td>
</tr>
<tr>
<td>Kebayakan</td>
<td>Kebayakan</td>
<td>56.34</td>
<td>1%</td>
</tr>
<tr>
<td>Pegasing</td>
<td>Simpang Kelaping</td>
<td>99.00</td>
<td>2%</td>
</tr>
<tr>
<td>Bies</td>
<td>Atang Jungket</td>
<td>28.86</td>
<td>1%</td>
</tr>
<tr>
<td>Bebesen</td>
<td>Kemili</td>
<td>47.19</td>
<td>1%</td>
</tr>
<tr>
<td>Kute Panang</td>
<td>Ratawali</td>
<td>35.06</td>
<td>1%</td>
</tr>
<tr>
<td>Silil Nara</td>
<td>Angkup</td>
<td>98.00</td>
<td>2%</td>
</tr>
<tr>
<td>Ketol</td>
<td>Rejewali</td>
<td>404.53</td>
<td>9%</td>
</tr>
<tr>
<td>Celala</td>
<td>Berawang Gading</td>
<td>89.00</td>
<td>2%</td>
</tr>
<tr>
<td>Rusip Antara</td>
<td>Pantan Tengah</td>
<td>669.00</td>
<td>15%</td>
</tr>
</tbody>
</table>

Source: Central Bureau of Statistics in Figures, 2022 (Processed)
4.2 RECOGNITION OF INDIGENOUS FORESTS UNDER POSITIVE LAW IN ACEH

State recognition of Indigenous Peoples (MHA) and their customary forest areas took place on 30 December 2016, when the President of the Republic of Indonesia handed over 8 decrees on the establishment of customary forests. The government officially acknowledged customary forests on 30 December 2016 at the State Palace, providing protection and recognition of customary forests, in response to the long journey of Indigenous Peoples' struggle to the Constitutional Court. At the commemoration of Environment Day 2017, the President of the Republic of Indonesia emphasised the need for corrective action in the design of Indonesia's future forest governance. Among the forest governance designs, the most significant one that has been initiated is in relation to customary forests (Sunaryati Hartono, 1991).

In 2023, Aceh will also be designated as a customary forest by the Ministry of Environment and Forestry. The Ministry of Environment and Forestry (KLHK) has determined that the area of Aceh's customary forests whose management rights are held by Masyarakat Hukum Adat (MHA) in Aceh is 22,549 hectares from the initial proposal of 105,147 hectares. "5,437 hectares each in Aceh Jaya, 8,274 hectares in Pidie, and 8,838 hectares in Bireuen, totalling 22,549 hectares," said Yuli Prasetyo Nugroho, head of the ministry's sub-directorate for customary forest recognition and local wisdom protection. The figure given is far from the area proposed by local MHAs, which is 18,015 hectares from Pidie, 69,246 hectares for Aceh Jaya, and 17,886 hectares in Bireuen District (Nurul Hasanah, 2023).

An indigenous community can be referred to as MHA when it declares its own recognition or "self identification" and recognition from other parties or "identification by others". State recognition through local governments is part of the recognition from other parties as well as providing legal legality. Based on Article 18 B Paragraph (2) of the 1945 Constitution, the State recognises the existence of MHA and their traditional rights. Although this recognition is based on several limitations, among others: first, as long as they are alive; second, in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia (NKRI); and third, regulated by law.

Social change is a change in the elements or social structure and human behaviour in society from one situation to another. Socio-cultural changes usually occur due to the
encouragement of several factors both from within the community (internal) and from outside the community (external).

Social change can be changes in the social institutions in a society that affect its social system, including values, social attitudes and patterns of behaviour among groups in the society. What are the factors that influence the occurrence of social change include (Ahyar Ari Gayo, 2018):

4.3 JURIDICAL FACTOR

Customary law in Indonesia is a complex of norms that originate in the people's sense of justice that always develops and includes rules of human behaviour in everyday life in society, mostly unwritten, always obeyed and respected by the people, because it has legal consequences (sanctions). The existence of Indonesian indigenous peoples has generally been recognised by the constitution, as has the existence of indigenous peoples in Aceh. This recognition has been outlined in the 1945 Constitution, both after and after the amendment of the 1945 Constitution, where the Fourth Amendment (2000) added two articles on customary law communities.

Article 18B Paragraph (2) explains: "the state recognises and respects the unity of customary law communities and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, as regulated by law".

