

***INTEGRATION OF LAND DISPUTE RESOLUTION
BETWEEN LAND AGENCIES AND TRADITIONAL
APPARATUS IN ACEH***

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ABSTRACT

Frequent land disputes need to be resolved with a comprehensive or integral solution. There are several regulations for resolving land disputes which in the regulations also allow for formal settlement or formal channels and mediation which in this context prioritizes local wisdom. So this research aims to explain the mechanism for resolving land disputes carried out by the land agency in Aceh, in addition to being based on the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 21 of 2020 concerning Handling and Settlement of Land Cases, as well as the Aceh Qanun Aceh No. . 9 of 2008 concerning the Development of Traditional Life and Customs. The main data in this research is primary data (or field data), which is obtained through field research by conducting in-depth interviews with predetermined respondents and informants. Meanwhile, secondary data was carried out by reviewing literature in the form of books and journals that describe previous research that has been carried out related to this research. The collected data in the form of literature and field data obtained through in-depth interviews will be analyzed using a qualitative approach. The research results show that land dispute resolution occurs independently with its own mechanisms and stages between the Land Office and traditional institutions in Aceh. So land dispute resolution has not been integrated between the two institutions. Therefore, a more ideal model for resolving cases or land disputes is to form an Integrated Team for Provincial Land Dispute Resolution (T2PSP) and Regency/City T2PSP, with its membership consisting of elements from the BPN or Land Office, MAA, Tuha Peut Gampong, Keuchik, Imam Gampong from elements of traditional institutions, and from elements of academics and related institutions or agencies that have an interest or are directly connected to the land. So that land dispute resolution can be integrated between BPN or the Land Office and traditional institutions in Aceh, considering that Aceh is a special autonomous region which is of course different from other provinces in Indonesia.

Keywords: *Integration, Land Disputes, Land Office, Customary Apparatus*

ABSTRAK

Sengketa pertanahan yang sering terjadi perlu diatasi dengan penyelesaian yang menyeluruh atau integral. Terdapat beberapa regulasi untuk penyelesaian sengketa pertanahan tersebut yang di dalam regulasi juga dimungkinkan untuk penyelesaian secara formal atau jalur formal dan mediasi

yang dalam konteks ini mengutamakan kearifan lokal. Sehingga penelitian ini bertujuan untuk menjelaskan bagaimana mekanisme penyelesaian sengketa pertanahan yang dilakukan oleh Badan pertanahan di Aceh, di samping berdasarkan Peraturan Menteri Agraria dan Tata Ruang/Kepala Badan Pertanahan Nasional Nomor 21 tahun 2020 tentang Penanganan dan Penyelesaian Kasus Pertanahan, juga adanya Qanun Aceh Aceh No. 9 Tahun 2008 tentang Pembinaan Kehidupan Adat dan Adat Istiadat Data utama dalam penelitian ini adalah data primer (atau data Lapangan), yaitu diperoleh melalui penelitian lapangan dengan melakukan wawancara mendalam dengan responden dan informan yang telah ditentukan. Sedangkan data sekunder dilakukan dengan penelaahan kepustakaan berupa buku dan jurnal yang menggambarkan penelitian sebelumnya yang pernah dilakukan yang berkaitan dengan penelitian ini. Data yang terkumpul yang berupa data kepustakaan dan lapangan yang diperoleh dengan dengan wawancara mendalam akan dianalisis dengan menggunakan pendekatan kualitatif. Hasil penelitian menunjukkan bahwa penyelesaian sengketa tanah berjalan sendiri-sendiri dengan mekanisme dan tahapannya sendiri antara Kantor Pertanahan dengan lembaga adat di Aceh. Sehingga penyelesaian sengketa tanah belum terintegrasi antara kedua lembaga tersebut. Oleh karena itu model penyelesaian kasus atau sengketa tanah yang lebih ideal adalah dengan membentuk Tim Terpadu Penyelesaian Sengketa Pertanahan (T2PSP) Provinsi dan T2PSP Kabupaten/Kota, dengan keanggotaannya terdiri dari unsur BPN atau Kantor Pertanahan, MAA, *Tuha Peut Gampong*, *Keuchik*, *Imam Gampong* dari unsur lembaga adat, dan dari unsur akademisi serta lembaga atau instansi terkait yang berkepentingan atau yang berhubungan langsung dengan tanah tersebut. Sehingga penyelesaian sengketa tanah dapat terintegrasi antara BPN atau Kantor Pertanahan dengan lembaga adat di Aceh, mengingat Aceh merupakan daerah otonomi khusus yang tentunya berbeda dengan provinsi-provinsi lain di Indonesia.

