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## **Refugee Settlement Based on Local Custom Values (Study of Rohingya Refugees in Aceh)**

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# Refugee Settlement Based on Local Custom Values (Study of Rohingya Refugees in Aceh)

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## Abstract

The purpose of this paper is to describe the method of handling Rohingya refugees in Aceh Province, Indonesia. The increasing number of Rohingya refugees entering Indonesia encouraged the government to find effective and efficient ways to deal with them as long as they were under the protection of the Indonesian Government. Aceh is one of the areas which many Rohingya refugees have been entering so far. This is done to provide an overview of the history and development of handling Rohingya refugees in Indonesia, especially in Aceh Province. The strategic policy for handling refugees was obtained from field research in Aceh. The method used is juridical empirical using an interview method using purposive sampling to obtain primary ingredients. This paper discusses the history and development of handling Rohingya refugees in Aceh Province. Suggestions given are expected to be one of the alternative solutions in solving problems of social interaction that arise between fellow refugees, as well as between refugees and the surrounding community, while in the shelter location. The approach to local wisdom can be used as a solution to reduce the negative impact of the existence of Rohingya refugees in Aceh so far. The study of the role of local wisdom can explain the various challenges in handling mass refugees globally today. The solutions offered in this paper can increase the role of local wisdom in handling refugees with social justice in Indonesia. The handling of Rohingya refugees by the Aceh Government based on the local wisdom approach has never been published so far.

## Keywords

Local wisdom, Aceh, Rohingya, Refugee Settlement

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## 1. Background

Indonesia is a nation whose people have a diversity of tribes, races, religions and customs that are spread in cities and villages. That diversity becomes a wealth of potential that is owned by the Indonesian people. In community life, society and law are two things that cannot be separated, sweet potato *ubi societas ibi ius*, where there is a community and there is a law. Therefore, a legal rule is needed to regulate community life in order to achieve public order. These legal rules are written or unwritten, applicable nationally and regionally, in the field of public law and private law.

In the field of public law, one of the nationally recognized and codified sources of law is the Criminal Code. However, in areas where the community is still influenced by the surrounding environment which is religiously religious and has a strong regional character, the source of law recognized in the field of criminal law is customary law. The existence of customary law in the community is a reflection of the life of the community and in each region has a customary law that varies according to the customs that exist in the area with the characteristics not written or codified.

In the current era of regional autonomy, where regions are given the authority to organize their own government, they must base their principles on responsible autonomy, emphasize democracy, support the aspirations, participation of the community and regional potential as well as regional diversity. Each of these regions has different economic capabilities, population, area, social culture and politics so that it does not rule out the possibility of resolving the problem using different methods, including in the field of public law because it is based on a different background.

As for what is meant by the philosophical basis of customary law is that the values and nature of customary law are actually very identical and even contained in the points of Pancasila. For example, religion magical, mutual cooperation, deliberation and consensus and justice. Thus Pancasila is the crystallization of customary law.

The basis of the application of customary law in terms of the philosophy of customary law that lives, grows and develops in Indonesia in accordance with the development of flexible, flexible times in accordance with the values of Pancasila as stated in the opening of the 1945 Constitution. covering the mystical atmosphere of the Republic of Indonesia Constitution. The main point of the mind animates the ideals of the law which includes state law both written and unwritten. In the opening of the 1945 Constitution, the main idea that inspired the realization of the ideals of the state's basic law was Pancasila. The assertion of Pancasila as a source of legal order is very meaningful for customary law because customary law is rooted in folk culture so that it can manifest real and living legal feelings among the people and reflect the personality of the Indonesian people and nation. Thus customary law is philosophically a law that applies according to the Pancasila as a life view or philosophy of life for the Indonesian people.

Customary law as a law that lives in the community does not require the rules and systematics of writing as it is written law. Customary law can be understood, understood and implemented by indigenous peoples voluntarily because the community feels that the living law is his.