Article 28I Paragraph (3) explains: "the cultural identity and rights of traditional communities shall be respected in accordance with the development of the times and civilisation".

Thus, indigenous peoples also have the right to make their own regulations in the land sector in particular in accordance with the conditions of the local community. Whereas in reality, the national legal treatment of indigenous peoples. It is as if they have denied (inconsistency) the principles, values, or local wisdom systems of indigenous peoples that have been believed and carried out in accordance with the teachings of their ancestors, resulting in legal conflicts in the utilisation of land rights, natural resources and water resources as agriculture.

The denial of the enforcement of the rights of indigenous peoples, when associated with the regulation of human rights is also very contradictory. Respect and recognition of legal existence is in customary rights as human rights, as well as cultural identity and
traditional community rights in line with the development of the times and civilisation. This can be seen in Article 6 of Law No. 39 Year 1999 on Human Rights.

- In the context of upholding human rights, the differences and needs of indigenous peoples must be considered and protected by law, society and government.
- The cultural identity of indigenous peoples including customary land rights is protected in line with the times.

The affirmation of customary law and customary land rights of indigenous peoples as basic rights is certainly a progress, not only in regulation but also in implementation.

4.4 ECONOMIC AND CULTURAL FACTORS

For the people of Aceh in general, they have consistently carried out their activities to support the economy of their community by utilising their lands based on the local wisdom they have acquired since their ancestors, so that adequate protection from the government is needed for land rights or natural resources in their area, because the community has a high relationship with its existing natural environment. As in the case of springs (mata/ulu ni wih), if there is no protection or preservation from the community or even from the government through its institutions this will have a negative impact on life. What is more obvious is the narrowing of the use of rice fields due to reduced water discharge (for irrigation of rice fields), not to mention the consumption of clean water for the wider community.

4.5 SOCIAL FACTORS

In the social field, the Acehnese community still shows its existence by continuing to have its own organisation led by the Chief of Adat and his assistants in addition to the Village Head (Government). The development of a community means that it will change into something else, or maintain its existence by developing the abilities and conditions of the community to be independent and become more useful and more perfect.

The existence of indigenous peoples is currently growing with the strengthening of the ability of economic, social, cultural factors in addition to the existence of indigenous peoples is increasingly strengthened by the strong bonds and influence of the community in its consistency in supporting customs that stem from feelings of togetherness, idealism that can produce justice.
According to Murdock, various phenomena that can be a factor causing socio-cultural change are: Increase or decrease in population, change in geographical environment, movement to a new environment, contact with people of different cultures, natural and social problems, birth or death of a leader, discovery/innovation.

Indigenous peoples will always live and relate because the customary laws of their communities can provide security and create order in social relations among them. This is because Customary Law contains:

- Elements that form as found in customs
- As values that are institutionalised in society through the actions of the community
- Contain norms that are mutually agreed upon in an unwritten manner
- Has an initiative or organisation that enforces
- Has sanctions and is influenced by the religion of the community.

4.6 THE URGENCY OF INDIGENOUS FOREST PROTECTION BASED ON THE PRINCIPLE OF LOCAL WISDOM IN ACEH (STUDY OF NORTH ACEH AND CENTRAL ACEH DISTRICTS)

Aceh is a special autonomous region established by Law No. 11/2006 on the Government of Aceh. Based on this regulation, Aceh is granted specialisation in the implementation of Islamic Shari'a. Article 165 paragraph (3) letter b and letter f of Law No. 11/2006 on the Governing of Aceh, the Government of Aceh has the right to grant permits for the conversion of forest areas and permits related to forest management and utilisation. The granting of such licences shall refer to the principles of fast, precise, inexpensive public services and simple procedures. Further provisions regarding the granting of such licences shall be regulated by Qanun. Regional legal products or known as Qanun as a form of regulation for the protection of customary forest tenure rights in Aceh are regulated in the following qanuns.

- Aceh Qanun No. 9/2008 on the Development of Adat and Customary Life Law No. 11/2006 on the Governing of Aceh has provided a stronger foundation for the development of adat and customary life in Aceh. Article 99 of the law mandates the development of adat and customary life through the establishment of a Qanun Aceh. Adat and customs that are in line with Islamic Sharia are cultural treasures that show the identity of the nation that needs to be fostered, developed and protected.
Regarding the issue of customary forests, Aceh Qanun No. 9/2008 regulates the guidance and development of existing life and customs in the protection of indigenous peoples' rights, which include land, swamps, forests, seas, rivers, lakes, and other community rights. In fact, this regulation also regulates the settlement of disputes over small-scale forest burning that can harm the customary community, which can later be given customary sanctions in the form of: advice, reprimands, statements of apology, sayam, diyat, fines, compensation, excommunication by the gampong community, expulsion from the gampong community, revocation of customary titles, and other forms of sanctions in accordance with customs.

