



The Position and the Role of Mukim in Customary Forest Control in Aceh Besar Regency

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<http://dx.doi.org/10.18415/ijmmu.v11i5.5689>

Abstract

This research aims to explain and analyze the position and the role of the Mukim (traditional institution), as well as obstacles and efforts in controlling customary forests in Aceh Besar Regency, Aceh Province. This research used an empirical juridical approach by carrying out literature studies and interviews with respondents and informants. The study locations were in Mukim Lampanah, Seulimeum District, and Mukim Blang Mee, Lhoong District, Aceh Besar Regency. The research results show that the Mukim have a strong position in controlling customary forests. This was demonstrated by the existence of regulations in Law Number 11 of 2006 concerning the Aceh Government, Qanun (Regulation) of Aceh Number 10 of 2008 concerning Traditional Institutions, and specifically in Aceh Besar Aceh Besar Regency. Qanun (Regulation) of Aceh number 8 of 2009 concerning Mukim. The Mukim's authority over customary forest control is in Article 5 paragraph (1). The Mukim's role is to supervise and manage natural resources in the forest settlement area, the Mukim has the right to conduct customary forest designation. However, in carrying out their functions, it was found that there were limited human resources among the mukim (traditional institution) and a lack of role from local governments, which hampered the acceleration of the legality of customary forest control. In the future, regional governments need to prioritize the strengthening of Mukim (traditional institutions) in accelerating formal control of their customary forests. The Traditional Council of Aceh Besar as a supervisory institution for mukim (traditional institutions) needs to play a more serious role in strengthening the management and control of their customary forests.

Keywords: *The Position and Role of Mukim; Customary; Forest Control*

Introduction

The customary legal system is known to have two types of land rights: communal land rights, known juridically as ulayat rights, and individual land rights.¹ Ulayat rights represent the customary

¹ Ilyas Ismail. (2010). Kedudukan dan Pengakuan Hak Ulayat Dalam Sistem Hukum Agraria Nasional, *Kanun No 50*, Edisi April 2010, h. 2.

community's rights over all natural resources within their jurisdiction, encompassing all natural resources such as land, water, and the natural wealth contained therein.²

Custom is the rules or norms established by humans, practiced since ancient times in the form of actions, behaviors, and speech to regulate the order of society members.³ Customary law, on the other hand, comprises all rules formed from the decisions of legal functionaries, having influence and enforced immediately and wholeheartedly.⁴

Before the enactment of Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA), customary communities were already familiar with ulayat rights. Initially created by ancestors when leaving or granting the respective land to specific groups of people, ulayat rights are an inseparable part of customary communities.⁵

According to Article 3 of the UUPA, ulayat rights are recognized as a land right if they meet certain requirements, including being in existence in reality and being exercised in accordance with national interests and legal provisions.⁶

Following Indonesia's independence, as stated in Article II of the Transitional Provisions of the 1945 Constitution before the amendment, one of the recognized institutions was the Mukim Government, which was retained. The Aceh residency with Aceh Residency Regulation Number 3 dated December 10, 1946, declared that the Mukim Government was implemented throughout Aceh.⁷

Despite the enactment of laws like Law Number 5 of 1979 concerning Village Government, which no longer recognized the existence of the Mukim Government, in practice, Mukim institutions, along with other customary institutions, were maintained by village residents, although their legal status nationally weakened.⁸

In this context, to prevent the disappearance of Mukim, the Aceh Government recognized Mukim's existence but only as customary law communities, not as Mukim governments. This was referred to in Aceh Regional Regulation Number 5 of 1996 concerning Mukim as customary law communities.⁹

After the amendment of the 1945 Constitution giving recognition to customary law communities and acknowledging the traditional rights of indigenous communities as long as they do not contradict the values within the society and the principles of the Unitary State of the Republic of Indonesia, the existence of customary institutions, including Mukim institutions, was strengthened.

² Alif Abdurrahman. (2019). Konsistensi Penerapan Undang-Undang Republik Indonesia No. 5 Tahun 1960 Terkait Dengan Hak Milik Atas Tanah Bagi WNI Non Pribumi di Yogyakarta, *Jurnal Gema Keadilan*, Vol. 6, Edisi No.2, Agustus, h. 2.

³ Teuku Muttaqin Mansur. (2017). *Hukum Adat Perkembangan Dan Pembaharuannya Di Indonesia*, Bandar Publishing, Banda Aceh, h. 7.

