

CUSTOMARY INSTITUTIONS AND CONFLICT RESOLUTION (THE ROLE OF LOCAL WISDOM IN BUILDING PEACE IN ACEH)

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ABSTRACT

This study reviews the role of customary institutions in conflict resolution in Aceh, Indonesia. The main argument and the urgency of this research is that the customary institutions as a part of local wisdom can be used as a mean of eliminating conflicts and building peace in the Aceh society. The traditional authorities here constitute keuchik, tuhapeut, imum village / meunasah, and Mukimleader. Local wisdom is packed of religious values which becomes a way of life of the Acehnese. This tradition is considered quite democratic, elastic, fast, inexpensive and without bloodshed and rancor between the two sides involved in the conflict, either vertically or horizontally. This research was conducted in the city of Lhokseumawe using a qualitative approach. The data collection method used is in-depth interviews, focus group discussions, and document research. The results showed that the customary institutions have a significant role in the Aceh conflict resolution and peace building. The traditional authorities are keuchik, tuhapeut, imummeunasah and other public figures. Conflicts or disputes can be resolved, some of which are fighting between residents, divorce, petty theft and disputes on land boundaries.

Keywords: Indigenous Institute, Conflict Resolution, Local Wisdom and Peace

INTRODUCTION

Indonesia is a nation rich with its local wisdom that continues to be practiced and preserved by the people until today. Local wisdom can be interpreted as a whole way of life or life teachings, advice, proverbs, and local values which are well respected, practiced either in the societies who have traditional sanctions or those who do not (Sanusi 2005 : 24). Local wisdom can serve as socio-cultural mechanisms that are attached in the tradition of Indonesia. The tradition is believed and has proven to be a powerful tool to uphold the brotherhood and solidarity between the people and have been institutionalized and crystallized in the social and cultural structure. A cultural approach involving local wisdom and customary institutions is considered as a very strategic and effective step since there has already been a living law in the community known as customary law.

Indonesia with its different ethnicity and tribes, is rich with local wisdom and it has served as a social mechanism to resolve conflicts and disputes. Such wisdom is kept and preserved until now, among others; *pela* and *gandong* in Maluku, *pekasiwia* in Poso (Central Sulawesi) (Amirrachman, 2007). There are also *adatberamaibaakuran*(South Kalimantan), *Kerapatankaum*(West Sumatera), *muakhi*(Lampung), *setungkutigabatu*(Papua) (Alam, 2012: 291-403); *dalihannatolu* (Tapanuli, North Sumatra), *rumahbetang* (Central Kalimantan), *menyamabraya*(Bali), *saling Jot* and *salingpelarangan* (NTB), *siroyoingsun*, *ingsunyosiro* (East Java), *alon-alonasalkelakon*(Central Java and Yogyakarta), and *basusunsirih* (Melayu/Sumatera). The existing local wisdom which is still applied in the societies has the potential to be able to encourage the desire of the people to live in harmony and peace. This

is because the local wisdom essentially teaches peace either to other human beings, the environment, or God (Sriyanto, 2007; 8).

In Aceh society, it is known as the *di'iet*, *Sayam*, *suloh*, *peusijuk* and *peumetjaro* which are inherently practiced to these days. Local wisdom is preserved, this includes using the local wisdom as social mechanism to resolve conflicts that occur within the community. For example, the process of resolving conflicts that emerge in the community which is settled in a customary framework packed with religious values. This tradition is a very democratic conflict resolution without bloodshed and rancor between the two sides involved in the conflict, both vertically and horizontally.

From an in-depth analysis, it is found that the local wisdom that grows in Acehnese society is a product of a dialectic process with Islamic values that have always been believed strongly by the people. Islam thus becomes the foundation of the culture that has the fighting spirit significant to reach the future. As it is often referred to by the people, the *hadihmaja* (proverb); *Hukom ngon Adat lagee zat ngon sipheut* (the law of religion and the customs are like substance and nature, they can not be separated) (Hussein, 1970; 1).