- Qanun No. 10/2008 on Customary Institutions

Related to the issue of customary forests in the general provisions contained in Article 1 point 27 explains the role of Pawang Glee and/or Pawang Uteun or other names are people who lead and regulate customs relating to the management and preservation of the forest environment. Pawang Glee has the following duties:

a. lead and regulate customs relating to the management and preservation of the forest environment;
b. assisting the government in forest management
c. enforcing customary laws concerning forests
d. coordinating the implementation of adat ceremonies related to the forest; and
e. resolving disputes between community members over forest utilisation.

- Aceh Qanun No. 2/2011 on Environmental Management

Aceh has rich environmental potential and natural resources on land, in the waters and in the air, which are the basic capital for Aceh's development. The potential of the environment and natural resources must be managed properly and wisely so as to support sustainable and environmentally sound development in Aceh in order to realise the welfare of the people of Aceh with more dignity.

Environmental control efforts are inseparable from supervisory actions so that the provisions of environmental legislation are adhered to. Preventive legal instruments in the form of permits to conduct business and/or activities must be explicitly stated, as well as the conditions and obligations that must be obeyed and implemented by the person in charge of the business and/or activity. The participation of various agencies in environmental management needs to be emphasised, as well as the limits of their authority.
The sustainable maintenance of environmental functions is a joint activity that demands joint responsibility as well. The participation of community members can be channelled through individuals, environmental organisations (Non-Governmental Organisations), indigenous groups and others, in order to maintain and improve the carrying capacity and capacity of the environment.

Qanun Aceh Number 2 of 2011 on Environmental Management was born based on one of the considerations of Law Number 41 of 1999 on Forestry. One of them is the management of the environment and forestry, which is regulated in Qanun Aceh No. 2/2011 on Environmental Management (PLH). The principle of environmental management in Aceh is specialised based on local wisdom, including in the application of the settlement of environmental crimes.

- Qanun Number 7 Year 2016 on Forestry

The existence of forests is closely related to the livelihood of many people. As living capital, forests must provide tangible benefits for livelihoods and prosperity, including ecological, economic and socio-cultural benefits. In utilising forests, it must be realised that forests also have certain carrying capacity vulnerability limits.

In its position as a life support system, forests must be maintained and safeguarded. The sustainability of the development benefits of other sectors outside forestry is greatly influenced and determined by the carrying capacity of this life support system. Therefore, forests must be managed in a balanced and dynamic manner for the long term, both for current and future generations.

Qanun No. 7/2016 on Aceh Forestry states that in the context of forestry management, the Government of Aceh has the right to regulate and determine the legal relationship between people and forests, as well as regulate legal actions regarding forestry. Furthermore, it states that rehabilitation of forest areas encumbered by rights or licences is the responsibility of the rights or licence holder. The ecosystem restoration policy in production forests is one of the government’s efforts to restore damaged forest areas by involving the private sector (forest farmer groups) through the application of the conservation concession concept. Conservation concession is a new concept in forest management that is expected to save forests on the one hand, but still provide economic and social benefits for the community (Aang Kunaifi, 2023).

On 7 September 2023, the Director General of PSKL (Social Forestry and Environmental Partnership) on behalf of the Minister gave the decision to establish eight
Masyarakat Hukum Adat (MHA) communities in Aceh. The proposal for the MoEF's customary forest designation began in 2016 by three mukim in Pidie, two mukim in Aceh Jaya in 2019, and four mukim in Bireun District. The proposed customary forest area is 18,015 hectares for Pidie District (Diky Zulkarnen dan Firdaus, 2021), 69,246 hectares for Aceh Jaya district, and 17,886 hectares for Bireuen district (Rahmat Fajri, 2023).

Regarding Adat customary forest regulations in every city/district in Aceh, regulations regarding forestry only exist in Bireuen District and Bireuen (Bireuen District Qanun Number 5 of 2017 concerning Mukim Customary Forests) and Aceh Jaya District (Aceh Jaya District Qanun Number 5 of 2017 concerning Mukim Customary Forests).