Kata Kunci: *Integrasi, sengketa pertanahan, badan pertanahan, perangkat adat.*

1. INTRODUCTION

Land is one of the primary human needs to survive, namely to build a house as a place to live. Current conditions include the human population increasing, while the amount and area of land has never increased. So it is natural that people compete to control and own a plot of land. Besides that, land has economic value in all aspects of human life. Therefore, problems often arise related to control, ownership, use and transfer of rights to land, in fact problems regarding land continue to increase all the time. So it is not surprising that cases involving land often occur in court, both between someone and another person or someone and their own family members in the same family.

Considering how important land issues are, the government through the Ministry of Agrarian Affairs and Spatial Planning (Ministry of ATR) and the National Land Agency (BPN) has anticipated the emergence of land disputes in the community, including efforts to overcome these various problems. Moreover, the impact of land disputes can cause unrest in society, including negative impacts in the economic, political and socio-cultural fields.¹ As a form of anticipation, the government has issued Presidential Regulation (Perpres) No. 47 of 2020 concerning the Ministry of Agrarian Affairs and Spatial Planning, as well as Presidential Decree No. 48 of 2020 concerning the National Land Agency (BPN). Article 5 Letter a of Presidential Decree No. 47 of 2020 states that the Ministry of ATR carries out one of the functions, namely handling land disputes and conflicts. Then Article 3 of Presidential Decree No. 48 of 2020 also states that one of the functions of BPN is to formulate and implement policies in the field of preventing and handling land disputes and conflicts as well as handling cases in the land sector.

Implementing the two Presidential Regulations above, the Minister of ATR/Head of BPN Regulation No. 21 of 2020 concerning Handling and Settlement of Land Cases was issued (Permen of ATR/Head of BPN No. 21 of 2020). According to Article 1 of the Regulation of the Minister of ATR/Head of BPN,

¹ Samun Imasya, *Pengantar Hukum Agraria*, (Graha Ilmu Yogyakarta, 2011), hlm. 22.

what is meant by a land case is a dispute, conflict, or land case that is submitted to the Ministry of ATR/Head of BPN, the Regional Office (Kanwil) of BPN, and the Land Office, to be handled and resolved in accordance with their authority. Meanwhile, Aceh, as a region that has been given special autonomy and in accordance with the mandate of Law No. 11 of 2006 concerning Aceh Government, has been given special space for the existence and application of customary law in Aceh. This is as stated in Article 98 paragraphs (1) and (2) of Law No. 11 of 2006, which states that: (1) Traditional institutions function and act as vehicles for community participation in the administration of the Aceh Government and district/city governments in the field of order, security, peace and harmony in society. (2) The resolution of social problems is resolved according to custom and is carried out through customary institutions.

In realization of the provisions of Article 98 paragraphs (1) and (2) of Law No. 11 of 2006, Qanun Aceh No. 9 of 2008 concerning the Development of Traditional Life and Customs was issued, as well as Qanun Aceh No. 10 of 2008 concerning Traditional Institutions. In this case, Article 19 paragraph (1) e Aceh Qanun No. 9 of 2008 states, among other things, that disputes/disputes over customs and customs include disputes/disputes regarding property rights. Then, in Article 4 of Aceh Qanun No. 10 of 2008, it is stated that in carrying out its functions, traditional institutions have the authority to: resolve social problems, reconcile disputes that arise in society and enforce customary law.

Based on the description above, it can be understood that according to Minister of ATR/Head of BPN Regulation No. 21 of 2020, the Ministry of ATR/BPN, Regional Office of BPN and the Land Office have the authority to resolve land disputes that occur in the community. Meanwhile, Aceh, as a region with special autonomy, is also given the authority to resolve certain cases (including land cases/disputes) through traditional institutions in Aceh. However, resolving land disputes is not only the "domain" of the Ministry of ATR/BPN, the Regional Office of BPN and the Land Office as well as traditional institutions in Aceh, but there are other institutions that also have the authority to resolve land disputes, this depends on how the case/dispute is positioned. . These institutions are the courts, both the District Court, the State Administrative Court and the Sharia Court.

Settlement of land disputes through the courts is carried out by people who do not agree or oppose the resolution of land disputes using customary law or through traditional institutions and settlement by the Land Office. For those who are against it, they would be more satisfied if it was resolved by a judge in court.² This can be understood because settlements according to customary law and settlements by the Land Office do not have certainty and legal force, some even think that settlements according to customary law are "fake" settlements and call it or give it the title "Abunawas Court".³ In fact, dispute resolution outside of court, according to customary law, which is implemented by customary institutions, is one of the local wisdoms that must be preserved and maintained. This is important to understand, because Acehnese Customary Law is very closely related to the principles of Islamic Law and has a high role in community life. With Sharia principles, many important things can be organized and regulated in people's lives, including: things to promote religious deeds, social welfare, and harmony in living together in society.⁴

Based on the description above, what will be sought in this research is how patterns or mechanisms are formulated nationally through the Land Office and with local wisdom so that an ideal model is created in resolving land disputes. In this way, the resolution of land disputes can be carried out in

² Bachtar, Seksi Pengendalian dan Penanganan Sengketa pada Kantor Pertanahan Kabupaten Aceh Utara, *Wawancara*, 17 Juli 2024.