⁴ I Gede A.B. Wiranata, (2005). *Hukum Adat Indonesia Perkembangan Dari Masa Ke Masa*, Cet I, PT Citra Adidya Bakti, h. 4.

⁵ Rofiq Laksamana, Akur Nurasa, Ahmad Nashih Luthfi. (2019). Eksistensi, Perubahan Dan Sistem Peralihan Tanah Adat/Ulayat di Ambon, hasil penelitian, Sekolah Tinggi Pertanahan Nasional, h.1.

⁶ Ilyas Ismail. Loc Cit.

⁷ Alfian. (1997). *Segi-segi Sosial Budaya Masyarakat Aceh*, LP3ES, h. 86.

⁸ Teuku Djuned. (2003) Et.al, Pemerintahan Mukim Masa Kini, *Laporan Penelitian*, Pusat Studi Hukum Adat Universitas Syiah Kuala, Darussalam, Banda Aceh: h. 38.

⁹ Teuku Muttaqin Mansur. (2023) "Dilema Mukim Di Aceh, Antara Ada Dan Tiada", *Serambinews*, Dosen Fakultas Hukum Universitas Syiah Kuala, Tanggal Akses 07 Juli.

Law Number 44 of 1999 concerning the Administration of Special Autonomy for the Aceh Special Region, in Article 3 paragraph (2), includes the administration of customary life as part of the special autonomy, further reinforcing the existence of customary institutions, including Mukim institutions.

Mukim's existence was further strengthened with the enactment of Law Number 11 of 2006 concerning the Government of Aceh. Article 1 number 9 of the UUPA provides an explanation of Mukim as a legal community led by a Mukim leader and directly under the Subdistrict Head.

Based on the Law on the Government of Aceh, followed by the Aceh Provincial Qanun Number 4 of 2003 concerning Mukim Government, it was affirmed in the Aceh Besar District Qanun Number 8 of 2009 concerning Mukim Government. Aceh Qanun Number 10 of 2008 concerning Customary Institutions and Aceh Qanun Number 3 of 2009 concerning Procedures for the Election and Dismissal of Mukim Leaders in Aceh. The existence of these qanuns further solidified Mukim in Aceh.

Article 4 of the Aceh Provincial Qanun Number 4 of 2003 concerning Mukim Government defines Mukim as a customary law community unit in the Aceh Special Region consisting of several villages with specific territorial boundaries and its own wealth, directly under the Subdistrict Head, led by a Mukim leader.

Regulation of Mukim as a customary law community is further regulated by the Minister of Home Affairs Regulation Number 52 of 2014 concerning Guidelines for Recognition and Protection of Customary Law Communities. Articles 2 and 4 of this regulation provide explanations that Governors, Regents, or Mayors can recognize and protect customary law communities through the following stages:

- a) Identification of customary law communities
- b) Verification and validation of customary law communities, and
- c) Determination of customary law communities.

Regarding the identification rules, Article 5 of this regulation specifies that identification involves customary law communities or community groups, considering the history of customary law communities, customary areas, customary laws, customary wealth, and/or customary properties and customary governance systems.

Following a lawsuit filed by the indigenous community alliance to the Constitutional Court regarding the review of Law Number 41 of 1999 concerning Forestry, the Constitutional Court's decision Number 35/PUU-X/2012 amended Article 1 number 6 of Law Number 41 of 1999 concerning Forestry, stating that "customary forests are state forests within the territory of customary law communities" to "customary forests are forests within the territory of customary law communities," removing the word "state." Article 4 paragraph (3), Article 5 paragraph (1), paragraph (2), paragraph (3) of Law Number 41 of 1999 concerning Forestry were declared to have no legal binding force and to be contrary to the 1945 Constitution.

In 2018, the Aceh Indigenous Community Network (JKMA) assisted Mukim Blang Mee, in Lhoong Sub-district, and Mukim Lampanah in Seulimum Sub-district, in proposing to the Aceh Government to recommend to the Ministry of Environment and Forestry of the Republic of Indonesia the recognition of customary forest tenure by Mukim.¹⁰

¹⁰ Zulfikar Arma, Sekretaris Pelaksana JKMA, *Interview*, 2023, Aceh Besar.