Local wisdom has long been implemented in a society as norms and values in behaving and interacting with God, humans and nature. However, it is not only limited to that, conflict resolution is also included in the resolution mechanism using the local wisdom approach. As mentioned above, the conflict resolution process that develops in Acehnese society is often resolved within the framework of Acehnese culture which is very nuanced with Islamic values. For example, the implementation of di'iet, sayam, suloh, peusijuk and peumat jaroe is a customary and cultural-based conflict resolution process that has long been rooted in Acehnese society. This tradition is a very wise and democratic conflict resolution process without bloodshed and revenge between the two parties in conflict, both vertical and horizontal (Chaerol Riezal, et.al. 2018).

- **Di’iet or Diyat**

Di’iet is one of the conflict resolution patterns that exist in the life of the Acehnese people. Conflict resolution can be known when an apology is issued by the victim or the victim's heirs. If an apology has been given, then the customary leaders or tuha peut gampong will consult with the perpetrator or his heirs about the amount of di’iet that must be paid by the criminal. Generally, the payment of di’iet is done with a traditional ceremony which consists of peusijuek and peumat jaroe activities. The involvement of customary and cultural institutions in the resolution of criminal cases aims to eliminate grudges between the conflicting parties (Syahrizal Abbas, 2004).

Conflict resolution with the di’iet pattern is aimed at eliminating grudges and prolonged hostility between the conflicting parties that can lead to violence and murder. Violence and murder that occur in Acehnese society can occur starting from the struggle for agricultural land, control of village economic resources or other things that may occur in social interactions.
The implementation of di'iet is only aimed at resolving murder cases. In resolving conflicts that end in murder, the facilitators, negotiators and mediators are the keuchik, teungku meunasah and tuha peut gampong, including stakeholders and traditional leaders. They are the ones who conduct the initial talks and dialogue between the victim's heirs and the criminal or heirs. The involvement of the extended family of the parties is very important in these talks, because it avoids resentment in the future (Syahrizal Abbas, 2004).

The most obvious example of the use of di’iet as local wisdom in reconnecting broken social relations is the payment of diyat to the dead and injured Acehnese and various forms of post-conflict victims. The Aceh government through the Aceh Provincial Social Service since 2002, which was then taken over by the Aceh Reconstruction Agency (BRA) since 2005, manages the diyat fund (Otto Ishak Syamsuddin, 2009). The amount of diyat funds for victims of conflict is 3 million per year for a period of five years. By 2011, the amount of diyat funds, including economic assistance for conflict victims, had reached 2.2 trillion (Edaran Gubernur Berkaitan Pelaksanaan Syari’at Islam, 2005).

- **Sayam**

Sayam is the next pattern of conflict resolution found in Acehnese society. This pattern has been practised for a long time and even longer than the di’iet or suloh pattern. Sayam is a form of compensation in the form of property provided by the perpetrator of the crime to the victim or the victim's heirs, specifically related to damaged or non-functioning limbs. However, not all areas of Aceh apply sayam. It is noted that only communities on the North coast of Aceh and some areas in Aceh practice sayam as compensation for the loss of a person's blood due to persecution. Even communities in each gampong have their own rules called reusam which are democratically made.

Various cases or conflicts that occur are resolved by deliberation and consensus without any sense of resentment. For the people of Aceh, sayam contains meaning and philosophy derived from a long-known adage, namely "luka disipat, darah disukat". The meaning of this adage is that wounds caused by persecution or violence must be taken into account, as well as the spilling of blood. This philosophy shows that the people of Aceh truly value and protect the human body, as a creation of God. Sayam is a form of compensation that aims to protect and honour God's creation in the form of the human body (Syahrizal Abbas, 2011).
Similar to di’iet, the sayam procession is carried out after the conflicting parties are contacted by the keuchik and teungku meunasah. If both parties have agreed, then the sayam procession is carried out at the victim's house or at the meunasah. Since sayam is only for minor offences that cause injury or bleeding, the equipment and materials to be prepared by the perpetrator or his heirs are the same as for di’iet, but the amount is different (Chaerol Riezal, et.al. 2018).

- **Suloh or Islah**

The Acehnese word suloh is derived from the Arabic term al-sulhu-islah, which means peace efforts. Suloh is an attempt at peace between the parties to a dispute. In the Acehnese tradition of conflict resolution, suloh is more directed as a peace effort outside of criminal cases, but leads to civil cases that do not injure human limbs. Therefore, in the suloh procession there is no slaughter of buffaloes or goats, because it is not related to the death of a person or damage to the victim's limbs. Civil cases that are resolved through suloh are generally related to the struggle for economic centres such as land boundaries, water ropes (irrigation) in rice fields, stalls for selling, watersheds where to catch fish (seuneubok) and others.