³ M. Zaini Nurdin, Anggota *Tuha Peut Gampong* atau Tokoh Masyarakat di Kabupaten Aceh Timur, *Wawancara*, 9 Juli 2024.

⁴ Nadhia Ayu Sarasvati, Maria Ayu Riski Purnama, Riska Andi Fitriyono, Eksistensi Penegakan Hukum Adat Di Aceh Dalam Perspektif Kriminologi, *Jurnal Gema Keadilan*, Vol. 8 Edisi III (Oktober-Desember 2021), pp.1-14.

a comprehensive or integral manner, which is also expected to provide legal certainty for the parties to the dispute.

2. RESEARCH METHOD

The research typology used is empirical legal research which examines and examines how the practice or application of law is in reality in society, especially the application of law in resolving land disputes between the Land Agency and customary apparatus in Aceh, which is in the Minister of ATR/Head of BPN Regulation No. 21 of 2020, the Ministry of ATR/BPN, the Regional Office of BPN and the Land Office have the authority to resolve land disputes that occur in the community. Meanwhile in Aceh as a region with special autonomy based on Aceh Qanun No.9 of 2008 and Aceh Qanun No.10 of 2008 is also given the authority to resolve this issue.

This research was carried out in several districts in Aceh, including: North Aceh District, East Aceh District, Southwest Aceh District, West Aceh District, Bener Meriah District and Central Aceh District. The population and sample (conducted purposively) in this research were the District Land Office, Aceh Traditional Council (MAA) and Community Leaders in North Aceh, East Aceh, Southwest Aceh, West Aceh, Bener Meriah and Central Aceh Districts. So the respondents and informants are: (1) 1 Land Office official in each district. (2) 1 MAA Office official in each district. (3) 2 community leaders in each district. (4) Gampong apparatus in each district is 1 person.

Primary research data was collected through in-depth interviews with respondents and informants, according to a structured interview guide. Secondary data was obtained by researching and reviewing documents in the form of primary, secondary and tertiary legal materials. Next, the data is processed and analyzed qualitatively to produce analytical descriptive data which is then analyzed and presented descriptively.

3. RESULT AND DISCUSSION

3.1. Settlement of Land Disputes by the Land Office

As stated previously, to resolve land disputes, the Ministry of ATR/BPN has issued Permen ATR/BPN No. 21 of 2020. This is one of the duties and functions of the Ministry of ATR/BPN in order to provide legal certainty in order to implement land policy.

Handling of land dispute resolution at the Land Office is carried out by opening services to the public at each Land Office. Providing services to the community is an implementation of one of the missions of the Ministry of ATR/BPN, namely: providing the widest possible ease of access to the community and improving services in general.⁵

Services to the public as referred to above are carried out by opening a counter for complaints about land cases, so that the counter can be used by interested parties to report problems that occur.⁶ In this way, the aim of establishing the Ministry of ATR/BPN can be realized well, so that the complaint services provided are truly high quality and have good facilities, which will create comfort and satisfaction for the community and be able to provide legal certainty.

The results of the research show that in 2023 there will be several cases of land disputes recorded with complaints through the complaint counter at the Land Office in several districts, namely:

⁵ <https://jdih.atrbpn.go.id/profil/visi-misi>, diakses tanggal 12 November 2024.

⁶ Hasil Wawancara dengan, Kepala Kantor Pertanahan Kabupaten Aceh Timur, 19 Juli 2024.

Table 1. Number of Land Dispute Cases in 2023

No.	Kabupaten	Kasus Masuk	Kasus Diselesaikan	Keterangan
1.	Aceh Utara	1	1	
2.	Aceh Timur	-	-	
3.	Aceh Barat Daya	5	5	
4.	Aceh Barat	-	-	
5.	Aceh Tengah	6	1	-3 Kasus dicabut. -2 Kasus dalam proses.
6.	Bener Meriah	-	-	
Jumlah		12	7	

Source: Field Data

Based on this data, it can be seen that in 2023 alone there will be 12 cases of land disputes reported or complained about by the public and these are generally carried out through the complaint counter. However, there was also one case (in Southwest Aceh Regency) that was reported via electronic mail addressed to the Southwest Aceh Land Office address. However, the case is still being processed to be resolved, especially if it is officially reported. The identity is clear and complete with documents as proof.⁷

Based on the data above, it can also be explained that in Bener Meriah Regency this does not mean that in 2023 there will be no cases of land disputes, but the Bener Meriah Regency Land Office itself was only formed at the end of 2022, namely by Minister of ATR/BPN Regulation No. 20 of 2022 concerning the Establishment Bener Meriah Regency and Subulussalam Municipality Land Office, Aceh Province, which was established on November 28 2022 and came into effect on December 2 2022. In this case, not all of the people of Bener Meriah Regency know about the existence of the Bener Meriah Regency Land Office.

