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When Adat Laws and Shariah Islam Became Frogs in the Well: Critical Response to UU Pemerintahan Aceh and Aceh's Qanun for Tanah Ulayat in Aceh Singkil

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Abstract: Aceh as an autonomous region has adat laws and local people's rights stipulated in the Aceh Provincial Law 2006, Aceh's Qanun Law, and the Founding Principles of the Majelis Adat Aceh (Aceh Adat Assembly). On the other hand, the Constitution recognizes adat law in the amendment of the UUD 1945 of 2000 article 18b paragraph 2 by saying that customary land is a right for the community and the obligation for the state to protect indigenous peoples. However, ulayat land conflicts through regulations at the national and regional levels do not meet the same agreement in the settlement of ulayat agrarian conflicts. Other laws on Agrarian affairs, as well as the land and forestry sector also have overlapping definitions of ulayat land. This study provides an understanding of the dynamics and contestation between adat and religions in the midst of agrarian conflict. The main point observed in the journal is the annexation of land, the use of post-colonial theory to explain the aspect of deindigenization, which eliminates the soil as the

basis of the adat. The study of agrarian conflict is not only based on the law but also concerns how the concept of land in indigenous culture is structurally distorted. This study is based on observations on the agrarian conflict in Aceh Singkil's ulayat land in 2011. This article was compiled based on a qualitative normative-empiric method with a case study approach, the data in this study were obtained from time media observations and interviews of several community leaders in the ulayat land protester group with The HGU area of PT Nafasindo. This research resulted in the findings that the weakness of adat law and Islamic law in agrarian conflict is caused by the duality of the law and hegemonic of the colonial law in terms of setting the material base of indigenous communities.

Keywords: *Aceh singkil, adat law, ulayat land, post-colonialism, legislation.*

Introduction

Religion and *adat* are two things that in the consciousness level of many parties to the practice are opposite to each other, whereas from its genealogy the relationship of customs and religion itself is not two things opposite (Maarif, 2012). The *adat* for Aceh from the beginning is a unity that cannot be released when talking about religion (Islam), which is to be a medium for spirituality, and adat also serves as a custodian of people's rights and obligations (Bustamam-Ahmad, 2007). However, in terms of the construction of colonialism, the custom became blurred and faced dwarfism only to the extent of social norm in society. The development of modernist Islam brings up that custom is different from Islam.

However, in Qanun Aceh Number 10 in 2008 on article of Pembinaan Kehidupan Adat (the development of indigenous life), the castrated *adat* only becomes "*aturan perbuatan dan kebiasaan yang telah berlaku dalam masyarakat yang dijadikan pedoman dalam pergaulan hidup di Aceh*" (the rules of action and habit that have prevailed in the community that is used as guidelines in the association of life in Aceh). Here, MAA (Majelis Adat Aceh/The Aceh's Adat Assembly) did not provide strong support for land conflicts and disputes in Aceh Singkil areas.

In the issue of land conflict, not only understanding based on the regulations of the Undang-undang (law), but concerning how the subject of law understands the concept of the adat itself, and how the application of adat law in the management, maintenance, and protection of indigenous ulayat land. This is very fundamental

when it comes to tracking how indigenous peoples perceive land and its relationship with indigenous arrangements. Land in the concept that exists in indigenous peoples is the basis of all life, land for indigenous peoples concerning economic and non-economic values. In traditional practice, non-economic value is more important than the economic value of the land (Sumardjono, 2018). In the adat rights arrangements of the Aceh government, what is the position of ulayat land? And to what extent are indigenous institutions and special autonomy regarding adat be able to provide a path of completion and redistribution?