Salim (2015) recognizes that in the context of sociology and anthropology of law, Aceh has legal pluralism; the Islamic law on the one hand and customary law of the other hand, this customary law is then called local wisdom. Legal pluralism is the emergence of multiple rules or system in a social life. The emergence of legal pluralism in Indonesia is generated by the historical factor of Indonesia which is diverse in ethnicity, language, culture, religion and race.

In Aceh, the culture and customs constitute the norms and values of the religion themselves. There have been interaction and assimilation between the culture and the religion within the society of Aceh though out hundreds of years. The concrete form of customs and cultures in the lives of the people of Aceh are not only applied in the fields of social, economic and political, but also in the field of law. The reality of the Acehnese people can be concluded as the totality of the teachings of the religion, thus, Islam becomes way of life. This way of life affects the entire community activities, including culture, since view of life affects our mindset and the way we behave and interact with other human beings, all of which are part of the culture.

Conflict resolution using local wisdom and local custom as part of the culture is considered as the right step. Local wisdom is something that is already rooted and usually not a mere profane oriented, but also sacred oriented so that its implementation can be more quickly and easily accepted by society. With this local wisdom, it is hoped that the conflict resolution can be realized and accepted by every group of the society so that there will be no hidden latent conflict in society (Sriyanto, 2007; 8).

Departing from this background, this study will focus on the role of customary institutions in conflict resolution. The study of local wisdom becomes more interesting in this globalization era that continues to penetrate into the social system and the culture. Therefore, the main issue to be addressed in this paper is; What is the role of customary institutions in conflict resolution in Aceh society? And the types of conflict that can be resolved by the customary institutions?

THE CUSTOMARY INSTITUTION QANUN

The government continues to make the revitalization of the local wisdom through legislation which is then accommodated under law; No. 44 1999 article 3 paragraph 2 as mentioned that the province has the power to regulate; 1) the organization of religious life; 2) the

implementation of customary life; 3) education implementation and the role of scholars in determining local policies.

The existence of local wisdom and the strengthening of the role of customary institution are basically one of the forms of the social control. Soekanto (2005: 205) asserts that social control is intended to educate, encourage, or even force people to obey the rules and the prevailing social values. This social control can be done by individuals or groups who have the intention to achieve harmony, stability, peace, and balance in society.

In addition to these regulations, the government also carries out revitalization of the local wisdom that is proved by setting up some qanuns, and regional government regulations such as:

1. Regional regulation No. 7 Year 2000 concerning Indigenous Life,
2. Qanun No. 4 2003 concerning the Mukim Government,
3. Qanun No. 5 2003 concerning the Village Government
4. Qanun No. 9 2008 concerning Indigenous Life and Customs
5. Qanun No. 10 2008 concerning customary Institution
6. Governor Regulation No. 60 Year 2013 on the Implementation of Resolution / Dispute on Traditions and Customs
7. Law of the Republic of Indonesia No. 11 Year 2016 concerning the Government of Aceh.

After the signing of the MoU between the Free Aceh Movement (GAM) and the Republic of Indonesia on August 15, 2005 which resulted in the Law on Governing of Aceh (LOGA), the government created the legislation no 11 Year 2006 containing the regulations on Customary Institutions in Chapter XIII of the article 98. In paragraph (3) the customary institutions referred to in paragraph (1) and (2), include; 13 existing customary institutions in Aceh society.

The existence of local wisdom, particularly the ones related to the customary institutions, continue to experience the revitalization in the post-reform era, especially in 1999 and continued to be strengthened in 2006. The local wisdom cannot be separated from the customary institutions who play an important role in the preservation of the local wisdom. In other words, once the local wisdom was eliminated in the new order government (1979), its role in the society becomes degraded. As the consequence, today, the Government of Aceh and all elements of society are aware of the importance of such wisdom.