Public complaints to the Land Office are limited to land that has been certified or already has a certificate. Regarding land that has not been certified by the Land Office, it is impossible to resolve disputes that occur in the community, because data regarding the land or object in dispute does not exist and has not been recorded at the Land Office. Therefore, if the public reports about land that has not been certified, the Land Office invites or suggests to the public that it can be resolved first at the gampong level where the land is located. This is important, because for land that has not been certified there is no data and information at the Land Office. in this case the village officials (Village Head/Keuchik, Village Secretary, Hamlet Head, community and community leaders) know more about the existence of the disputed land.⁸ Because they are the ones who know more about the land, it would be better if it was completed in their own village. If you don't want it to be resolved in the village according to customary law, it is recommended that it be resolved through court.

Thus, the first step in resolving land disputes through the Land Office is to start by filing a complaint at the complaint counter. At the complaint counter, the public will be served well, by

⁷ Ruslan, Kepala Kantor Pertanahan Kabupaten Aceh Barat, *Wawancara*, 01 Agustus 2024.

⁸ Zulkhair, Kepala Kantor Pertanahan Kabupaten Aceh Timur, *Wawancara*, 19 Juli 2024.

recording the complaints submitted. The complaint can be made verbally or in writing.⁹ This is in accordance with what is meant by a complaint based on Article 1 point 5 of the ATR/BPN Ministerial Regulation No. 21 of 2020, which states that a dispute complaint is an objection submitted by a party who feels disadvantaged by a legal product of the Ministry of ATR/BPN, Regional Office of BPN or Office. Land, where you feel disadvantaged by another party in relation to control and/or ownership of a plot of land.

Complaints submitted to the Land Office must be accompanied by complete requirements (such as identity in the form of a Resident Identification Card (KTP), Land Rights Certificate or other evidence, land object in dispute, reason for filing the complaint, etc. depending on the problem being complained about).¹⁰ In the event that the complaint is complete, it is then recorded in the complaint register and then distributed to authorized officials at the Land Office. After that, it is stated in the complaint resume, and an assessment of the complaint is carried out, so that it can be concluded that the complaint is included in the case or not a case,

Based on the complaint resume, and this is a case that must be resolved, the handling mechanism goes through the following stages:

1. Case Study Stage, in this case a study is carried out to determine the classification of the case or dispute, meaning serious cases or moderate cases or light cases. With this assessment, if the case is mild or moderate, then not all stages must be completed.
2. Initial degree stage, this stage is intended to determine:
 - a. Who are the parties involved in this case or what institutions/institutions are interested in the case?
 - b. Case handling/resolution plan.
 - c. Identify the laws and regulations that can be applied in this case.
 - d. The data required, both field data, physical data and juridical data.
 - e. Completion time and expected targets.
3. Research Stage, This stage is intended to collect:
 - a. Physical data, which can show the position or location of land, such as its boundaries, area and other necessary data.
 - b. Yuridical data, such as documents regarding the subject in dispute, land status, basis of rights, documents proving rights or deeds, including court decisions related to the object of the dispute, or other administrative documents.
 - c. Existing legal products regarding the land subject to dispute.
 - d. Field data, namely the condition of the land of the case object according to the reality in the field, both regarding land control, use or use of land.

⁹ Bakhtiar, Seksi Pengendalian dan Penanganan Sengketa pada Kantor Pertanahan Kabupaten Aceh Utara, *Wawancara*, 17 Juli 2024.

¹⁰ Zulkhaidir, Kepala Kantor Pertanahan Kabupaten Aceh Timur, *Wawancara*, 19 Juli 2024.

- e. Statements, information or data from parties involved in it or who know the process of issuing legal products on the land and/or other parties who know the parties' relationship with the land.
4. Research results exposure stage, namely:
 - a. Evaluate the case resolution process and its resolution, including the obstacles faced
 - b. The level of progress achieved.
 - c. Next planned action.
 - d. Determine the suitability of the Complaint with the evidence or facts obtained.
 - e. The laws and regulations used.
 - f. Coordination with related parties or parties who have an interest in the object or with certain related institutions or agencies.
 - g. Case resolution is determined in accordance with planned targets.
 - h. Determine the decision on the case.
 - i. Hold Coordination Meetings if necessary.
 5. Coordination Meeting Stage.

Coordination Meeting is needed to obtain input from experts or other related institutions or agencies.
 6. Final Degree Stage. This is intended to:
 - a. Evaluation of what has been done in handling the case.
 - b. Ensure conformity between evidence and witness and/or expert testimony.
 - c. Completion of case files if necessary.
 - d. Determining whether the application of statutory regulations is appropriate or not.
 7. Case Resolution Stage.