In Indonesia, when viewed in-depth, peaceful settlement disputes have long been used by the Indonesian people. This can be seen from the customary law that places the customary head as a figure who can resolve the dispute among its citizens. For example, in Minang Kabau acting as a mediator who also has the authority to give a verdict on the matter brought before the heirs of the heirs, at the level of gadang house.

Basically, dispute resolution has existed since ancient times following the development of human civilization. Humans are created by the Almighty with a variety of characters, different tribal races, with these differences humans cannot be separated from conflict, both with other humans, the natural environment, even with himself. But with the human mind will always try to find ways to resolve conflicts in order to achieve a position of balance and harmony in life among each other.

The terms disputes and conflicts are often used as matching words and are considered to have the same meaning. But actually the two terms have different characteristics. Not all conflicts cause disputes, on the contrary every dispute is a conflict.

Kovach says conflict comes from the Latin *con* (together) and *fligere* (to strike). So conflict is an encounter with arms, a fight, a battle, a prolonged struggle. In short, this definition explains that conflict is a human struggle concerning the differences in various principles, statements and arguments that are the opposite. Indeed conflicts or disputes

are normal and inevitable as long as there is interaction between humans. Technically, the law has two choices for citizens in resolving disputes, namely through the way of judicial (litigation) by the State judiciary and through non-judicial (non-litigation) by third parties (mediators). Historically cultural, Indonesian people, especially in rural areas, are used to using local wisdom-based local institutions in resolving disputes.

The ethnic Rohingya Muslims are illegal immigrants and have not received citizenship status from the Myanmar government. Because of this, the Myanmar government discriminated against the Rohani Muslim ethnicity. His Spiritual Society has experienced various forms of human rights violations which were included in acts of genocide especially since 1978. The right to freedom of movement for Rohig people is strictly limited and most of them are not recognized as citizens of Myanmar. Other acts of discrimination and crimes against humanity have caused many Rohingya ethnic groups to flee to countries adjacent to Myanmar, including Malaysia, Thailand and Indonesia. Indonesia is one of the countries that has received the most refugees from the Rohingya in the past 6 years.

In addition to the Indonesian government carrying out its responsibilities towards foreigners or refugees, they have an obligation as stipulated that each refugee is obliged to adjust to the laws and regulations in the area where he is located.

Until now Indonesia has no national regulations that regulate explicitly about refugees, but that does not mean that the Indonesian government gives freedom to refugees to act as they wish which leads to chaos. If a refugee commits a violation in the territory of Indonesia, then the applicable law is Indonesian national law. Thus, there are several Indonesian legal instruments which can then be applied to international refugees in the Indonesian territory, namely:

1. Law of the Republic of Indonesia Number 1 of 1946 concerning the Criminal Code.
2. Law of the Republic of Indonesia Number 5 of 2009 concerning ratification of the United Nations Convention against transnational organized crime.
3. Law of the Republic of Indonesia Number 15 of 2009 concerning the Protocol opposes the smuggling of migrants by land, sea and air, against the United Nations Convention against organized transnational criminal acts.
4. Law of the Republic of Indonesia Number 6 of 2011 concerning immigration.
5. Circular of the Director General of Immigration Number F-IL 01.10.1297, dated September 20, 2002, concerning handling of foreigners who claim to be asylum seekers and refugees.
6. President Regulation Number 125 of 2016 concerning on International Refugees Handling

Every country has an obligation to provide protection for refugees, refugees are a person or group of people who because of fear are naturally aware of the possibility of being persecuted based on race, religion, nationality, membership in a particular social group, or because of their political views, are abroad nationality.

The refugee problem is actually in between two extreme points. The issue of state sovereignty on the one hand, and the issue of human rights and the protection of humanity on the other. State sovereignty includes the right of a country to determine whether a person or group of people is acceptable or not in their country. On the other hand, it is the

right of every human being to obtain humanitarian protection wherever he is. On the basis of these humanitarian principles, every country is obliged to provide protection for people whose life is threatened, even if the person is not a citizen of its country.

