



AGRARIAN JUSTICE IN ACEH CUSTOMARY LAW: A STUDY OF CUSTOMARY LAND IN ACEH BESAR

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Abstract

Agrarian justice in Indonesia does not only depend on the formal legal framework, but is also strongly influenced by the existence and recognition of the customary law system, especially in indigenous communities such as in Aceh. This research aims to examine agrarian justice in the perspective of Acehese customary law through a case study of customary land in Aceh Besar District. Using a descriptive qualitative approach and field study methods as well as in-depth interviews, this research highlights the role of customary law in regulating ownership, distribution and resolution of agrarian conflicts. The findings show that indigenous communities in Aceh Besar have customary land management mechanisms based on the principles of deliberation, collective justice and spiritual values, but often face unclear legal status and lack of administrative recognition from the state. Agrarian conflicts often occur due to overlapping claims between indigenous peoples and formal control by outsiders. This research recommends strengthening the synergy between customary law and national law in the form of contextual agrarian policies, participatory legalization of customary land, and protection of collective rights of indigenous peoples as a step towards sustainable agrarian justice in Aceh.

Keywords: *Agrarian Justice, Aceh Customary Law, Customary Land, Indigenous Peoples, Aceh Besar*

A. Introduction

The issue of agrarian justice is one of the most fundamental and complex problems in resource governance in Indonesia, especially in areas with strong customary law systems such as Aceh. Inequality in land tenure, weak legal protection of indigenous peoples' communal rights, and suboptimal integration between national and local legal systems are the main challenges in realizing equitable agrarian reform. Amidst the demands of development and economic expansion, indigenous peoples - as owners and managers of communal land for generations - are often marginalized by a formal legal

system that does not fully recognize these collective ownership structures. This leads to prolonged agrarian conflicts and threatens the sustainability of indigenous peoples' lives (Bakker, 2018). the principles of agrarian justice based on Aceh's customary law and their implementation in daily practice. the application of the principles of agrarian justice in the context of Aceh's customary law, as well as how it is implemented in the practice of customary land management by local communities.

Aceh is a region that has special autonomy based on Law No. 11/2006 on the Government of Aceh (UUPA), one of which recognizes the existence of customary law in various aspects of social life, including the management of agrarian resources. Under this system, gampong (customary villages) play an important role in maintaining social order, including the regulation of customary land that has been passed down from generation to generation. However, in practice, the national agrarian system based on the Basic Agrarian Law (UUPA) of 1960 still dominates policies and legal mechanisms in land affairs, resulting in normative and practical conflicts between state law and customary law. the principles of agrarian justice based on Aceh's customary law and their implementation in daily practice. The application of the principles of agrarian justice in the context of Aceh's customary law, as well as how it is implemented in the practice of customary land management by local communities. r Principles of agrarian justice based on Aceh's customary law and its implementation in daily practice. r Principles of agrarian justice based on Aceh's customary law and its implementation in daily practice.

Customary land, as communal property recognized and respected by indigenous peoples, is a symbol of a community's collective existence and sovereignty over its living space. In Aceh Besar District, communal land not only has economic value, but also contains deep cultural, historical and spiritual meanings. Tenure over communal land is not only access to natural resources, but also a form of social legitimacy for the sustainability of local customs and traditions. In this context, customary land is an integral part of the identity of the Acehnese indigenous people. the principles of agrarian justice based on Acehnese customary law and its implementation in daily practice. the principles of agrarian justice based on Acehnese customary law and its implementation in daily practice. the application of the principles of agrarian justice in the context of Acehnese customary law, as well as how it is implemented in the practice of customary land management by local communities.

However, various development policies, natural resource exploitation and investment projects often clash with the existence of customary land. Indigenous communities often do not have enough legal power to defend their land due to the absence of formal certification or legal recognition by the state of the status of the land. This makes them vulnerable to evictions, land grabbing and marginalization. Agrarian conflicts between indigenous peoples and other parties, both government and private,

are a recurring phenomenon in various regions in Aceh, including in Aceh Besar District. This phenomenon indicates a dissonance between the formal legal framework of the state and the socio-cultural reality at the local level, where the communal rights of indigenous peoples are often overlooked in the development process (Arlina, 2020). the application of agrarian justice principles in the context of Aceh's customary law, as well as how it is implemented in the practice of customary land management by local communities (Sarasvati et al., 2021). The colonial government also implemented an agrarian reorganization that had a major impact on people's lives, where the king's land and the people had different rights to their land (Yahya & Setiawan, 2023). This research aims to examine how the concept of agrarian justice is understood and applied in Aceh's customary law, as well as how legal protection of customary land in Aceh Besar District can be optimized in the midst of existing legal, social, and political challenges. the application of agrarian justice principles in the context of Aceh's customary law, as well as how it is implemented in the practice of customary land management by local communities (Laturette, 2021). the establishment of agrarian justice principles in the context of Aceh's customary law, as well as how it is implemented in the practice of customary land management by local communities.