JKMA proposed at the request of Mukim, but as of now, the Government has not yet recognized Mukim's customary forest tenure. The role of JKMA helps Mukim indigenous communities to obtain community rights to forest areas.¹¹

The community became acquainted with JKMA during the rehabilitation and construction period after the Aceh tsunami, particularly during the rebuilding of homes and the economic recovery of the community. Mukim requested JKMA's facilitation due to the Constitutional Court Decision Number 35/PUU-X/2012, as Mukim sought to propose the designation of customary forests as customary rights forests. JKMA accompanied the community regarding their rights to forest areas.¹²

If certain customary areas are within forest areas, then within those forest areas, they are proposed to the Ministry of Environment and Forestry of the Republic of Indonesia to be designated as customary forests, thereby being removed from state forests. The basis for this determination is Minister of Home Affairs Regulation Number 52 of 2014 concerning Guidelines for Recognition and Protection of Customary Law Communities for local governments to establish their areas.¹³

Based on the aforementioned perspective, Aceh Besar District Regulation Number 17 of 2022 concerning the Procedures for the Arrangement of Mukim Customary Areas and Mukim Wealth in Aceh Besar District, in Article 12 paragraph 1, states that "Mukim wealth consists of tangible and intangible assets." Article 12 paragraph 2 specifies that tangible assets, as mentioned in paragraph (1), include assets that already exist or are subsequently controlled by Mukim, which may include forests. Article 12 paragraph 3 elaborates that Mukim's forest wealth must first be surveyed, examined, arranged, and delineated. Furthermore, Article 12 paragraph 6 stipulates that the Imeum Mukim must inventory all of Mukim's wealth within its jurisdiction.

Customary forests, as explained in the Nanggroe Aceh Darussalam Province Qanun Number 4 of 2003 concerning Mukim Governance, Article 1 number 7, are forests within a day's round trip journey, where all residents are allowed to collect and seek forest products, with the distribution of proceeds agreed upon between the gatherers and the Imuem Mukim. Based on the above, Mukim's legal status and functions are clearly defined by legislation. However, in practice, Mukim's position and function in the governance of customary forests still face challenges regarding de jure recognition.

According to the Ministry of Environment and Forestry Regulation Number P.17/Menlhk/Setjen/Kum.1/8/2020 concerning Customary Forests and Rights Forests and the Director General of Social Forestry and Environmental Partnership Regulation Number P.1/PSKL/Set/KUM.1/2/2016 concerning Verification and Validation of Rights Forests, which state that Customary Law Communities can propose the designation of Customary Forests as Rights Forests to the Ministry of Environment and Forestry. Rights Forests are traditional rights, including the right to manage customary forests, belonging to customary law community units such as Mukim, managed according to customary principles.¹⁴

From the aforementioned perspective, Mukim's authority over the governance of customary forests refers to Aceh Besar District Qanun Number 8 of 2009 concerning Mukim Governance, Aceh Besar District Regulation Number 17 of 2022 concerning the Procedures for the Arrangement of Mukim Customary Areas and Mukim Wealth in Aceh Besar District, and Minister of Home Affairs Regulation Number 52 of 2014 concerning Guidelines for Recognition and Protection of Customary Law Communities. Customary law communities, namely Mukim, have the authority to propose the designation of customary forests. However, in practice within customary law communities, Mukim's authority is not

¹¹ Zulfikar Arma, Sekretaris Pelaksana JKMA, *Interview*, 2023, Aceh Besar.

¹² Muftisyah, Keuchik Gampong Teungoh Geunteut KeMukiman Blang Mee, *Interview*, 2023, Aceh Besar.

¹³ Zulfikar Arma, Sekretaris Pelaksana JKMA, *Interview*, 2023, Aceh Besar.

¹⁴ Zulfikar Arma, Sekretaris Pelaksana JKMA, *Interview*, 2023, Aceh Besar.

executed according to the rules, meaning that Mukim can propose the designation of customary forests to the Ministry of Environment and Forestry of the Republic of Indonesia, with a copy sent to the local government, either the Regent or Governor.

Based on the above explanation, it is important to conduct further research on the Position and Function of Mukim in the Governance of Customary Forests in Aceh Besar District.