After all the stages above have been completed and the outcome or conclusion of the case can be concluded, this will be conveyed to the parties, so that the land dispute case is resolved. However, in the event that the exposure of the research results concludes that data, information, materials and/or coordination meetings with related institutions or agencies are still needed, efforts will continue to be made before a decision is made on the data, information or materials in question, including holding coordination meetings with related agencies/institutions.¹¹

These are the stages of resolving land disputes carried out by the Land Office in the event of public complaints.

3.2. Settlement of Land Disputes by Traditional Apparatus

Settlement of land disputes in customary law communities is usually carried out according to customary law by involving customary institutions. However, it is also found in the community that village officials do not understand the problem of resolving land disputes or cases, so they often encourage community members to go to the Land Office to get a resolution to these cases. However, in certain

¹¹ Diolah dari Data Lapangan.

cases there has been no involvement from the Land Office, such as land that has not been registered or has not been certified.

In this case, Article 19 paragraph (1) e Aceh Qanun No. 9 of 2008 states, among other things, that disputes/disputes over customs and customs include disputes/disputes regarding property rights. Then, in Article 4 of Aceh Qanun No. 10 of 2008, it is stated that in carrying out its functions, traditional institutions have the authority to: resolve social problems, reconcile disputes that arise in society and enforce customary law. This is the basis for customary institutions to resolve land dispute cases.

In the event of a land dispute in the community, the party who feels disadvantaged or feels entitled to a plot of land is required to take the following steps:

1. Make a report or complaint

A report or complaint is submitted by a party who feels disadvantaged or feels entitled to a plot of land or can also be made by both parties to the dispute to the head of the hamlet where the incident and land object is located. However, sometimes the report or complaint is also submitted to the Village Head (Keuchik). Reporting or complaints occur by both parties to the dispute, because once one party knows that the other party has reported or complained about the land dispute to the Keuchik or Head of the Hamlet, then the other party is worried that the Keuchik or Head of the Hamlet will be biased (unfair). if you only hear one side. Therefore, other parties also report or complain about problems or disputes between them, so that the Keuchik or Hamlet Head knows what the problem is with the problems that occur between them.¹²

In fact, if one party has reported or complained to the Keuchik or Head of the Hamlet, the other party in the dispute does not need to report again to the Keuchik or Head of the Hamlet, because the matter is still at the reporting or complaint stage and has not yet entered the examination or trial stage where both parties will later parties will be asked for information.

Furthermore, in certain cases, especially if the problem being disputed is a problem that is light in nature and not too complicated to resolve, then the problem can simply be resolved by the Village Head alone. So in this case the Hamlet Head summons both parties to the dispute for questioning and then the Hamlet Head resolves the problem.

2. After the village head (Keuchik) receives a report from the reporting party or from the hamlet head or ulee jurong, the village head (keuchik) holds an internal meeting with the village secretary, hamlet head and imum meunasah to determine the trial schedule. This reporting cannot be done in any place such as the market or coffee shop but must be done at home or at the Keuchik's office.
3. When the trial day arrives as scheduled, before the trial begins or is held, the Keuchik and his staff take amicable approaches to both parties to the dispute. This approach aims to find out the real problem and at the same time ask for their willingness to resolve it peacefully. During this

¹² Tgk. Suherman, Mukim/Tokoh Masyarakat Kabupaten Aceh Barat Daya, *Wawancara*, 3 Agustus 2024.

approach, customary justice implementers will use various mediation or negotiation methods so that the case can be resolved quickly.

4. If the case is rather complicated or it is not clear who is actually right in the land rights dispute, then evidence is needed such as witnesses, letters or documents and facts that occurred in the field. This is intended so that the decision taken will be correct, fair, wise, and will not harm the parties in the dispute, in fact, on the contrary, both parties will benefit from each other.¹³

Based on the description above, it can be seen that the resolution of land disputes according to customary law by traditional institutions prioritizes family approaches for both parties. So that the decision taken will not harm either party and as far as possible can benefit both parties.

In the customary law system there are several principles which are generally accepted by various legal systems. There are several principles for resolving disputes among indigenous communities in Aceh, namely:¹⁴

1. Trusted or trustworthy

In administering customary justice, the customary institution must be trustworthy and trustworthy. Trust here means being trusted by the local community, and the executor of the customary court must be able to carry out the mandate well.

2. Responsibility

Judicial administrators must be able to account for their actions not only to the parties involved in the dispute, but also to the community, nation and state and to Allah SWT.

3. Equality before the law

Implementers of customary justice in carrying out dispute resolution (including land disputes) must not discriminate between social status, gender, etc., because everyone has the same rights and position before customary justice.

4. Fast, easy and cheap

Dispute resolution carried out through traditional institutions must be implemented quickly, easily and cheaply, so that it can be reached by all levels of society.

5. Sincere and willing

Dispute resolution through customary courts is the will or desire of the parties, therefore customary court administrators are not permitted to force disputing parties to resolve their cases through customary courts.

6. Peaceful settlement

Balance and peace are principles in customary law, so that dispute resolution in customary law aims to create balance and peace in society.