This situation raises a fundamental question: how to realize agrarian justice in the context of Aceh's customary society, which has a unique legal and social structure? Agrarian justice is not only about the fair distribution of land, but also includes the recognition of local value systems, norms and institutions that have proven to effectively regulate the social life of the community. From the perspective of Aceh's indigenous people, agrarian justice is about the recognition, respect and protection of collective rights to customary land, which have been neglected in the national legal system. This research is expected to provide a comprehensive picture of how Acehnese indigenous people understand and apply the principles of agrarian justice based on Acehnese customary law and its implementation in daily practice. principles of agrarian justice based on Acehnese customary law and its implementation in daily practice. principles of agrarian justice based on Acehnese customary law and its implementation in everyday practice.

On the other hand, formal regulations in Indonesia are often out of sync with the social realities and customary structures of local communities. Although customary law is recognized as part of the national legal system as stipulated in Article 18B paragraph (2) of the 1945 Constitution, this recognition is conditional and has not been fully translated into technical land policies. The absence of regulations that specifically regulate the recognition and protection of customary land in many regions, including Aceh, causes legal uncertainty for indigenous peoples in defending their rights to land.

As a result, agrarian conflicts tend to be structural, protracted, and often lead to the criminalization of indigenous peoples. principles of agrarian justice based on Aceh's customary law and their implementation in daily practice.

In Aceh Besar, this phenomenon is clearly visible through various cases of agrarian conflicts involving gampong communities and outsiders. In some cases, customary land that has been communally controlled by indigenous communities is suddenly declared as state land or given management rights to companies through legal procedures that do not involve the consent of customary owners. This situation reflects the absence of participatory mechanisms and fair protection in the process of legalizing customary land. Ironically, many customary lands that have been utilized productively by the community do not have legal force when faced with formal documents from outside parties.

Various previous studies (For example, Martini et al., 2019; Rahman et al., 2018) show that the resolution of agrarian conflicts involving customary land can only be done if the state is willing to recognize and respect the existence of customary law as a living source of law in the community. Thus, integration between the national legal system and customary law is an urgent need in building an inclusive and fair land system. It is not enough just to give normative recognition to customary law, but it must also be followed by concrete steps in the form of the formation of regulations, legal assistance, and the structuring of equitable agrarian administration.

In this context, it is important to examine more deeply how the principles of agrarian justice are interpreted and implemented in Acehnese indigenous communities, especially in Aceh Besar District. How the community manages customary land, how the mechanism of land distribution and utilization takes place, and how the community resolves internal and external conflicts related to land. This research also needs to examine how the formal legal system views and regulates communal land, as well as the extent to which legal protection of communal land can be enforced in practice.

Therefore, this article aims to examine agrarian justice in the perspective of Acehnese customary law with a focus on a case study of communal land in Aceh Besar District. Through a qualitative approach and case study, this article seeks to provide an in-depth understanding of the dynamics of control, utilization, and legal protection of communal land, as well as the challenges faced by indigenous peoples in defending their rights amidst the dominance of the national legal system. Thus, this article is expected to contribute to the discourse on agrarian reform in Indonesia that is more inclusive, equitable, and based on the recognition of local legal diversity.

B. Method

This research uses a qualitative approach with a case study method, which was chosen because it allows researchers to deeply understand the social, legal and cultural

dynamics that shape the concept of agrarian justice in the context of Acehese indigenous peoples. This study focuses on customary land in Aceh Besar District, which is an area with active customary structures and a track record of agrarian conflicts related to communal land tenure. The research location was selected purposively by considering the existence of customary institutions that still carry out land management functions, the experience of agrarian conflict, and the involvement of indigenous peoples in interactions with formal state institutions.

Data were collected through three main techniques: in-depth interviews, participatory observation and documentation studies. Semi-structured interviews were conducted with traditional leaders such as imeum mukim, keuchik, tuha peut, as well as customary rights holders, local government officials, and land agencies. Observation was carried out by participating in customary deliberation activities, decision-making on land management, and community interaction with the government in the context of customary rights recognition. Meanwhile, documentation was used to review customary law texts, local qanuns, archives of land dispute cases, customary maps, and government regulations related to customary land and agrarian reform.