This research focuses on land disputes in Aceh Singkil which peaked in 2011. Although it has been going on for a long time, the same condition can be seen from how the response of Islamic law and adat law in Aceh Singkil. This study seeks to read past events with a normative-empirical legal research approach that sees the law in law with an empirical sociological explanation in Aceh Singkil. The research was written by collecting data through media findings, literature studies on historical parts as well as legal implementation in the law (Effendi & Ibrahim, 2018), but to clarify the events objectively conducted interviews with the movement organizers and responsible cooperative institutions derived from the land dispute peace agreement. The purpose of this methodology is to provide an understanding of the background of agrarian conflict and find patterns of agrarian conflict in Aceh. In this study, the system of ulayat land, nor the conflict in it can not be separated from humans who play a direct relationship with the land. From this, it can be seen that the problems that arise from the agrarian conflict in ulayat land are not only caused by regulations in the UU Pertanahan (land law), UU Kehutanan (forestry law), and others.

Aceh Singkil Cultural Genealogy

Aceh Singkil is an in-between area of Aceh province and North Sumatra Province, but as an asset for investors especially palm plantations since the time of the Dutch East Indies with the establishment of onderneming branch that became the forerunner of PT Socfindo (Pelzer, 1978), and the following issue of land and illegal logging of indigenous forests in Aceh Singkil (Pohan, 2017) is far from justice until today. Afterward, at the height of the tumultuous social movement, on May 30/2011, there was a protest and end with the fire up around and inside the Aceh Singkil Regent's office, several community groups were sentenced to confinement

and various violence and demonstrations took place. This problem was addressed by the sluggish government of the first Regent of Aceh Singkil, Makmur Syahputra to resolving agrarian conflicts. In fact, according to the confession of some protester, the Regent of Aceh Singkil seemed to deliberately delay the policy of land conflict with PT Nafasindo.

However, with a very long moment of the locals protesting the seizure of land by PT Nafasindo only received compensation of only approximately four hundred hectares and divided into Koperasi (Cooperative) policies in response and 'anesthetics' to reconcile the time that wanted a fair re-measurement and rejected HGU (Hak Guna Usaha/Land Cultivation Right) PT Nafasindo. In fact, according to Sayani in Serambinews (29/Nov/2012), there are 30 thousand hectares of *ulayat* land that should belong to the indigenous people of 22 villages in Aceh Singkil. Furthermore, the social movement that brought the case to justice provided only a few testimonies, and without a land letter as evidence of land ownership. Futhermore, the absence of ownership letters becomes a fatal flaw when referring to the source of non-*adat* law (*domain var klering*) that the entire land ownership letter is state-owned. This is where the *adat* law in Aceh has no power to protect and guide the local people who feel harmed.

The anger of Singkilnese as part of the period movement is a discourse derived from the social movements of palm farmers. In protest of the annexation of *ulayat* lands, Singkilnese is not formed as a populist movement. However, the burning of the regent's office that occurred in Aceh Singkil in 2011 and also the small resistance of the local people stealing the palm fruit of PT Nafasindo is a spontaneous action. However, by not forgetting the evolving aspects of politics.

The movement of the time that took place in Singkil was largely a social movement for the benefit to the palm farmers (protesters). The study of the peasant movement, in the Scottian analysis (Situmorang, 2007) on farmers in Malaysia revealed that the social movement of farming was carried out without formal and structured organizing. Popkin's analysis of his study in Vietnam (1979) suggested that peasant resistance was not always shown against state policy, but more to resistance to local elites who were intertwined within the company and the sluggish government bureaucracy.

Social movements in Aceh Singkil itself have the same pattern of mass mobilization based on social movements that not come from moral and rational

movements but based on the consideration of selective incentives (Situmorang, 2007: 81). The peasant social movement that takes the form of protest through spontaneous action, it is the result of a detailed calculation of what they will gain from the resistance. Thus, the study of social movements of farmers who protest in agrarian conflicts for example is not based on reasoning on a particular political ideology, but rather benefits for farmers in the future.