In recent years, the majority of refugees in various parts of the world are Muslims, and the Rohingya Muslims are one of them who have to leave the country because of alarming conditions that threaten their lives. Several waves of Rohingya refugees stranded in Aceh, the Rohingya refugees were accommodated in a number of locations in Aceh, then placed in temporary shelter locations in Blang Adoe District of Kuta Makmur, North Aceh, for about 1 year since being stranded in Aceh.

However, many of these refugees fled from temporary shelters, on average they fled to Malaysia to find work. The feeling of saturation and the isolated environment of the local population is one reason they leave the shelter. In the process of interaction with the surrounding population there are also those involved in disputes which in this case are usually resolved by adat in Aceh.

Based on the description of the background above, the formulation of the problem that will be discussed in this paper is how the process of resolving disputes that occur between refugees and the surrounding community is resolved.

## **2. Method**

This method will use a normative qualitative approach with primary data as the main data sourced from laws and regulations at the central and regional levels that regulate dispute resolution with local wisdom, also equipped with books, opinions, scientific writings in the form of dissertations, scientific orations, the results of national and international meetings, journals and internet sources, websites and other relevant sources.

To obtain a comprehensive description of the topic under study, data were also obtained from resource persons. Furthermore, data collection techniques are carried out with the stage of systematizing laws and regulations to seek and find national legal rules related to dispute resolution, national rules in the form of laws or government policies. In-Depth interviews to obtain secondary data submitted to resource persons are: one of the data collection techniques in this study. Followed by observation and Focus Group Discussion with selected resource persons based on their expertise and level of understanding of the object under study.

The data analysis that has been collected is then processed for analysis through the stages of editing (editing), coding (coding), restructuring (reconstructing), and systematizing (systematizing) based on the order of the subject and sub-topic. Secondary data collection is carried out by means of a literature study which includes primary sources, namely laws that are relevant to the problem. Secondary sources, namely legal science literature books and other legal writings that are relevant to the problem. The literature study was carried out through the stages of identifying the data source libraries, identifying and inventorying the required legal materials. The primary data and secondary data resulting from the processing were analyzed qualitatively, comprehensively and completely, then discussed. Based on the results of the discussion, conclusions are then drawn as answers to the problems studied.

### 3. Discussion

Customary law as a legal system has its own pattern in resolving disputes. Customary law has a unique and unique character when compared to other legal systems. Customary law is born and grows from the community, so that its existence is compounded and cannot be separated from the community. Customary law is structured and built on agreed values and norms and norms that are believed by the indigenous community.

The characteristics of indigenous peoples are reflected in the philosophy of resolving disputes that occur within the customary law community. The pattern of dispute resolution is also related to the nature, characteristics and characteristics of indigenous peoples. In the customary law community the dispute that occurs is said to be a reality (*sunnatullah*) that cannot be ignored. Dispute resolution needs to be carried out carefully and deeply, so that it does not disturb the lives of indigenous peoples, both criminal disputes and civil disputes, which naturally lead to the disruption of the values of indigenous peoples. Therefore, dispute resolution is generally carried out quickly, so as not to drag on resulting in the destruction of the order and values of life of indigenous peoples.

The values of local wisdom carried out by the Acehnese on Rohingya refugees were not only in the *Peumulia Jamee* culture, but in dealing with the problems that occurred among fellow refugees to solve them also used the value of local wisdom found in Aceh, including when it happened fights between their fellow citizens and the residents around the shelter are completed according to the customary provisions in Aceh, with the idea that where the earth is stand there, the sky is respected, that where we are, the local law applies, Sarimin is a police officer assigned to guard security around the Rohingya refugee shelter argues the following is related to the desire of Rohingya refugees to get married, whereas according to IOM rules they may not do so because it will add to their problems based on their stateless status, the issue is resolved in local wisdom by asking for income. at the parents in the village: "Yes, you have. we have asked for my tengku's opinion, because if we don't allow them to commit adultery, the tengku said, one person who commits adultery there, one of these villages is hit, even though they are already considered Blang Adoe residents, when they marry we call tengku, we call keuchik, the villagers are there, not by country, but in a "gampong" term ".