The settlement of cases through this suloh, can usually also be resolved at the scene by traditional leaders who control certain areas. In this suloh, the role of the keuchik or teungku meunasah does not appear, because the traditional leaders act as peacemakers. This kind of settlement is usually for very minor cases and is enough to greet (peumat jaroe) and apologise. Soluh has long been recognised in Acehnese society as a way to reconcile conflicting parties, whether in criminal or civil cases. In criminal and civil cases, there is a slight difference: in criminal cases, gampong officials, such as geuchik, teungku imum, tuha peut and traditional leaders are more involved in the soluh process. This is where the role of the gampong apparatus is quite crucial. Whereas civil cases such as property issues are the domain of more family parties between the two parties, although the gampong apparatus is also involved. The suloh mechanism is more widely chosen and practised by the community, perhaps more than 75%, because it has advantages such as (1) family disgrace is not exposed to the community, (2) it does not take a long time like the court route, (3) family rifts can be maintained.

- **Peusijuek and Peumat Jaroe**

Peusijuek and peumat jaroe are forms of customary and cultural activity attached to di’iet, sayam and suloh. Peusijuek means to feed the parties involved in conflicts and
disputes in a traditional ceremony. After peusijuek, the process ends with a peumat jaroe session which means shaking hands. These two institutions play an important role in establishing a sense of brotherhood between the disputing parties. Acehnese people consider conflict resolution imperfect without peusijuek and peumat jaroe. Therefore, in the peumat jaroe process, the facilitating party utters special words such as; "Nyoe kaseb oh no, bek na deundam le. Nyoe beujeut keu jalinan silaturrahmi, because nyan ajaran agama geutanyoe" (Meaning: this problem is enough here and should not be prolonged. This handshake is expected to be the beginning of a bond of friendship between the two of you, because this is the teaching of our religion).

Another example of a case that was resolved by peusijuk and peumat jaroe was during the process of resolving conflicts and fights between Central Aceh and South Aceh students that caused 48 motorbikes to be burned and dozens of people injured during the Student Sports Week in Banda Aceh on 27 June 2012. In addition, the burnt motorbikes were compensated by the Government of Aceh by 50% and the rest by the governments of the two districts by 25% each. The Peusijuk and Peumat Jaroe events to resolve the fight between Central Aceh and South Aceh students were held at Harapan Bangsa Field, Lhong Raya, Aceh Besar. The Governor of Aceh, Dr Zaini Abdullah, acted as a peacemaker and Abdurrahman Kaoy, Deputy Chairman of the Aceh Customary Council, conducted the peusijuk and peumat jaroe process (Harian Serambi Indonesia, 2013). After reconciliation between the two parties, the dispute and resentment disappeared, replaced by a strong sense of brotherhood and friendship.

5 CONCLUSIONS AND SUGGESTIONS

The conclusion of the research is: The recognition of customary forests in Aceh has been regulated in Qanun No. 7 of 2016 concerning Aceh Forestry, but in this study, namely North Aceh Regency and Central Aceh Regency, the recognition of customary forests is still not effective, among others, influenced by juridical factors, economic factors and community culture, and social factors. Regarding the Urgency of Indigenous Forest Protection Based on the Principles of Local Wisdom in Aceh, especially in this study in North Aceh Regency and Central Aceh Regency, law enforcement carried out in forestry crimes uses customary sanctions in the form of paying fines such as diyat, suloh, and sayam.
The suggestions that can be given in this study so that the first Government, it is hoped that it will always pay attention to Indigenous Forests in Aceh, especially in this study in North Aceh Regency and Central Aceh Regency, both by providing facilities such as budgets and other infrastructure in order to improve the performance of Forest Handlers to protect customary forests and law enforcement officials in eradicating mafia in forestry crimes. achieve maximum (satisfactory) results later. Secondly, it is necessary to conduct further research related to local wisdom on the issue of customary forests in Aceh. Given the limited knowledge of researchers, it is possible that there are still many other things that remain unexplored. By knowing the local wisdom of the community more deeply, it is hoped that it will become an asset in determining the form of development regarding the protection of customary forests in Aceh.
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