Basically, the conflict of dispute in Aceh has no *adat* law guidance. In UU No 44 tahun 1999 Pasal 3 ayat (1) Tentang Penyelenggaraan Keistimewaan Provinsi Daerah Istimewa Aceh (the implementation of special province of Aceh), which also regulates the implementation of customary life for the privileges given to Aceh in organizing its own judiciary. On this basis, Law No. 18 of 2001 on special autonomy for Aceh was made, which was later updated with UU No. 11 tahun 2006 about Pemerintahan Aceh. Despite the regulation of UU Pemerintahan Aceh 2006 governing special autonomy, there is also the implementation of Islamic Sharia law and the MAA which can carry out the politics of recognition as a way of protection to indigenous peoples to protecting *ulayat* land in Aceh Singkil.

In Qanun Syariat Islam No. 10 of 2008 on Lembaga adat (The *Adat* Institutions) in article 1 paragraph 9 which has the editorial of the right of indigenous *adat* law community to "*mengatur dan mengurus serta menyelesaikan hal-hal yang berkiatan dengan adat Aceh*" (organize and manage and resolve things that are related to Acehnese's *adat*). the failure to counter against 'colonial construction' and its preservation of various religious fatwas, institutional revitalization, and customary law, because the common understanding of *adat* is not used as collateral on a material basis.

In addition, if referring outside *adat* law and Sharia law is the same, there is equally no specific benchmark that favors the settlement of *ulayat* land conflicts. In an effort to resolve land conflicts, laws from various sectors intercropping, from UU Pokok Agraria (agrarian law) can be different from the UU Kehutanan, also different from the UU Pertanahan. In addition, if the problems related to *ulayat* land also have more complex problems, because there is no unification of the policy system that focuses on talking about the universal *ulayat* land law that can be used by every community in Indonesia. Laws and rules that overlap between the national level and the local level (PERDA) find absolutely no point in resolving land conflicts, let alone land conflicts based on *ulayat* land.

The concept of *ulayat* land is a concept that existed even before Indonesia

became independent nation, but the way it is managed is only discussed in 2000 in the agenda of the amendment of the 1945 Constitution by saying that *ulayat* land article in 18b paragraphs (2) concerning the maintenance, respect, and protection by the state. Also, efforts to maximize the redistribution of *ulayat* land are always stalled and replaced by the investment law and land legislation that sees agrarian conflict, not through structural inequality. This study wants to look again at how the format of *ulayat* lands in national and local law in Aceh, and also how the definition of indigenous peoples themselves.

Agrarian Reform And the Demand of Indigenous Community in Aceh Singkil

On September 24, it is always celebrated with the day of farming, which coincides with the date of birth of the Undang-undang Pokok Agraria as a policy against the backdrop of many feudal mastery and colonial systems of *domein ver klering* systems since 1870. Unfortunately, the regime's shift to the Orde Baru of land policy lost its function due to various political measures, one of which was most striking was the regard of the UU Pokok Agraria as a leftist policy that became a scourge for the Orde Baru regime. As a result, the malfunction of UU Pokok Agraria No. 5 of 1960 is due to the opposite of government policy in favor of large financiers.

Beyond the ideology that gave birth to UU Pokok Agraria, agrarian reform became the demand of farmers and indigenous community in Indonesia. The lack of response and seriousness of the state resulted in many conflict rise out of the absence of policies that spoke forcefully about land ownership so that many lands owned by farmers and indigenous community disputed with the company through the system of cultivation business land rights (HGU) which is fully controlled by the state in one direction to local farmers and indigenous community. This was responded by the government through Tap MPR No. IX/MPR/2001 on Pembaruan Agraria dan Pengelolaan Sumber Daya Alam (Agrarian Renewal and Natural Resource Management).

Komisi Nasional untuk Penyelesaian Konflik Agraria (KNuPKA/ National Commission of Agrarian Conflict) which was formed in 2004 experienced clashes to stay afloat as an agrarian conflict because the change of President was not continued to a more serious level. Then, RUU Pertanahan (the land bill) of 2013 appeared and disappeared again, and emerge the new system which is Pengadilan Pertanahan/

land court as a replacement that did not have elements of structural conflict. In fact, agrarian conflict is different from land conflict, agrarian conflict contained in it structural problems, about political-economic access of local communities or indigenous peoples who get minimal access to land ownership in the form of certificates, and other economical problems.