The same thing applies when there are events that occur between fellow refugees and community members, also the process is completed by traditional gampong "Local wisdom, meaning the administrative processes, use qanun, how come the cell is not full, every day fighting , o'clock all kinds of it are usual. There are also, we hold it, take it to the police station, the men who fight there are also we hold it to process, if this is difficult, we present the translator, it must be from Rohingya, how much it costs, the term closes our eyes, our rules wherever he is be, follow the customs here, enforce qanun No. 8 of 2009, that local wisdom."

Almost every community has a unique local wisdom as a strategy for adaptation to the environment. With this wisdom a community can survive and succeed in living their lives well. The strategy for success in the life of a society is inseparable from the beliefs and customs that are taught and practiced for generations from generation to generation. Islam as a view of life in Acehnese society is able to color all aspects of life starting from social, political, legal, educational and cultural aspects. In the cultural context, Islamic teachings are able to harmonize the traditional order in religious values.

Local wisdom stems from the value and religious system adopted by the Acehnese people, in practice in the community. local wisdom that starts from an idea or idea that is applied in practical life. *Peumulia Jamee* is a local wisdom that is influenced by the teachings of Islam, the values of Islamic law and customs that have fused into the "way of life" of Acehnese who animate, color and influence their environment.

The principle is a value system that occupies the highest level of various legal systems, and should not be deviated from any legal system. In resolving customary disputes in Aceh the principle of peaceful settlement is referred to as referring to the legal norms that develop in the community such as; customs, values of Islamic teachings, views and experiences of *Ureung tuha*, consensus agreements agreed. This principle is known as the phrase "uleuebeu mate in broken hands" in the principle of peace based on the agreement of the parties that are authoritative and dignified.

Islam as a view of life in Acehnese society is able to color all aspects of life and there is a harmonization between customary values and religious values. And that value is practiced in a culture called local wisdom.

This local wisdom is one of the dispute resolutions between Rohingya refugees who were resolved by the Blang Adoe Village apparatus, including disputes between refugees and disputes between refugees and surrounding communities. Among other things: disputes that occur between husband and wife refugees, violence against children, fighting between refugees, also with the community, minor theft and so on. One of the causes of the dispute among Rohingya refugees is also because the character of Rohingya refugees is also harsh, due to the condition of those in Myanmar who are also oppressed and experiencing violence, as revealed by Khuzaimah "who loves us, they are hard ... that they are hard characters. When they hit the child there is no love ... the naughty little hit hard, I once again visited the barracks carrying a clay car the child was beaten again until I got off the car I hugged the child, I puffed up when I left the kid was beaten again by his mother, and they were if high domestic violence, there was another pregnant, kicked by her husband ... straight into the corner."

This abusive habit is also emulated by refugee children who are in a shelter location because it is a normal thing according to their habits, but this is something that is not polite according to custom in Aceh, as told by one ACT Volunteer ' if for example with children, because noni is more to children, they are, what are the children of the children in Kuala Cangko, but everyday they like talking to Kotorkal if their language is insulting, talk dirty, so little by little he said this would be a big boy, a small child, a big one who talks to children like that, that's normal. in those things it's normal, Sis noni is angry to hear that like that, the strange thing is if here, now they are a respectful habit of respecting too little, children with parents, parents with children."

Refugee behavior is also one of the factors in the occurrence of disputes both with the refugees themselves or with the surrounding community, as stated by Rauzi "Rude, they are easily emotional, their fellow fighters often occur, often it happens, like domestic violence does not only occur between husband and wife, parents to children also the same, it seems like for them it's a normal thing, which for us is too much, violence in our household is not like that, they are like that, and the child has no extraordinary anger, yes he is normal."