In the actuality, if examined in the study of the history of Acehese customary institutions referring to the period of Sultan Iskandar Muda, each of these traditional institutions has different role yet established coordination and synergy. Tengku Yusdedi, Chairman of MAA Lhokseumawe asserted;

"Traditional institutions that exist in Aceh society refers to the period of Sultan Iskandar Muda. The position of *Keuchikis* very central as an executive in the society, while the *TuhaPeut* has a legislative functions identical to the role of the legislative in the House. On the other hand, there are some roles and functions of government that are overlapping with traditional authorities under the customary institutions. For example, the role of Imum of the Village collides with duties of the Head of the village. Moreover, the lack of knowledge of the village authorities on the functions and power of certain positions causes the problems of the village cannot be resolved,

and the implementation of local wisdom is being hindered. Nevertheless, in Aceh, there will be no people imprisoned because of stealing one piece of chocolate, because there are still the customary laws used to settle such matter in the Aceh society today "(FGD, June 11, 2015).

In line with that, the role and function of the customary institutions such as *mukim* and *keuchik* can be found in; Qanun 4 of 2003 regarding the Mukim administration whose functions are contemplated in the Article (4) the functions are; the settlement, in term of the disputes in order to decide and/or set law in the existence of disputes, customary cases and traditional laws. A *mukim* is a unit of community in the Aceh province which consists of several villages that have certain boundaries and their own property, its position is directly under the Head of the village or any other name led by *Imeum Mukim* or another name.

Qanun 5, 2003, the village government led by *keuchik* and *imeum* has functions as contemplated in the article 4 section (f); the settlement of legal disputes in the presence of any disputes or customary cases in the village. More clearly the task of *keuchik* is explained in article 12 (e) maintaining peace, order and preventing the emergence of immoral acts in the society; and (f) as a judge for the sake of maintaining peace between the people in the village. Moreover, Qanun No. 10 of 2008 concerning the customary institution article 4 on the functions of the customary institution (f) resolving social problems settling the disputes in the community; (g) reconciling disputes arising within the society; and (h) enforcing customary law.

THE ROLE OF CUSTOMARY INSTITUTIONS IN CONFLICT RESOLUTION

In 2004, the Institute for Acehese Culture and Tradition (LAKA) has changed into the Aceh Customary Council (MAA). The role of customary institution has become stronger after the reform following the enactment of the legislation No. 44 Year 1999. In 2005, MAA at the district level was founded. This district-level MAA works with other 13 lower level customary institutions such as *Keuchik*, *Tuha Peut*, *Tuha Lapan*, *Keujrung Blang*, *Panglima Laot* and *Pawang Glee*. The Qanun is strengthened by the law No. 11 Year 2006 concerning the customary agencies of Aceh being explained particularly in Chapter XIII, article 98. In paragraph (3) the traditional institutions as referred to in paragraph (1) and (2), restating the 13 existing traditional institutions within the Acehese community;

1. The Aceh Customary Council; (MAA authorities for the provincial, district and sub-district level are as follows):
2. *Imeum Mukim* or other name; (Mukim is the leader of a number of villages)
3. *Imuem Chik* or other name; (Imam of the mosque for the *mukim* area)
4. *Keuchik* or other name; (Head of the village; *Dato Penghulu* in Tamiang, *Reje* in Central Aceh);
5. *Tuha Peut* or other name; (LKMD in another province, *Sarakopat* in Central Aceh)
6. *Tuha Lapan* or other name; (Usually at the *mukim* level, also explained in the Act of Wali Nanggroe).
7. *Imuemmeunasah* or other name; (the leader of the mosque in the *meunasah* village level)
8. *Keujreun Blang* or other name; (a person who takes care of paddy fields management);

9. *PanglimaLaot* or other name; (a person who manages marine fisheries)
10. *PawangGlee* or other name; (a person in charge of the community-based forest management)
11. *PeutuaSeuneubok* or other name; (a person takes care of plantation management)
12. *HariaPeukan* or other name; (a person takes care of the market)
13. *Syahbandar* or other name; (a person in charge of managing the port)