Furthermore, in the regime of Susilo Bambang Yudhoyono strengthened with Program Pembaruan Agraria Nasional/the National Agrarian Renewal Program (PPAN) this was specifically given to Badan Pertanahan Nasional/the National Land Agency to implement an agrarian reform strategy. This agrarian policy continued until President Joko Widodo for two periods with the presidential decree No. 86 of 2018. However, the policy with what is referred to as 'agrarian reform' is considered a policy that is not maximal because both are proven to only provide benefits to the global market, and in no way provide results for farmers and indigenous community in Indonesia. There are many criminalization in farmers and indigenous community, there are also efforts to create a UU Cipta Kerja (Omnibus Law) that harms farmers, laborers, and communities. Ecological crises became inevitable as weak agrarian reform policies, people's forests, or indigenous forests were turned into new farms or land for new factories.

With the overlapping status of agrarian law at the national level and the narrowing of the interests of local residents on the opportunity to obtain the right to manage land, especially communities in Aceh, it is expected that local regulations in Aceh can provide space for the redistribution of land management independently. Because Aceh has authority in determining the wealth of natural resources because it is written in the UU Pemerintah Aceh of 2006 on *adat* management or 'pengelolaan *adat*'. However, this leads to the same complexity, coupled with the chaotic definition of Acehnese *adat* itself. To understand it more deeply, agrarian conflict is not based solely on the law and its implementation, the dispute that occurs is a form of formation of economic system, religion, identity, citizens and countries that are in dispute, until it impacts on culture and ecology.

The rights of special indigenous peoples in Aceh are also set out in UU No. 11 of 2016 on Pemerintahan Aceh/the Governement of Aceh. The spirit of the UU Permerintahan Aceh leads to the '*nilai-nilai keislaman*' (Islamic values) contained in the development points in BAB XX in article 141 of the first point where development must act on the Islamic element. Is it just rhetoric or an applicative necessity? Of

course, the '*nilai-nilai keislaman*' poin juxtaposed with the word development may refer to development leading to the justification of the state in determining material development. To the point where islamic development is able to benefit people who are on the periphery and still use their *adat*. Are they entitled to be protected by the development of '*nilai-nilai keislaman*'?

Interestingly, it turns out that in the arrangement concerning Wali Nanggroe in Chapter 1 Article One paragraph 17 of UU Pemerintahan Aceh mandated as an indigenous leader in Aceh was unable to contribute to the issue of *ulayat* land, Islamic values in development, and concerning land regulation stipulated in Chapter XXIX of UU Pemerintahan 2006 Article 213 paragraph 2 which written "*Pemerintah Aceh dan/atau pemerintah kabupaten/kota berwenang mengatur dan mengurus peruntukkan, pemanfaatan dan hubungan hukum berkenaan dengan hak atas tanah dengan mengakui, menghormati, dan melindungi hak-hak yang telah ada termasuk hak-hak adat sesuai dengan norma, standar, dan prosedur yang berlaku secara nasional*"[1]. UU Pemerintahan Aceh clearly gives adat authority in regulating the development. At first glance, there is a duality in the law in Aceh that is adat law and Islamic law. However, in UU Pemerintahan Aceh, it considers that islamic development is inseparable from recognition of indigenous rights.

UU Pemerintahan Aceh, which states indigenous rights with Islamic values in the implementation of aceh's post-conflict development, should be able to resolve and represent indigenous interests in land disputes between local communities and companies. The facts in the field are quite the opposite, in 2006-2011 according to the Lembaga Bantuan Hukum (LBH/ Legal Aid Institute) Banda Aceh there were as many as 65 cases of land conflict in Aceh ranging from plantation sector, mining conflict. In this case, PT Nafasindo's agrarian conflict with the local community in the name of ulayat land is far from olving from a customary perspective.