7. Deliberation to reach consensus

¹³ Diolah dari Data Lapangan.

¹⁴ Majelis Adat Aceh, Pedoman Peradilan Adat di Aceh, Cet. Edisi ke-2, (Banda Aceh Majelis Adat Aceh, 2012), him. 5.

Consensus deliberation always underlies decisions in customary courts in resolving disputes. Therefore, decisions taken based on deliberation and consensus can be accepted by both parties.

8. Openness to the public

The implementation of customary justice in dispute resolution must be open to the public, except for morality cases.

9. Honesty and competence

Customary authorities may not take advantage in any form, either material or non-material, in the dispute resolution process.

10. Diversity

In a particular society, customary courts respect the diversity of applicable legal regulations.

11. Presumption of innocence

The parties to the dispute must still be considered innocent by traditional authorities before the case is decided.

12. Fair

Customary court decisions must be wise and uphold the principles of justice.¹⁵

3.3. Integration of Land Dispute Resolution between the Land Agency and Traditional Apparatus in Aceh

As stated previously, the handling and resolution of land disputes at the Land Office is based on the Minister of ATR/Head of BPN Regulation No. 21 of 2020. In this case, the handling and resolution of land disputes by the Land Office is carried out through several stages, namely:

- a. Case Review.
- b. Initial degree.
- c. Study.
- d. Expose research results.
- e. Coordination Meeting.
- f. Final degree.
- g. Case Resolution

Of the stages as mentioned above, there is not a single stage that accommodates traditional institutions in it. So that traditional apparatus (especially traditional apparatus in Aceh) cannot be integrated in the land dispute resolution process by the Land Office. In the sense that there is no gap whatsoever for traditional institutions to take part (participate) in the resolution of land disputes carried out by the Land Office. Even though Aceh, with its special autonomy, has its own specificities compared to other provinces. This is in accordance with the mandate of Law No.11 of 2006 concerning the Government of Aceh which has been given special space for the existence and application of customary law in Aceh, as stated in Article 98 paragraphs (1) and (2) of Law No.11 of

¹⁵ *Ibid.*

2006 , which states that: (1) Traditional institutions function and act as vehicles for community participation in the administration of the Aceh Government and district/city governments in the fields of order, security, peace and harmony in society. (2) The resolution of social problems is resolved according to custom and is carried out through customary institutions.

In order to realize the mandate of Law No.11 of 2006, Aceh Qanun No.9 of 2008 and Aceh Qanun No.10 of 2008 were issued. In this case Article 19 paragraph (1) e Aceh Qanun No.9 of 2008 states, among other things, that Traditional and customary disputes/disputes include disputes/disputes regarding property rights. Then, in Article 4 of Aceh Qanun No. 10 of 2008, it is stated that in carrying out its functions, traditional institutions have the authority to: resolve social problems, reconcile disputes that arise in society and enforce customary law.

Thus, it is clear that traditional institutions have a very important role in resolving land disputes in Aceh. However, if we look at the stages of resolving land disputes at the Land Office, there is no visible integration between dispute resolution carried out by the Land Office and dispute resolution carried out according to Customary Law through customary institutions. These two institutions each operate independently with their own mechanisms. In fact, traditional institutions such as the Aceh Traditional Council (MAA) are one of the Traditional Institutions in Aceh which function as a vehicle for community participation in administering government, development, community development, and resolving social problems (Article 2 paragraph (1) Aceh Qanun No. .10 of 2008). In addition, according to Article 4 of Qanun Aceh no. 10 of 2008, in carrying out its functions the traditional institution has the authority to:

- a. Maintain security, peace, harmony and public order;
- b. Assist the Government in implementing development;
- c. Develop and encourage community participation;
- d. Maintain the existence of traditional values and customs that do not conflict with Islamic Sharia;
- e. Apply customary provisions;
- f. Resolve social problems;
- g. Reconcile disputes that arise in society; and
- h. Uphold customary law.

Thus, in carrying out its functions, traditional institutions have the authority to resolve disputes or disputes in the community (in this case, land disputes are no exception). In particular, the MAA has a function in increasing the capacity of administering Gampong Customary Courts or other names and mukim customary courts as an inseparable part of the Indonesian legal system (Article 18 letter c Aceh Qanun No. 8 of 2019).

MAA is not involved in resolving land disputes by the Land Office because there is no requirement or mechanism for resolving disputes as regulated in ATR/BPN Ministerial Regulation No. 21 of 2020 to involve traditional institutions such as the MAA. In ATR/BPN Ministerial Regulation No. 21 of 2020 it is only possible to involve the village/subdistrict head or related agencies or other necessary parties, and that is only to ask for information related to the land dispute they are handling,

not to participate in resolving land cases or disputes. This is in line with what was stated by the Head of the East Aceh Regency Land Office, which stated that village officials (such as the Village Head (*Keuchik*), Village Secretary, Ward Head/Village Head) were involved in resolving land disputes, but only to be asked for information. or to find out the history of a piece of land, because they are the ones who know more about the history of the land.