Research Method

The type of research used is empirical juridical, which is a study that seeks to identify laws existing within society with the aim of understanding other phenomena.¹⁵ This research is conducted by analyzing and examining how the law operates within society, which can be assessed based on the effectiveness of the law, compliance with the law, and the influence of social issues on legal regulations.¹⁶ The data sources used in this research are obtained from literature research, observation results, interviews with respondents and informants gathered from field research.¹⁷ The data collection technique involves sampling, which is a collection of parts or a portion of the population.¹⁸ This research obtains data through both field research and literature, analyzed using a qualitative approach. The qualitative approach is used to generate descriptive analytical data from the information provided by respondents and informants, either in written or oral form, which is then studied and examined as a cohesive whole.¹⁹

Result and Discussion

1. Position and Function of Mukim Regarding the Customary Forest of Mukim Lampanah, Seulimeum District, and Mukim Blang Mee, Lhoong District, Aceh Besar Regency

Mukim is a traditional Acehnese governance system that federates several villages (gampong) and has existed since the introduction of Islam to Aceh. Historically, during the Aceh Sultanate, the Imeum Mukim governed several villages. Customary forests are also considered part of Mukim's assets, existing since ancient times, located within the respective community's territory or the furthest day's journey from the center of the community. Customary forests, in the national legal understanding, are the customary rights of the respective community's residents.

Forests are natural resources within the territory of the Lampanah Mukim and contain many resources. People view forests as places to earn a living to support their families, especially for those residing in mountainous and forested areas.

Every country has a legal system; in Indonesia, there are three legal systems: customary law, Islamic law, and Western law. Based on this, the following discusses the position and function of Mukim in the management of customary forests.

Position of Mukim Regarding the Customary Forest of Mukim Lampanah, Seulimeum District, and Mukim Blang Mee, Lhoong District, Aceh Besar Regency

¹⁵ Amiruddin dan Zainal Asikin. (2003). *Pengantar Metode Penelitian Hukum*. Matarram: Divisi Buku Perguruan Tinggi PT. Raja Grafindo. h.19.

¹⁶ Salim Dan Erlies Septiana Nurbani. (2017). *Penerapan Teori Hukum Pada Penelitian Tesis Dan Disertasi*, Jakarta: PT Rajagrafindo Persada, h. 20.

¹⁷ Amiruddin dan Zainal Asikin. (2018). *Pengantar Metode Penelitian Hukum*, Depok, cetakan ke10 : PT.Raja Grafindo Persada. h.82.

¹⁸ Bambang Sunggono. (1996). *Metode Penelitian Hukum*, Jember: Rajawali Pers. h.145.

¹⁹ Soerjono Soekanto. (2014). *Pengantar Penelitian Hukum*, Jakarta: Universitas Indonesia. h.32.

Mukim's authority over customary forest management refers to the Aceh Besar Regency Qanun Number 8 of 2009 concerning Mukim Governance. Article 5, paragraph 1 states that:

- a) Authority based on Mukim's original rights and customary provisions;
- b) Authority granted based on laws and regulations;
- c) Authority based on laws and regulations not yet implemented by the Aceh Government, District/City Governments, or Subdistrict Governments;
- d) Authority for delegation tasks from the Central Government, Aceh Government, District Government, and Subdistrict Government;
- e) Authority for supervising ecological functions and natural resource management in the community.

Based on these rules, Mukim has authority over customary forest management according to laws and regulations and has authority over supervision and management of natural resources in the community.

For a community to be considered a customary law community, in this case, Mukim, several conditions must be met as stipulated in laws and regulations. According to the Explanation of Article 67 of Law Number 41 of 1999 concerning Forestry, these conditions are:

- a) The community is still in the form of an association;
- b) There is institutionalization in the form of customary governance apparatus;
- c) There is a clear customary legal territory;
- d) There is a legal institution, especially customary justice, that is still respected;
- e) They still collect forest products in the surrounding forests for their daily needs.

Fulfillment of these five conditions as stipulated in the 1999 Forestry Law, which is then affirmed in the Aceh Besar Regency Qanun Number 8 of 2009 concerning Mukim Governance, shows that Mukim governance in Aceh is a customary law community.

The Mukim governance institution, led by the Imeum Mukim, and the customary forest institution, led by the Panglima Uteun or Pawang Glee, are vital for customary law communities. Land plays a crucial role for them, as it is where they live and derive their livelihoods. According to Ter Haar in B.F Sihombing: "Customary law communities have rights to land and apply them both externally and internally, based on the strength of their external validity, the community as a unit has the right to enjoy the land. Based on the strength of its internal validity, the community regulates how each member exercises their rights, in accordance with their share, by limiting allocations for claims and personal rights and withdrawing certain land from private enjoyment for the community's benefit."