In the agrarian conflict, there are 22 villages in Aceh Singkil that each have their own evidence to sue PT Nafasindo, some based on land certificate evidence to BPN certificate evidence and supreme court ruling 2009. However, most of the protested land presents are people who do not have a land certificate. The problem recorded was regarding the permanent peg of BPN RI (BPN Pusat) on June 21, 2012 with PT

1 The Government of Aceh and/or the district/city government are authorized to regulate and manage the provision, utilization and legal relationship with respect to land rights by recognizing, respecting, and protecting existing rights including indigenous rights in accordance with national norms, standards, and procedures

Nafasindo there were only 1,158 hectares outside the land of PT Nafasindo, while BPN Aceh measuring results on October 10, 2010 involved both parties from 22 villages in Aceh Singkil and PT Nafasindo land worked by PT Nafasindo reaching 4,000 hectares outside HGU. The land that is in conflict is including *ulayat* land rights, indigenous rights, and others (Tribunews.com/Kamis/29/Nov/2012).

Prior to the HGU of PT Nafasindo covering an area of 10,917 hectares, the local community, Manjek (Interviewed in 20 August 2020) as advisors to the palm oil farmers movement from 22 villages a said that the locals had utilized forests for rattan, honey, fish and others. When HGU was given to PT Nafasindo most indigenous grass-roots communities did not know, because there was no boundary poultice and the land was completely derelict. Since 1988, starting from 2004 the land began to be used by PT Nafasindo. Vulnerable for a long time and people who do not know the limits of planting in the HGU area.

In 2006 there was a riot and the burning of the regent's office during the time of Regent Makmur Syahputra because it was considered to have delayed the re-measurement. From here, the people of the 22 villages are not seen at all in the protection of customs, but only limited to land and property protests. Worse, sticking to the issues of the anti-development and anti-Islam[2] movements because of the long wait for certainty from the local government and the central government to resolve the right of re-measure the land.

Colonializing of Land Grabing in Aceh Singkil

As a framework of the capital accumulation of colonial times, the seizure of land and permits on it are processes that use working capital to undermine the social relations of pre-capitalist communities that hang life through forests and rice fields. It appears to be structured in the framework of classical economics such as David Ricardo in "*The Principles of Political Economy and Taxation*" (1921), Ricardo focuses on increasing production due to the increasing population (Fauzi, 1999: 3). In general, human needs will grow in proportion to population growth, hence the increasing demand for production sources, forcing agrarian areas as workers and corporate lands are needed. In terms of capital accumulation, this is certainly advantageous for financiers who master the production tools to open factories along

2 This is because at a demonstration in 2006 about the burning of the regent's office, an uncontrolled fire spread about the mushala(small mosque) of the regent's office.

with extensive land to increase production. That is what is highlighted in Rosa Luxemburg's analysis, capital does not work on the pretext of population increase, the frequent thing of capital production is the concealment of capital accumulation where companies expand pre-capital areas to hire workers massively, Luxemburg sees from which profits come from. In other words, the factory produced or not, not the main problem, the main income from the factory of course came from the wage workers (Luxemburg, 1951). Primitive accumulation in diverting capital wealth into production from capital strength, and farmers formed into wage laborers, who were unwittingly besieged in giant financiers land and monopolized by factory production prices.

Despite the understanding of capital accumulation, the need for land remains a benchmark for progress for pre-capital areas. This, causing Aceh Singkil to be in a dilemma, if it rejects the existence of palm oil mills then Aceh Singkil economy will be paralyzed, and if it maintains the palm oil mill system then agrarian conflict will continue with shocks that undermine social and political stability. In addition, *adat* becomes deadlocked when faced with economic theories about the land from the realm of classical economists that rest on industrial society. Ricardo's formulated socioeconomic formulation does not capture the demands of increased population density. Indeed, in general, Ricardo missed out on the discussion of the abandonment of the right to life of the pre-capitalist society when dealing with the nature of capital, in which the pre-capital society with all its cultural packages was replaced by the makeup of a new society (Fauzi, 1999: 4). Therefore, dependency on palm oil mills is inevitable, in addition to being an economic structure, capitalism is also a social structure.