The role of customary institutions as local wisdom to resolve conflicts and disputes in society has been reinforced after the signing of the joint-decision between; the Aceh Governor, the Regional Police department, and the Chairman of the Aceh Customary Council regarding the Implementation of Justice of *Gampong* and *Mukim* or other names in Aceh in 2011. The agreement in the the joint decision are on; 1) conflicts / disputes at the level of village (*gampong*) level and *mukim* level which are light as explained in the Qanun No. 9, 2008 concerning the supervision of the customs and customary life shall be settled in advance through the *gampong* and *mukim* customary judicial process or other names in Aceh; 2) The police department should give a chance to the conflicts / disputes as meant in Dictum One to be resolved first through the *Gampong* and *Mukim* customary judicial or other name; 3) all parties are obliged to respect the customary Judicial Implementation of *Gampong* and *Mukim* or other name; 4) The decision of the customary Court of *Gampong* and *Mukim* or other name in Aceh are final and binding and can not be resubmitted to the general courts or other courts. Similarly, Badruzzaman Ismail, Chairman of the Provincial Council of Acehese customs said;

"The role of customary institutions and customary judicial system has received a lot of international recognition from international organizations, such as UNDP and IOM, and has received award from Bappenas Jakarta. In addition, the Province of Central Kalimantan and Central Sulawesi are willing to adapt the customary institutions and customary judicial systems. Both provinces have frequently visit Aceh to conduct comparative studies, and they also invited me several times to come to their places" (Interview, June 24, 2015).

Considering that, from the perspective of the sociology of law, the fact that such wisdom still exist in the society is caused by the system and the components that build law in Indonesia. In Indonesia it is the legal pluralism that accommodates European law (the Netherlands) on one side, and the law which corresponds to the customs and habits of Indonesian society and Asiatics Foreigner on the other side (Rahardjo, 1980: 154).

The local wisdom can exist within the customs and the culture of Aceh society and is still able to survive despite a variety of factors that degrade or even eliminate it as mentioned previously. The customs and cultures that are preserved despite the changing times. The sturdy foundations of customs and cultures are due to factors of religious values that affects and strengthen the tradition. This foundation later became the identity, characteristic and specialty of the Aceh people who uphold the customs and culture as well as their religion. It is also acknowledged by the TGK. Yusdedi, Chairman of MAA of the city of Lhokseumawe. He stated that the role of the customary institutions is quite effective in resolving conflicts in society.

"The role of customary institutions is very effective to solve the conflict. Because it is difficult if a case is settled by positive law. Therefore, cases occur in society in Lhokseumawe were settled by applying the local wisdom mechanism through mediation. It is proved very effective to reconcile the conflict (Interview, June 11, 2015).

Based on the structural-functional theory proposed by Parsons (Ritzer and Goodman, 2005: 12), in a society which has a structure and system, there will emerge various separated functions. Parsons mentions four structural components of the social system; values, norms, role and collectivity (Ali and Heryani, 2013: 103). A society is very similar to biological organisms, they have basic needs that must be met in order to proceed and maintain its existence or at least are able to function well. The basic characteristics of social life and social structure appear to meet the community's needs and to respond to the public demand as a social system. Acehnese social structure which comprises of *keuchik*, *tuhapeut*, *imummeunasah* and other customary authorities who play a collective role in forming social systems that complete each other, maintain and repair, both individual motivation and cultural patterns that create balance and peace in the society. It is the existing structure and social system in the Acehnese people that become the major factor for the existence of the local wisdom today.

Soekanto (2005) asserts that the social structure is a network of main social elements in the community. The main social elements comprises; social groups; culture, social institutions, social stratification, power and authority. The social structure of the people of Aceh is still maintained and preserved despite the inevitable changes, for example, cultural and social stratification.