The collected data were analyzed descriptively-qualitatively through three main stages, namely data reduction, data presentation, and conclusion drawing. Data reduction was carried out to filter out information relevant to the research focus, especially regarding the concept of justice in the customary perspective, the practice of customary land management, and the forms of agrarian conflicts that arise. The data was then presented in the form of thematic narratives and developed into patterns of understanding that reflect the social and legal practices that live in the community. Conclusions were drawn inductively by examining the interrelationships between data and verifying them through triangulation.

To ensure the validity of the findings, this research applied source, method and time triangulation techniques. Source triangulation was done by comparing information from various informants with different backgrounds, while method triangulation was achieved by combining results from interviews, observations, and documentation. Time triangulation was used to test data consistency by collecting information over several periods. In addition, the researcher also conducted a member check by confirming the findings or important quotes to the informants to ensure accuracy and avoid misinterpretation. In its implementation, this research upholds ethical principles, by guaranteeing the confidentiality of informants, seeking consent prior to interviews, and transparently explaining the aims and objectives of the research to all relevant parties. The research also aims to identify the challenges and opportunities for harmonization with the national legal system.

C. Finding and Discussion

1. Finding

This research found that the concept of agrarian justice in the perspective of Acehese customary law, especially in Aceh Besar District, is not only interpreted as an equitable distribution of land, but also as a recognition of the community's collective rights to customary land that has been passed down from generation to generation. In the customary view, communal land is positioned as a common asset belonging to the kaum or gampong (traditional village), and its use is strictly regulated by local customary institutions such as imeum *mukim*, *keuchik*, and *tuha peut*. Individual rights to land are only rights of use, while ownership remains within the communal framework. This shows that justice according to adat is more distributive and maintains socio-communal continuity. (Lubis & Safithri, 2021; The Study of Protection of Adat Law Community Rights, 1451)

Furthermore, research reveals that there is tension between the customary law system and the formal state legal system, especially in terms of the recognition and recording of customary land rights. Although the Basic Agrarian Law (UUPA) 1960 and the Law on the Governing of Aceh (UUPA Aceh) have provided space for the recognition of customary land, its implementation is still very limited. In the field, many customary lands have not been officially registered in the national land administration system, which causes their legal status to be unclear. This has the potential to cause conflicts, both between residents and between the community and the government or private parties with investment interests (Zaidar et al., 2020).

The research also found several cases of land disputes in this region that showed the marginalization of indigenous peoples' rights. One example is the conflict between indigenous peoples and property developers who claim customary land based on building use rights (HGB) obtained from the local government. The indigenous community felt that the process of granting the license did not involve customary consultation and violated local norms of justice. In some cases, customary institutions do not have the legal power to resist evictions due to the absence of official titles to the land they have controlled for generations. (Imran, 2021)

On the other hand, the research results show that there are still indigenous communities that have succeeded in maintaining customary land rights through strengthening local institutions and documenting the history of land ownership. Several gampong in Aceh Besar began to carry out initiatives to inventory customary land and compile participatory maps by involving traditional leaders, youth, and village officials. This initiative is proven to improve the bargaining position of indigenous peoples in the face of outside intervention, as well as encouraging local governments to more seriously accommodate the existence of customary land in land policy. (Fisher et al., 2017).

Another finding is that there is an imbalance of legal knowledge among indigenous peoples regarding customary land legalization procedures. Many do not understand the mechanism of land recognition through the National Land Agency (BPN), or find the process too bureaucratic and expensive. This makes customary land increasingly vulnerable to seizure or conversion by economically and legally stronger parties. The lack of legal and social assistance is a major inhibiting factor in realizing custom-based agrarian justice.(Sunarno, 2019)

Overall, the results of this study indicate that agrarian justice in the context of customary land in Aceh Besar is highly dependent on the state's ability to accommodate the customary system within the national legal framework, as well as on efforts to empower customary institutions in order to effectively carry out the function of protecting land rights. Synergy between customary law and positive law is needed to avoid sustainable inequality in the agrarian structure, while guaranteeing the collective rights of indigenous peoples as part of social justice. This research is expected to provide a comprehensive picture of how Aceh's indigenous communities understand and implement agrarian justice in their local context, as well as identify challenges and opportunities for harmonization with the national legal system. This study also underscores the importance of understanding the evolution of national agrarian policies that often ignore or even nullify the existence of these communal rights, as seen in the history of agrarian reorganization in several other regions that benefited corporations over small people (Yahya & Setiawan, 2023). agrarian justice in their local context, and identify challenges and opportunities for harmonization with the national legal system. agrarian justice in their local context, and identify challenges and opportunities for harmonization with the national legal system. agrarian justice in their local context, and identify challenges and opportunities for harmonization with the national legal system.