Historically, tracking the existence of factories in Aceh Singkil was indeed a legacy of the *onderneming* system of the Dutch East Indies government (Peltzer, 1978). The way to strengthen the *ondermening* system is to be interpreted through tributes sponsored by local feudal circles. This creates a clash between the traditional initiated economic system of farming communities and the traditional system and the economic laws of the invaders derived from the paradigm of industrial society. The agrarian law became a classic liberal reference as the Agrarische Wet regulation of 1870 was adopted in colonial times and adopted by Indonesian land law until now.

There are various land rights created by the invaders through the Agrarische Wet regulations of 1870 (Tauchid, 1952: 38) consisting of: *First*, the Right of

Eigendom which is the right to the invaders for the expansion of the city, and the extent is limited. *Second*, Erfpacht's right is a land lease that must pay 1 year, this right is required for foreign plantations for agriculture and plantations large and small with a limit of at least seventy-five years. *Third*, Hak Konsesi (the concession rights), which is an extensive land dredging business with unlimited investment, concession rights have a period of up to 75 years with an area of 3500 hectares, from the part of the financier in *onderneming* has a system of pathways to the local population, namely a fortress for the *onderneming* party to appear humane by providing land for the inhabitants whose territory with the territory of concession is *onderneming*. *Lastly*, rental rights are a short-term step for certain seasons of land mastery.

From the 1870 Agrarsche Wet regulations, *onderneming* benefited from various sides, regardless of the interests of the local population. Such colonial politics had the following consequences (Tauchid, 1952: 174-189) which states that investment is always looking for land targets and requires a lot of human labor and cheap. Hence, colonial capitalists were always looking for fertile land and quite a large population. Thus, in the areas of agro-industrial lighting, the soil is getting narrower for the people, and the people are increasingly pushed for its mastery. The position of the people surrounded by customs becomes blurred and the custom is increasingly defined only as a force that common habits such as marriage, circumcision of apostles, or mere dances. The traditional position was further paralyzed by the arrangement of feudalism in cooperation with the Dutch East Indies government, as well as the transition of colonialism to Japanese colonies, custom was not used at all in determining the fate of the *ulayat* land. In Aceh Singkil, customary land became lost and abandoned as a serious discourse to return the land to local accusers after the onderneming system.

However, until the post-colonial era, PERPU was created (Penetapan Peraturan Pemerintah Pengganti Undang-undang/Determination of The Government Regulation of Substitute Law) on Nasionalisasi Perusahaan Milik Belanda (the Nationalization of Dutch-Owned Companies) which located in the territory of Indonesia (Law No. 86/1958, LN 1958, No. 162). This nationalization idea complements UU Darurat (the Emergency Act) 1951 No. 6 Lembaran Negara 1952 No.46 on the timing and restriction of land ownership. With these regulations it is stipulated that ground rent contracts must not be longer than a year except for sugar cane, rosela, and tobacco lands (Fauzi, 1999: 63). The customary position remains

vague, moreover the application of domein ver klaring is used in the state land law, namely the determination that all land that has no proof of belonging (eigendom rights) is none other than state property (Praptodiharjo, 1952: 46).

If want to refer to *adat* law in the setting of agrarian law, there is a very severe legal dualism. Western agrarian laws aim to give land control and accumulation space to foreign factories, while customary law is used by feudal groups to establish their position to exploit the local population. Fauzi (1999: 34) mention that "*rakyat (kaum tani) dikuasai dan dieksploitasi ganda, oleh kaum feodal dan kolonialis*" (local farmer controlled and exploited double, by feudal and colonialists). As such, the implementation of reforms to the constitution is still gray and lacks understanding in indigenous peoples. Furthermore, regulation on customary land not to incriminate local people is actually contained in the Indonesian constitution to avoid any issues of land conflict that always clash with the dualism of the law.