The Types of Conflict Resolved

Customary institutions have the authority to resolve disputes recognized by the Aceh government in the Qanun No. 9, 2008 concerning the supervision of the customs and customary life. This Qanun explains that the traditional authorities and governments have the authority to settle 18 cases at the village level;

- 1) disputes in the household;
- 2) Disputes between families relating to inheritance;
- 3) disputes between citizens;
- 4) Seclusion or obscene;
- 5) Disputes about property rights;
- 6) Disagreements in the family;
- 7) Dispute on treasure *seuharkat (Gonogini)*;
- 8) Petty theft;
- 9) domesticated cattle stealing;
- 10) Any violation of indigenous livestock, agriculture and forest;
- 11) Disputes at sea;
- 12) Disputes on the market;
- 13) mild mistreatment;
- 14) The forest fire;
- 15) Harassment, libel, slander, and defamation;
- 16) environmental pollution;
- 17) threatening behavior;
- 18) disputes that violate customs.

In line with the above statement, according to the MAA Guidelines of Customary Justice System in Aceh (2008: 21) the type of conflicts are not limited to the 18 cases mentioned above, in section 18 there are other disputes that violate customs on which the agency has the authority to settle, among others;

- 1) Land boundaries;
- 2) Violation on the customs of agricultural and other plantation sectors;
- 3) Domestic violence which is not categorized as heavy maltreatment;
- 4) Disputes between and within the family;
- 5) Matters related to inheritance ;
- 6) Wills;
- 7) Defamation;
- 8) Fights;
- 9) The engagement and marriage;
- 10) Theft;
- 11) Livestock (disturbance from the unleashed livestock to the street);
- 12) Traffic accidents (minor accidents);
- 13) Juvenile delinquency.

According to Tgk. Abdurrahman Kaoy (Vice Chairman of Provincial Customary Council) that customary institutions play a role not only in resolving the conflicts or cases mentioned above but also conflicts associated with even heavy traffic accidents, as he explains:

"From my experience (Abdurrahman Kaoy, has served as community leader), customary institutions are not only able to resolve conflicts of traffic accidents which cause death. I've been involved directly in the reconciliation of two (2) cases of death-causing accidents. The first case, parents died in a crash and left two children who were still in elementary school. The two parties agreed to make peace with the conditions that the responsible party should fund the school fee of the children until they finish their high school. The second one, a case of a midwife who was hit by someone. The parties were willing to pay *diyot* amounting 20 million rupiah. Because the midwife are the only one who work for the family. We settled both cases together with *Keuchik, TuhaPeut, Imum village*, and *Community Leaders* from both parties. The conflicting parties even have a very good relationship, no hatred, and develop a sense of family bonding between them. This suggests that customary institutions have a significant role in resolving the conflict. "(Interview, June 24, 2015).

Similarly, the customoray authorities (traditional leaders) as a customary institution has the authority to resolve disputes and conflicts in society. The authorities have the functions as mediator, facilitator, negotiator and arbitrator in resolving disputes. The traditional authorities here include *keuchik, imummeunasah* and *the traditional leaders* in village. In practice, customary institutions are using this approach integratedly, especially in resolving private and public disputes, as in the legal system, both domains are not distinguished (Abbas, 2011: 249-257).

Tracing back the peace treaty records of conflicts or dispute settlement on two villages in the city of Lhokseumawe, namely *GampongAlueAwee* and *GampongPayaPunteeut*, it is also found that the role of the customary institution is quite significant. *GampongAlueAwee*,

MuaraDuadistrict, on February 26, has successfully resolved the fights between the people in the community through the customary law. Customary authorities that were present in the reconciliation process were *Keuchik*; *ImumGampong*, *TuhaPeut*, Secretary of the village, and several head of villages (Gampong Customary Court Documents, No. 460/120/2010). Tgk. Fauzan, *TuhaPeutGampongAlueAwee*, the city of Lhokseumawe, was included as one of the figures who participated in the conflict settlement. He asserted that:

"The use of local wisdom is very effective to resolve the conflict using customary law, however, it strongly depends on the place, the area, and their willingness to settle the conflict using the customary law where traditional leaders play the main role in the reconciliation "(Interview, June 25, 2015).