The relationship between the customary law community and the land they inhabit is close and religious in nature, meaning that natural wealth is a gift bestowed by the Almighty upon the customary law community. The customary law community in Aceh is known as Mukim, and regarding Mukim's position regarding customary forests, Mukim Lampanah and Mukim Blang Mee have the right to control the customary forests within the customary law community areas. In the customary law of Mukim Blang Mee, it regulates the governance authority of Mukim, which is authorized to regulate and manage all affairs within the community. Mukim's authority includes governance, customary tradition development, development implementation, enforcement of customary justice, and implementation of Islamic law in the community. In exercising its authority, Mukim can carry out its tasks independently or seek assistance from the Aceh Besar District Government.

The status of Aceh's customary forests, substantively after the Constitutional Court Decision Number 35/PUU-X/2012, has recognized customary forests as not state forests, thus becoming their identity. The forest becomes the object controlled, and its authority is attached to the subject. The legal

subject is where rights and authorities are attached, in Aceh, it is the customary law community known as Mukim. Mukim's position as a customary law community, however, to assist in carrying out the governance function of Imuem Mukim in customary forest affairs, is assisted by Peutua Uteun Glee.

The function of Mukim regarding the customary forest of Mukim Lampanah, Seulimeum District, and Mukim Blang Mee, Lhoong District, Aceh Besar Regency, is governed by Aceh Province's official governance institution. Regarding Mukim as the governance organizer, it is regulated by Qanun Number 4 of 2003 concerning Mukim Governance. As a reliable governance institution in Aceh, efforts and strategies need to be made to clarify that Mukim governance is no longer just a traditional institution without the power to govern. Instead, Mukim has become an official governance institution in Aceh's governance and the Republic of Indonesia.

The function of Mukim is regulated in the Aceh Besar Regency Qanun Number 8 of 2009 concerning Mukim Governance, in article 4, which are:

- a) Governance based on customs, decentralization principles, deconcentration principles, and delegation tasks (medebewind) as well as all other governance matters within Mukim;
- b) Implementation of development to improve welfare and democratically fair and inclusive life in Mukim;
- c) Improvement of the quality of Islamic law implementation, religious life, harmony of religious life, and inter-religious harmony in the community;
- d) Development and facilitation of community in the fields of education, tradition, socio-cultural, basic rights protection, community peace, and order in the community;
- e) Settlement of customary disputes in the community;
- f) Supervision of ecological functions and management of Natural Resources (SDA) in the community.

The function of Mukim Lampanah, Seulimeum District, and Mukim Blang Mee, Lhoong District, Aceh Besar Regency, regarding the designation of Mukim's customary forest shows that Aceh Besar Mukim has the function of supervision and management of natural resources in the community. The customary law community of Mukim will preserve and manage the forest without altering its function, as the community has customary rules to protect the forest, such as not felling trees near rivers and not damaging water sources.

The subject of customary law is humans, as a customary law community that has its territory, natural resources, and wealth. Therefore, humans always depend on the earth to fulfill their needs. The object of customary land rights is the legal relationship between the customary law community as the supporter of rights in customary law and the land as the object.

Customary forests are forests that are close to the application of customary law in society, reusam, local wisdom. Customary Forests have existed even though they have not been legally designated as customary forests, but this can be proven by facts with the existence of ancient remnants.

2. Challenges Preventing Mukim from Fulfilling Its Function in Managing Customary Forests

A. Limited Human Resources

Forests are crucial for the livelihood of indigenous communities in Aceh, especially in customary law communities that rely on forest products. This is because forests are the only source of wealth that, no matter their condition, will always remain unchanged. The main reason why land is of utmost importance in customary law is that it serves as a place to live, sustains community life, and provides a source of livelihood. Communities are unaware that they have the authority to manage customary forests in their own areas.

Communities need to revive the important institution of being the first gatekeeper of environmental conservation in forest areas because customary law cannot be maintained if it remains silent over time, in line with the flexible and dynamic nature of customary law, hence the crucial role of the community.

The Majelis Adat Aceh Besar (MAA) is an institution that promotes customary life in Aceh. One of MAA's authorities is to foster unity among customary law communities in Aceh, namely Mukim, as clearly stated in Aceh Qanun Number 8 of 2019 regarding the MAA. One of its programs is the development of customary law communities. MAA has successfully led to the birth of Aceh Besar Regent Regulation Number 17 of 2022 regarding the Procedure for Arranging the Customary Territory of Mukim and Mukim Wealth in Aceh Besar Regency.

The practice of forest management is ineffective due to the weak capacity of regional institutions, for example, technical implementing units of the government tasked with overseeing conservation areas lack funding and human resources. Communities do not understand the content of the regulations or may not understand them at all.