Regarding the dispute that occurs above, in the dispute resolution process that is taken is through customary institutions because there is a saying that where the sky is

stepped on, where the earth is upheld which means where we are, the law is used, peace in adat, also based on Islamic values "al -islah "this is what is used to resolve disputes that occur in handling Rohingya refugees. Customary law does not distinguish between civil and criminal cases. But to facilitate the explanation of the handling procedure, there are considerations and procedures that need to be applied if a criminal case is being handled and resolved. The most common cases / criminal cases that fall under paying adat are theft and violence. For these cases, the applicable procedures are listed below. However, there are special considerations, especially if women and/or children are involved.

For civil disputes, parties who feel disadvantaged can do the following:

1. Reporting carried out by the victim or both parties to the hamlet head or head of the hall or Peutua Jurong where the legal event took place (territoriality principle). However, it is possible that the report can also be directly addressed to the Keuchik. Sometimes the hamlet head or the Jurong government itself resolves it. If the case is not serious. But if the case is very serious and complicated and involves public interest, then the hamlet head immediately reports to the keuchik.
2. As soon as the keuchik receives a report from the cadet or from the victim's side, the keuchik makes an internal meeting with the secretary of the keuchik, the hamlet head and the Meunasah administrator to determine the trial schedule. Reporting should not be done in any place such as markets and coffee shops, but must be at home or in the meunasah.
3. Before the hearing is held, the keuchik and the apparatus (the secretary of the keuchik or the village secretary, imuem meunasah and the kadus or peutuwa jurong) take an approach to both parties. The approach aims to find out the actual case sitings and at the same time ask for their willingness to be resolved peacefully. At the time of this approach, the executors of adat justice would use various methods of mediation and negotiation, so that the case could be resolved immediately.
4. The approach is not only carried out by the Keuchik and its instruments, but can also be done by other wise people. For sensitive cases of women or young victims, the approach is usually carried out by the wife of the keuchik or other wise female figures.
5. If the peace settlement agreement has been agreed by both parties, then the keuchik secretary will officially invite both parties to attend the trial on the day and date specified.

In the case of domestic violence that occurs, Rohingya refugees are considered a habit, but in Acehese society this is not a habit, but contrary, the efforts made are advice, rebuking the husband who did it, and apologizing and promising not to repeat it again. In the case of theft of community garden products by Rohingya refugees, it was also resolved peacefully by summoning the conflicting parties, in this case the perpetrators were asked to compensate the party who owned the garden, ending with an apology.

Customary court decisions are the result of deliberations in order to achieve peace between the two parties. Therefore the decision is in the form of sanctions ranging from very light sanctions such as advising to expulsion from the village. When reaching an important decision, it is underlined that both parties must freely and independently approve sanctions or penalties to be given.



The implementation of customary sanctions is immediately carried out after the verdict is delivered by the keuchik, especially regarding traditional sanctions in the form of advice, warnings and apologies. For compensation sanctions the implementation of the decision is more lenient, which depends on the economic ability of the offender to provide the compensation. The purpose of this settlement is to create a sense of security and peace in the community through a peace agreement in accordance with prevailing customs.

Regarding the theft of garden produce carried out by Rohingya refugees, the surrounding community had previously excused because they were guests in the village, if taken once or twice it was usually forgiven, maybe interested but did not have money. This action was reported to the keuchik when it happened repeatedly and damaged trees which might also be a source of livelihood for the residents.

If analyzed in depth, the local wisdom that grows in Acehese society is the result of dialectics with Islamic values that have been strongly linked so far. Like the Acehese philosophy "*hukom ngon adat lagee zat ngon sifeut*" (religion and customs such as substances and inherent traits). This philosophy later became the identity, character and characteristic of the Acehese people who upheld custom and culture as they upheld religion. So that the action above is an attempt to excuse first because as fellow Muslims must help each other and help. And Rohingya refugees have experienced a sad situation in their place of origin, so if they are like that it is understood by the community.

#### **4. Conclusion**

The use of local wisdom is very effective in resolving disputes or conflicts in traditional gampong, where peace can be achieved with the community to achieve peace in community life between Blang Adoe residents and Rohingya refugees.

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