More generally, in the year-end record KPA (Konsorium Pembaruan Agraria) in 2020, the agrarian conflict reached a total of 241 cases with a conflict area of 624,272,711 hax, the affected victims there were 135,332 KK or families that occurred in 369 points of villages/cities. KPA noted that the conflict occurred due to plantations reaching 122 cases of conflict land covering an area of 230,887.8 hax which was up 28% from 2019. While the second highest conflict occurred in the forestry sector, which reached 41 cases of 312,158.1 hax, which is up 100% from 2019. Large-scale plantations in Indonesia contain many structural problems, while the plantation and forest sectors have a conflict percentage of up to 69%. while in terms of ulayat land, AMAN (Aliansi Masyarakat Adat Nusantara) reported 31,632.67 hax of ulayat land is also affected by agrarian conflict, the largest case is the case between indigenous peoples and plantations.

The percentage of land grab above shows that it is structurally agrarian conflict emerged as a form of legal duality. In terms of the duality of this law, post-independence Indonesia still does not have the concept of unification of the final agrarian law. Each sector has its own land laws. UU Pertanahan in Indonesia is not always aligned related to the relationship of customary land, customary law, agrarian. So, if the land sector has a definition of land measurement and recognition, other sectors also have different legal arrangements in land cases.

Regulations on *ulayat* land are always written, but not compatible to solve the redistribution to indigenous people, because the definition about it is not the same,

the subject matter of the law is sometimes called 'masyarakat adat' (indigenous peoples), 'masyarakat traditional' (traditional communities), etc. Mentioning *ulayat* land rights areas are also various, there are 'tanah ulayat' (ulayat land), tanah adat 'adat land', 'hak milik adat' (adat property), 'hak tanah adat' (customary land rights), and others. The non-uniform mention creates an understanding between other sectors of the problem so that it is not easy to pursue civil legal law (Hukum Perdata) when it comes to *ulayat* land.

Legal Pluralism Problem on National Agrarian Reform for *Adat* Formulation

The development of the idea of Agrarian politics of Indonesia found its constitutional form by formulating in article 33 of the UU Dasar 1945, and UU Pokok Agraria of 1960. Even in the UU Dasar 1945 the first period in the explanation of local laws such as Java, Bali, Minangkabau and so on in the "*hak-hak asal-usul daerah*" (rights of regional origin) with the editorial "*Negara Republik Indonesia menghormati kedudukan daerah-daerah istimewa tersebut dan segala peraturan negara yang mengenai daerah-daerah itu akan mengingati hak-hak asal-usul daerah tersebut"* (The State of the Republic of Indonesia respects the position of the special regions and all the regulations of the countries concerning those regions will remember the rights of the origin of the region). But after amended in three sources namely Article 18B paragraph (2), Article 28I paragraph (3) and Article 32 paragraph (1) and paragraph (2) of the UU Dasar 1945. When the above article has substantial intent covering indigenous law and traditional rights, cultural identity, and regional language values. Also, the recognition given has terms with the provisions of the Prinsip Negara Kesatuan Republik Indonesia (Principles of the Unitary State of the Republic of Indonesia).

In the rule of the MK (Mahkamah Konstitusi/The Constitutional Court) No.35/PUU-X/2012, the need for a deeper focus on *adat* law must continue to be implemented at the level of national recognition. Laws relating to land and property owned by local communities in Aceh Singkil must delegate their rights to the local government (Pemda/Pemerintah Daerah). To be clear, if more specifically discussing the indigenous legal community, it has actually been contained in Law No. 1 of 1957, specifically discussing the points of Pemerintah Daerah. And regarding agrarian law in indigenous peoples, there is also in Law No.5 of 1960 concerning Aturan-aturan Dasar-dasar Agraria (The Basic Rules of Agrarian Fundamentals).

However, the practical constraints obtained are sporadic *adat* law implemented because it is still stuck in the bonds of the central legal principles or contrary to other higher regulations. The end of the Orde Baru regime was a new round for indigenous regulation, because during the new order there was no continuation of indigenous peoples and regulations on *ulayat* lands. From 1999 to 2014 materials were found to be sixteen laws governing the existence of indigenous legal rights.