Indonesia, with its legal culture and traditions, inherently embeds a value of local wisdom that is suitable, effective, and contextually appropriate for resolving chronic conflicts within communities. Each region has its own unique local wisdom.

B. Weak Role of Mukim Customary Institutions

Mukim has the authority to own, manage, and control customary forests. The rights to customary forests belong to the unity of the customary law community. For Aceh, traditional leaders agree that units considered eligible as a unity of customary law communities are Mukim and Gampong. Article 67, which regulates the requirements of customary law communities in Law Number 41 of 1999 concerning forestry, is also recognized by the State constitution in the 1945 Constitution of the Republic of Indonesia Article 18 B paragraph (2).

Forest Management Units are an extension of the government agency that recommends and conveys to the relevant department. According to the hierarchy of rules, Mukim should report to the nearest Forest Management Unit (KPH), then the KPH reports to the Aceh Provincial Environment and Forestry Office (DLHK), and the DLHK conveys it to the Ministry of Environment and Forestry of the Republic of Indonesia. Then, an on-site inventory team is formed, where Mukim submits a request for the designation of customary forests, accompanied by the Customary Forest Management Institution (JKMA), and Mukim also has to submit a request to the DLHK Aceh. JKMA must consult with the department to strengthen the request.

Forest management is directly under the province, with Forest Management Units (KPH) at the district level. Aceh has 7 KPHs, namely KPH Tahura Sare which is managed by the province due to the 2 districts of Aceh Besar and Pidie, KPH Banda Aceh, Bener Meriah, Langsa, Aceh Barat, Gayo, and KPH Susubussalam. Communities can submit their requests to the nearest KPH.

3. Efforts Undertaken by Mukim Towards Customary Forests in Mukim Lampanah, Seulimeum Sub-district, and Mukim Blang Mee, Lhoong Sub-district, Aceh Besar Regency

Law Number 11 of 2006 concerning Aceh Governance recognizes Mukim as:

a) Mukim as a Government Institution

This is in accordance with Article 2 paragraphs (1) and (2), Article 112 paragraph (3b), and Article 114 of Law Number 11 of 2006 concerning Aceh Governance, as well as in accordance with Aceh Besar Regency Regulation Number 8 of 2009 concerning Mukim Governance.

b) Mukim as a Customary Institution

This is in accordance with the provisions of Article 6, 7, and Article 98 of the Aceh Governance Law. It is also detailed in Aceh Law Number 9 of 2008 concerning the Implementation of Customary Life and Customs, Aceh Law Number 10 of 2008 concerning Customary Institutions, and Aceh Governor Regulation Number 60 of 2013 concerning the Implementation of Customary Dispute Resolution. All these provisions place Mukim as part of the customary institution.

c) Mukim as a Unity of Customary Law Communities

This is in accordance with the provision of Article 1 paragraph (19) of Law Number 11 of 2006 concerning Aceh Governance. Mukim is a unit of customary law community under the sub-district consisting of a combination of several villages with specific boundaries led by the Imum Mukim or other names and directly under the sub-district head.

Based on the Constitutional Court Decision Number 35/PUU-X/2012 regarding the review of Law Number 41 of 1999 concerning Forestry, the result of this decision is that Article 1 number 6 of Law Number 41 of 1999 concerning Forestry, which states that "customary forest is state forest within the area of the customary law community", is changed to "customary forest is forest within the area of the customary law community", removing the word "state". This decision is clearly an important moment for the struggle of the customary law community to obtain their rights. The Constitutional Court decision is a significant milestone as it reflects the struggle of the Indonesian customary law community to obtain recognition for their rights, customary territories, and to manage natural resources in their customary areas.

Referring to the customary rules of Mukim, the Mukim Government has the authority to regulate and manage all affairs within the Mukim area. This includes the administration of governance, the development and preservation of customs and traditions, the implementation of development, the establishment of customary justice, and the implementation of Islamic law in the Mukim area. In exercising its authority, Mukim can carry out its tasks independently by requesting assistance from the Aceh Besar District Government.

Minister of Environment and Forestry Regulation Number P.17/Menlhk/Setjen/Kum.1/8/2020 concerning Customary Forests and Hak Forests, article 11 states that if within a period of 2 (two) years from the issuance of the Customary Forest designation decision, the applicant has not completed the requirements, then the Customary Forest designation decision is declared invalid and the application for designation can be resubmitted.