Likewise, the customary institutions also successfully underwent the reconciliation of the dispute related to land boundary between Muslem and SaifulBahri in *GampongPayaPunteuet*, MuaraDuadistrict on May 21, 2011. Traditional authorities that were present included: *Keuchik*, *Keuchik's* assistant, *ImumGampong*, *TuhaPeut*, *TuhaLapan* (Gampong Customary Court Document, No. 060/165/2011). Latifah, SE, Head of the Secretariat of MAA of the Lhokseumawe city said:

"MAA Lhokseumawe plays an active role in providing training to village council on the customary law, this is done to note that mild cases are not necessarily being solved in the police office considering that the cases that have been settled using the customary mediation with the proof of signatures of both parties, then the police will not consider the case to be exist anymore. Some cases facilitated by the MAA in 2013, in Lhokseumawe includes the 24 settlements with different cases ranging from fights, divorces, border conflicts and many others. In 2014, there were only 6 cases. "(Interview, June 25, 2015).

In addition, the role and the involvement of customary authorities in the conflict resolution are a primary responsibility to be conducted peacefully and fairly. According to MAA in the Guidelines Customary Justice System in Aceh (2008: 19);

- 1) Implementing the process of customary court; the customary authorities are responsible for each stage of customary court processes, starting from receiving the report, checking the case, up to the stage of the meeting for the final hearing and final decision;
- 2) making a just decision; the traditional authorities must ensure that any decisions are taken on a traditional court processes wherever possible to give justice to the parties involved in the dispute, in which the decisions are made based on the results of the trial process and consensus, not based on the interests of one of the parties;
- 3) Protecting the rights of the parties to the dispute; the traditional authorities are responsible for the fulfillment of the rights of the parties to the dispute from the process of receiving the report, checking the case, the hearing process, until the stage of the final decision making;
- 4) Recording the decisions and the process during the trial; every process and decision shall be recorded accurately in the customary court;
- 5) Archiving the documents; the documents include a letter of agreement containing the decisions that must be kept or archived safely by indigenous stakeholders, it is important to do in order to guarantee and help the trial process of other cases or similar cases in the future, so that the traditional authorities will

have a future reference in doing the process especially in making decision in the next customary dispute trial.

CONCLUSION

The local wisdom in Acehese society still exist until today. Even though it has experienced ups and downs due to various factors, including government political policies who were not in favor of the local wisdom in Indonesian society, including in Aceh. Moreover, it is also affected by the New Order authoritarian politics that eliminate all forms of customary law throughout Indonesia. The existence of local wisdom in Aceh continues to develop along with the spirit of reform and regional autonomy, the changes and democratization continues to grow in Indonesia. Furthermore, it has-beens supported by the other six regulations, and the most powerful one is the Law of the Republic of Indonesia No. 11 Year 2016 on the Government of Aceh. The law describes the customs and the customary institutions which are considered as a manifestation of local wisdom in Aceh.

Today, the role of the customary institution has become central in resolving conflicts and disputes within Aceh community. The 13 customary institutions as mentioned in qanun and legislation, for example: *keuchik*, *tuhapeut*, *imumgampong*, and *keujruenblang*, have authorities to resolve conflicts and disputes in 18 forms; fights, matters related to inheritance sharing, petty theft, land boundaries, slander, minor traffic accidents as regulated in the qanun and the Decree of the Governor of Aceh, Aceh police department, and the Aceh Customary Council in 2011. The customary institutions which comprises of traditional authorities (traditional leaders) have the authority to resolve disputes and conflicts in society. The function of these traditional authorities is mainly as a mediator, facilitator, negotiator and arbitrator in dispute settlement. These traditional authorities include *keuchik*, *imummeunasah* and the customary authorities of the village. As an evidence in the document of the peace treaty on the conflicts resolution of two villages in the city of Lhokseumawe namely *GampongAweeAlue* 2010 and *GampongPayaPunteeut* 2011, the customary institutions have an important role and successfully reconcile fights between residents, divorce, border conflict, and even a conflict that take lives. This suggests that local wisdom is still showing its existence and the customary institutions also have a significant role in reconciling conflicts or disputes in society, so the people can be more aware of the importance of peace.

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