Regarding MAA's non-involvement in resolving land disputes by the Land Office, Amiruddin confirmed this¹⁶ (Head of Traditions and Customs of the Aceh Traditional Council, North Aceh Regency), stated that disputes in Gampong are usually resolved by the people in Gampong themselves. Settlement by the community is usually carried out through a customary approach, where Acehnese Customary Law is a combination of Islamic Law and Customary Law. This is still very much felt in the daily lives of the people of Aceh, including the resolution of cases or disputes carried out according to custom.¹⁷

Furthermore, according to Taqwaddin Husein¹⁸ (2015) that Gampong as a Customary Law community has certain characteristics or criteria that make it possible to carry out a type of justice. According to Prof. Teuku Djuned (Taqwaddin, 2011: 18), the characteristics or criteria in question include:¹⁹

1. Implement a self-government system.
2. Control and manage the natural resources in the region.
3. Act inward and outward. Inward, it takes the form of organizing and managing citizens and their environment. Meanwhile, outside by acting on behalf of the partnership as a legal entity.
4. The right to participate in every transaction involving the environment.
5. The right to form customs.
6. The right to administer a type of justice.

Dispute resolution at the Gampong level is carried out by the Keuchik by involving Gampong officials. According to Article 28 Aceh Qanun No. 5 of 2003 concerning Gampong Government, the Gampong apparatus consists of:

1. The staff element, namely the Gampong Secretariat, which is led by a Gampong Secretary or another name, who in carrying out his duties, is assisted by several staff, according to the Gampong's needs and capabilities.
2. Implementing elements, namely functional technical implementers who carry out certain tasks in accordance with the needs, abilities and socio-economic and socio-cultural conditions of the community, such as:

¹⁶ Amiruddin, Kabid. Tradisi dan Adat Istiadat Majelis Adat Aceh Kabupaten Aceh Utara, *Wawancara*, 17 Juli 2024.

¹⁷ Muhammad Syarif, Musfira, (2023), Menynergikan Peradilan Adat Dalam Penguatan Syariat Islam Di Aceh, *Kalam (Jurnal Agama dan Sosial Humaniora)*, Vol. 11 No. 1.

¹⁸ Taqwaddin, (2015), Penyelesaian Sengketa/Perselisihan Secara Adat Gampong Di Aceh, *KANUN Jurnal Ilmu Hukum*, No. 67, Th. XVII.

¹⁹ Teuku Djuned (dalam Taqwaddin), Taqwaddin, (2011), Aspek Hukum Kehutanan dan Masyarakat Hukum Adat di Indonesia, Intan Cendikia, Yogyakarta.

- a. Traditional Tuha or another name, which has the task and carries out the function of maintaining the preservation of local customs, customs and culture which has the principle of benefit;
 - b. Keujruen Blang or another name, has duties and carries out functions related to rice field activities;
 - c. Peutua Seuneubok or another name, has duties and carries out functions related to the regulation of plantations, animal husbandry and forestry;
 - d. Pawang Laot or another name, has duties and carries out functions related to sea fishing businesses, including the regulation of fish farming businesses along the coast, efforts to preserve coral reefs and mangrove forests along the coast as well as activities related to the marine fisheries sector;
 - e. Haria Peukan or other names have functions and carry out tasks related to Gampong market activities;
 - f. And other technical implementing elements required according to the needs, abilities and socio-cultural and socio-economic conditions of the Gampong community, with the respective names/terms.
- 3.** The regional element is the assistant Keuchik in the Gampong area, namely the Hamlet Head/Jurong Head or another name according to local custom.

Apart from involving gampong officials, usually the Gampong Secretary participates in resolving disputes and involves Tuha Peut Gampong as the Gampong Representative Body and also involves Imeum Meunasah and ulama.

If the dispute or dispute cannot be resolved by the Keuchik at the Gampong level, then the matter is resolved at the Mukim level by the Imuem Mukim in a traditional Mukim meeting. This is in line with the provisions of Article 11 of Qanun Aceh Number 9 of 2008 concerning the Development of Traditional Life and Customs, which, among other things, states that traditional settlement includes traditional settlement in gampong, traditional settlement in mukim and customary settlement in laot.

Furthermore, in the event that the dispute cannot be resolved by the two customary institutions, the parties can choose to resolve it through other institutions (such as the Land Office or through the Court). However, in resolving these disputes, whether resolved at the Gampong level, at the Mukim level or through the Land Office or Court, the MAA was never involved in it (Interview with Amiruddin, Head of Traditions and Customs Division of the Aceh Traditional Council, North Aceh Regency, 17 July 2024). The same thing was also stated by H. M. Yunus (Deputy Head of the Aceh Traditional Council, North Aceh Regency) who said that in resolving land disputes, whether resolved at the Land Office or those resolved in Gampong and in Mukim and in Court, the MAA was never involved.²⁰

²⁰ H. M. Yunus, Wakil Kepala Majelis Adat Aceh, Kabupaten Aceh Utara, *Wawancara*, 17 Juli 2024.