The land of the country that became the land of the HGU can be transferred into indigenous land. In the case of PT Nafasindo in Aceh Singkil, the HGU extension was extended without any word from the government confirming the extension, this was complained about by Sofyan (Interviewed in 20 August 2020) as one of the PT Nafasindo protester. Thus, the power of Aceh Singkil people basically depends on the Pemerintah Daerah with a closed bureaucracy and is completely not transparent in announcing the extension of HGU PT Nafasindo. It is certainly not in accordance with the customs more and more incompatible with the law of transactions in Islam, where the agreement is not explained openly by embracing elements of the local population.

From the update domain, TAP MPR. No. IX/MPR/2001 on Pembaruan Agraria dan Pengelolaan Sumber Daya Alam (Agrarian Renewal and Natural Resource Management) more specifically gives direction to indigenous peoples recognition, "*Mengakui, menghormati, dan melindungi hak masyarakat hukm adat dan keragaman budaya bangsa atas sumber daya agraria/sumber daya alam*" (Recognizing, respecting, and protecting the rights of *adat* law and the cultural diversity of the nation over agrarian resources). in Presidential Decree No. 111 of 1999 on Pemberdayaan Komunitas Adat Terpencil (The Empowerment of Remote Adat Communities).

While the Minister of Forestry himself gave Surat Edaran (Circular Letter) No. S.75/Menhut-II/2004, this Surat Edaran was given to governors and regents/mayors throughout Indonesia. This circular focuses on Indigenous Legal Issues and compensation claims for forest areas absorbed by Pengusaha Hutan/Izin Usaha Pemanfaatan Hasil Hutan Kayu (IUPHHK/Forest Entrepreneurs/Timber Forest Utilization Business License). If after researching and weighing all the losses from forest management by the entrepreneur then the Pemda of Aceh Singkil can establish the management of indigenous forests and the determination of the location of ulayat land with the Peraturan Daerah Provinsi (Local Provincial Regulation).

In addition, if you want to refer to a more fundamental framework of rights

such as Human Rights strengthened by various findings, as in the report of the Foundation for the Study of Human Rights (YAPUSHAM) published a monitor on the development of Human Rights, which called The Human Rights Index (No. I/I 1995). YAPUSHAM developed the human rights monitoring based on a standard format of an international documenting system for human rights, namely HURIDOCS (Human Rights Information Documentation System), which has been adapted with typical Indonesian conditions. This recording system consists of five interconnected structure formations, namely events, victims, alleged culprits, intervening parties, and sources of human rights violations. for the first time, the data source was obtained from 28 (twenty-eight) newspapers circulating in many major cities loaded a chapter on human rights violations in the field of land.

Conclusion

The results of the explanation above show that customary law and Islamic law in Aceh are not able to give any effect to free *ulayat* land owned by indigenous people in Aceh Singkil. Islamic and *adat* instruments and sharia are instead used as part of a government bureaucracy that carries only formal laws unrelated to the material base of the local population. The existence of *adat* law and Sharia law in no way provide results for agrarian conflict, even the two laws overlap with the law of the plantation, forestry, and agrarian sectors. In addition, there is a phenomenon of inconsistent relations between *adat* law and the implementation of Islamic law. Aceh Singkilnese response to agrarian conflicts that have occurred over the years, considers that *adat* law through Majelis Adat Aceh institutions does not provide a significant response to land disputes. If the exemption and redistribution of *ulayat* land through legislation does not find a point of agreement on which legislation should be used because of the overlap of each sector it will be very futile. The definition of customary law and customary land issues has not yet found certainty, so indigenous peoples such as Aceh Singkil prefer to make social movements rather than follow laws and other rules. As long as the commitment of the state in the settlement of the agrarian conflict is still unclear legal reference, agrarian conflicts of customary land in the future will always exist and growing every year.

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