Mukim Lampanah, Seulimeum Sub-district, and Mukim Blang Mee, Lhoong Sub-district, Aceh Besar Regency, have exceeded the 2-year period, so the efforts made can be to reapply by fulfilling the requirements.

In preserving customs and culture, the Imeum Mukim acts as a director, while in managing Mukim's wealth, they act as a manager. The role of Mukim in managing customary forests is very important, considering that Mukim is a figure highly respected and honored by the community.

Preserving the Sustainability of Customary Forests

Preserving and limiting forest damage caused by human activities can be done through socialization and enforcement of forestry regulations, encouraging increased community productivity, and imposing sanctions for legal violations. The customary law community still has customary rules in place, such as prohibitions in customary forests against logging.

Law Number 41 of 1999 concerning Forestry, in article 6 paragraph (1), mentions three functions of forests:

- a) Conservation function
- b) Protection function
- c) Production function

Each forest area has different conditions according to its physical, topographic, flora and fauna, as well as its biodiversity and ecosystem.

Then in article 6 paragraph (2), forests are based on the following principal functions:

- a) Conservation forest
- b) Protection forest
- c) Production forest

The main function of forests is the primary function carried out by forests. Conservation forests consist of natural reserves, natural preservation forests, and hunting parks.

In the context of social forestry, forests are divided into 5 categories, namely: village forests, community forests, customary forests, partnerships, and environmental services. The difference between this scheme and customary forests is that in community forests, permits from the government are granted with a time limit of 35 years, which can be extended, whereas customary forests do not have a time limit as long as there are customary law communities and customary law is in effect, then customary forests will always exist within the community.

The customary law community has been preserving and caring for forests for generations, therefore certainty is needed for the community so that the forests they have cared for are not taken over by others. In preserving the sustainability of forests, Mukim Blang Mee has established a council called Majelis Duek Pakat Kemukiman Blang Mee together with the Imuem Mukim Blang Mee, as documented in the documentation of customary rules in KeMukiman Blang Mee. For the process of establishing customary forests, historical evidence from ancient times is needed to ensure that the customary forests have indeed existed for generations, which can be proven by ancient wells or other historical evidence.

Many Acehnese people live in lowlands with fertile soil. This is because their main livelihood is farming and agriculture. Houses in the lowlands are built in clusters, sometimes along the coast, besides fishermen. Coastal villages are denser than inland villages. Transportation and communication factors influence this situation. Most of these villages are located in coastal villages or coastal villages, and some are in inland villages between hills and forest edges.

The rights to forest management and forest product collection are the rights of the customary law community and its members to collect forest products based on customary law, as long as it still exists, its implementation needs to be regulated to avoid disrupting forest management activities. The collection of forest products by the customary law community must be approved by the holder of the Forest Harvesting Permit (HPH).

In carrying out the functions of the Mukim government, the Imuem Mukim is assisted by the Mukim secretary, namely the pawang uteun in relation to customary forests, which functions to lead the implementation in forest management, coordinate activities related to uteun (forests) management, enforce the law within forest areas, regulate land ownership and opening procedures, plant types of plants, regulate forest boundary, the pawang uteun (forest) has the task of protecting forest resources, approving land clearing for plantations in forest areas, protecting trees that serve as honey bee nests, preventing

illegal logging, maintaining trees along waterways, regulating hunting time, regulating buying and selling procedures in forestry, and preserving the sustainability of forests.

The customary law community, in preserving the sustainability of forests, is allowed to utilize forest products, but must not change the forest function, namely conservation, protection, and production. Logging for public purposes such as places of worship, schools, bridges, markets, coffins, then the time for logging for these purposes must first be approved by a *peusijek*, which is organized by the *pawang uteun* (forest) and led directly by the *teungku gampông* with offerings (*ketan*) and coffee.

Logging for personal purposes must be reported to the *pawang uteun* (forest), cutting wood is only allowed at a minimum radius of 200 meters from the riverbank, then it is prohibited to cut down trees where honey bee nests and *meudang ara* are located, *merbau* trees, *tualang*, *kemuning*, *keutapang*, *glumpang*, *beringin*, and other large trees that can be used for boats or barges, must obtain permission from the *pawang uteun* (forest), cutting rattan is allowed except for those near the river, violating these provisions, machines and wood are confiscated by the *gampông* and must pay a fine equivalent to the common price per meter of wood that has been felled and the proceeds from the felled wood become the property of the surrounding *gampông*, the confiscated wood must be returned to the local *keuchik* and used for the *gampông*'s needs.