Based on the description above, it would be good if a new mechanism was established to resolve land disputes in Aceh. For example, by forming an Integrated Team for Provincial Land Dispute Resolution (T2PSP) and Regency/City T2PSP. This team was formed by the Regional Office of the National Land Agency (Kanwil BPN). This team consists of:

1. For Provincial Level:
 - a. 1 (one) Chairman of the BPN Regional Office (Kakanwil BPN)
 - b. 1 (one) Secretary from the BPN Regional Office.
 - c. 3 (three) people from the BPN Regional Office who are related to land cases or disputes as members.
 - d. 1 (one) person from the Provincial MAA as a member.
 - e. 1 (one) person from Tuha Peut Gampong where the land is located as a member.
 - f. 1 (one) person from the Gampong (Keuchik) as a member.
 - g. 1 (person) Gampong Imam as a member.
 - h. 1 (person) academic from the Faculty of Law as a member.
 - i. 1 (person) from the relevant institution/institution who has an interest or is directly connected to the land as a member.
2. For District/Municipality Level:
 - a. 1 (one) Chairman of the Land Office
 - b. 1 (one) Secretary from the Land Office,
 - c. 3 (three) people from the Land Office who are related to land cases or disputes as members.
 - d. 1 (one) person from the Regency/City MAA as a member.
 - e. 1 (one) person from Tuha Peut Gampong where the land is located as a member.
 - f. 1 (one) person from the Gampong (Keuchik) as a member.
 - g. 1 (person) Gampong Imam as a member.
 - h. 1 (person) academic from the Faculty of Law as a member.
 - i. 1 (person) from the relevant institution/institution who has an interest or is directly connected to the land as a member.

With the T2PSP, it is hoped that land problems, cases or disputes can be handled comprehensively and resolved well and wisely. This is very reasonable because the T2PSP includes all elements related to the land dispute that occurred. Then it is also possible to ask for information from certain people, either as witnesses or experts related to the case or dispute being handled.

Regarding the mechanism or stages for handling and resolving it, the mechanism or stages that have been implemented by the Land Office so far can be followed, namely:

- a. Case Review.
- b. Initial degree.
- c. Study.
- d. Expose research results.
- e. Coordination Meeting.
- f. Final degree.

g. Case Resolution

Thus, through T2PSP, which is an integrated model for resolving cases or land disputes which includes elements of the government, in this case the BPN (Kanwil BPN and Land Office) and also elements of traditional institutions and their customary apparatus, and additional elements of academics to determine the position of the case or The dispute is in accordance with Legal Science in the Land Sector.

4. CONCLUSION

Based on the description presented in the Research Results Chapter, it can be concluded that land case settlements carried out by the Land Office are usually for land that has been registered or already has a certificate. Land that does not yet have a certificate cannot be settled at the Land Office, because the data (both physical data and juridical data) have not been recorded at the Land Office, because the land has never been registered. The resolution mechanism goes through several stages, namely: Case Review Stage, Initial Degree, Research, Exposure of Research Results, Coordination Meeting, Final Degree and Case Completion Stage.

Settlement of land disputes in customary law communities is usually carried out by involving customary authorities. Settlement through the device is carried out through the following steps: (1) Reporting or complaining by the party who feels disadvantaged to the Village Head (Keuchik), (2) Keuchik holds an internal meeting with the village secretary, hamlet head and general meunasah to determine the trial schedule, (3) On the day of the trial before the trial begins or is held, the Keuchik and his staff take amicable approaches to both parties to the dispute. This approach aims to find out the real problem and at the same time ask for their willingness to resolve it peacefully. If the case is a bit complicated or it is not clear who is actually right in the land rights dispute, then evidence is needed such as witnesses, letters or documents and facts that occurred in the field. This is intended so that the decision taken will be appropriate, fair, wise, and will not harm the parties in the dispute, in fact, on the contrary, both parties will benefit from each other.

The Land Office in resolving land disputes that occur in its area has never involved traditional institutions such as the MAA as one of the Traditional Institutions in Aceh which functions as a vehicle for community participation in government administration, development, community development, and resolving social problems as stated in the Land Office. mandated by Article 2 paragraph (1) Qanun Aceh No.10 of 2008. Therefore, a more ideal model for resolving cases or land disputes is to form an Integrated Land Dispute Resolution Team (T2PSP) Provincial and Regency/Municipality T2PSP, with membership consisting of elements from the BPN or Land Office, MAA, Tuha Peut Gampong, Keuchik, Imam Gampong from elements of traditional institutions, and elements from academics and related institutions or agencies that have an interest or are directly connected with that land.

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