2. Discussion

The findings of this study show that the implementation of agrarian justice in the context of Aceh's customary law is closely related to the recognition of customary land as an integral part of the identity and social structure of indigenous peoples. Customary land in Aceh is not simply interpreted as an economic asset, but as an ancestral heritage that has sacred and symbolic values. In this perspective, the concept of justice is not only understood in terms of formal legal certainty, but also in the form of protection of the collective rights of indigenous communities over natural resources that they have managed for generations.

This condition is in line with Fitzpatrick's (2006) opinion, which emphasizes the importance of integrating customary rights into the national legal system to create substantive justice in agrarian management. Unfortunately, the reality in Aceh Besar

shows that there is legal dualism between the customary law system and the state's positive legal system. Although normatively the Basic Agrarian Law (UUPA) and the Law on Aceh Government provide space for the recognition of customary land, at the implementation level there are still structural imbalances that make it difficult for indigenous peoples to obtain official recognition of the land they control.(Hafidh & Krisdyatmiko, 2020).

This legal dualism contributes to the emergence of agrarian conflicts between indigenous peoples and external actors, both government and private. The cases found in this study show that the absence of formal certification of customary land is often used by third parties to take over land through formal legal schemes, without considering communal rights that are alive and recognized by local communities. This reinforces Slaats' (2000) argument on the importance of a plural legal system that recognizes and respects each other in order to create a just and inclusive land system.

Furthermore, the discussion highlighted the importance of strengthening the capacity of customary institutions in managing, registering and defending claims to customary land. The initiative of indigenous communities in Aceh Besar in developing participatory maps and documenting land history is evidence that a community-based approach can strengthen the social legitimacy of collective ownership rights. However, this approach will not be optimal without responsive policy support, legal assistance and administrative facilitation from the state.

One of the crucial challenges in strengthening custom-based agrarian justice is the limited legal literacy of indigenous peoples, as well as land legalization procedures that tend to be complex and expensive. This shows the need for a transformative approach from the state, where the land bureaucracy must be more adaptive to local social and cultural realities. Agrarian justice cannot be achieved through formal legal mechanisms alone, but must be through dialogue between legal systems that live in society.(Martini et al., 2019)

This finding emphasizes the relevance of distributive justice and procedural justice theories in agrarian studies. Distributive justice is reflected in how customary land rights must be distributed fairly to all members of the adat community, while procedural justice demands a transparent, inclusive and participatory mechanism in every process of recognizing land rights. Inequality in these two aspects will continue to trigger social tensions and agrarian conflicts, as has happened in various cases in Aceh Besar.(Dikara, 2020).

Thus, this discussion concludes that agrarian justice in the context of Aceh's customary law requires the state's real recognition of the customary system as a legitimate part of national agrarian governance. Integration between customary law and positive law, strengthening community capacity, and reformulation of land policies based

on local culture are important prerequisites for creating a just, sustainable agrarian order. Local governments and land agencies need to take proactive steps in developing collaborative models that not only respect customary rights, but also protect communities from the threat of structural marginalization. understand and apply agrarian justice in their local context, and identify challenges and opportunities for harmonization with the national legal system.

D. Conclusion

This research confirms that agrarian justice in the perspective of Acehnese customary law - particularly in the context of customary land in Aceh Besar District - is rooted in communal, spiritual and historical values that are not fully reducible to the formal and individualistic framework of state law. Customary land is not just an economic resource, but a symbol of identity, social solidarity and cultural sustainability of indigenous peoples. In practice, indigenous peoples already have a system of management, distribution and protection of land rights based on customary norms and collective deliberation.

However, amidst the dominance of the positive legal system, the existence of customary land is often in a weak position administratively and legally. The lack of formal recognition of customary land leads to vulnerability to agrarian conflict, marginalization of communal rights, and penetration of external interests that do not involve indigenous communities. This is exacerbated by limited access to legal information, weak customary institutions in the legal-formal aspect, and not optimal implementation of regulations that accommodate customary law substantively.

Therefore, agrarian justice in Aceh Besar requires strengthening the synergy between customary law and state law. Recognition and protection of customary land rights must be realized through agrarian policy reforms that are responsive to the local context, facilitation of data collection and certification of customary land, and strengthening the capacity of communities and customary institutions. These efforts are not only important to ensure substantive justice for indigenous peoples, but also as a foundation for inclusive, sustainable and socially just agrarian development.

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