The customary law community is still taking several steps by imposing sanctions on community members who do not comply with the customary law rules that have been agreed upon together, in this case *Mukim* is still trying to preserve the natural resources in its *KeMukimam* area.

Conclusion

Mukim Lampanah, *Seulimeum District*, and *Mukim Blang Mee*, *Lhoong District*, *Aceh Besar Regency*, have a strong position and function in the management of customary forests. Although the regulation of *Mukim* in the form of the *Aceh Besar Regency Qanun on Mukim governance* already exists, in reality, it is still constrained by the lack of role of the local government in overseeing the existence of *Mukim* in the management of customary forests. The local government needs to prioritize strengthening the *Mukim* customary institution in accelerating its formal control of customary forests. The *Aceh Besar Customary Council*, as the institution overseeing the *Mukim* customary institution, needs to play a more serious role in strengthening the management and reassertion of its customary forests.

Reference

Books

- Ilyas Ismail. (2010). *Kedudukan dan Pengakuan Hak Ulayat Dalam Sistem Hukum Agraria Nasional, Kanun No 50*, Edisi April 2010, h. 2.
- Alif Abdurrahman. (2019). *Konsistensi Penerapan Undang-Undang Republik Indonesia No. 5 Tahun 1960 Terkait Dengan Hak Milik Atas Tanah Bagi WNI Non Pribumi di Yogyakarta, Jurnal Gema Keadilan*, Vol. 6, Edisi No.2, Agustus, h. 2.
- Teuku Muttaqin Mansur. (2017). *Hukum Adat Perkembangan Dan Pembaharuannya Di Indonesia*, Bandar Publishing, Banda Aceh, h. 7.
- I Gede A.B. Wiranata, (2005). *Hukum Adat Indonesia Perkembangan Dari Masa Ke Masa*, Cet I, PT Citra Adidya Bakti, h, 4.

Rofi'q Laksamana, Akur Nurasa, Ahmad Nashih Luthfi. (2019). *Eksistensi, Perubahan Dan Sistem Peralihan Tanah Adat/Ulayat di Ambon, hasil penelitian , Sekolah Tinggi Pertanahan Nasional*,h.1.

Alfian.(1997).*Segi-segi Sosial Budaya Masyarakat Aceh*, LP3ES, h. 86.

Teuku Djuned. (2003) Et.al, Pemerintahan Mukim Masa Kini, *Laporan Penelitian*, Pusat Studi Hukum Adat Universitas Syiah Kuala, Darussalam, Banda Aceh: h. 38.

Teuku Muttaqin Mansur. (2023) “Dilema Mukim Di Aceh, Antara Ada Dan Tiada”, *Serambinews*, Dosen Fakultas Hukum Universitas Syiah Kuala, Tanggal Akses 07 Juli.

Amiruddin dan Zainal Asikin. (2003). *Pengantar Metode Penelitian Hukum*. Matarram: Divisi Buku Perguruan Tinggi PT.Raja Grafindo. h.19.

Salim Dan Erlies Septiana Nurbani. (2017). *Penerapan Teori Hukum Pada Penelitian Tesis Dan Disertasi*, Jakarta: PT Rajagrafindo Persada.h.20.

Amiruddin dan Zainal Asikin. (2018). *Pengantar Metode Penelitian Hukum*, Depok : PT.Raja Grafindo Persada. h.82.

Bambang Sunggono. (1996). *Metode Penelitian Hukum*, Jember: Rajawali Pers. h.145.

Soerjono Soekanto. (2014). *Pengantar Penelitian Hukum*, Jakarta: Universitas Indonesia. h.32.

Legislation

Undang-Undang Dasar Negara Republik Indonesia Tahun (1945).

Undang-Undang Nomor 5 Tahun (1960) tentang Peraturan Dasar Pokok-pokok Agraria

Undang-Undang Nomor 5 Tahun (1979) tentang Pemerintahan Desa.

Undang-Undang Nomor 41 Tahun (1999) tentang Kehutanan.

Undang-Undang Nomor 44 Tahun (1999) tentang Penyelenggaraan Keistimewaan Provinsi Daerah Istimewa Aceh.

Undang-Undang Nomor 11 Tahun (2006) tentang Pemerintah Aceh.

Putusan Mahkamah Konstitusi Nomor 35/PUU-X/2012.

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