



Juridical Analysis on the Effectiveness of Customary Court Mukim in Resolving Customary Disputes in Sabang City

Sitti Nabila¹; Teuku Muttaqin Mansur²; Teuku Saiful²

¹Master's Program in Law, Faculty of Law, Syiah Kuala University, Indonesia

² Faculty of Law, Syiah Kuala University, Indonesia

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Abstract

This research aims to explain and analyze the effectiveness of the Mukim customary court in resolving customary disputes in Sabang City, located in the Aceh Province. The study employs an empirical juridical approach, utilizing literature review and interviews with respondents and informants. The study's location includes Mukim Sabang, Mukim Iboih, Mukim Ie – Meulee, and Mukim Balohan. The findings indicate that although the Mukim customary judicial system is supported by a robust legal framework, such as Law No. 11 of 2006 on Aceh Governance, Aceh Qanun No. 10 of 2008 on Customary Institutions, Qanun No. 4 of 2003 on Mukim Governance, and specifically, Sabang City Qanun No. 6 of 2010 on Mukim Governance, the Mukim customary court in Sabang City has not been operating effectively. Several factors contribute to this, including the lack of public awareness of the existence of the Mukim customary court, poor coordination between village and Mukim officials, inadequate facilities and infrastructure within the Mukim government, and difficulties encountered by the Mukim customary court in resolving disputes. Therefore, the support and involvement of the Sabang City local government are necessary to improve the effectiveness of the Mukim customary court, especially concerning the role of Mukim in resolving customary disputes by providing sufficient facilities and infrastructure to the Mukim in Sabang City. Additionally, attention should be given to the Sabang City Customary Assembly as the supervisory body for Mukim customary law, to better oversee the customary laws and their developments in Sabang City.

Keywords: *Effectiveness; Customary Court; Dispute Resolution*

Introduction

The governance system of the Unitary State of the Republic of Indonesia, according to the 1945 Constitution, recognizes and respects regional governance units with special characteristics. In terms of governance, Aceh has established special regulations to guide its administration. The existence of customary law in Aceh has been further strengthened by the enactment of the Aceh Governance Law (UUPA), which recognizes customary institutions. One of the authorities granted to these institutions is the enforcement of customary law, as outlined in Article 98, Chapter XIII of the UUPA concerning

customary institutions. Besides maintaining and organizing customs, the customary institutions in Aceh also play a role in the dispute resolution process within the customary judiciary. One of the institutions in Aceh is the Mukim. The Mukim is given authority as the head of the Mukim customary court, which participates in resolving customary disputes in Aceh.

Furthermore, Qanun No. 9/2008 grants authority to the Keuchik (village head) and the Mukim Imam to resolve customary disputes at the village and Mukim levels. This Qanun provides an opportunity for the village and Mukim governments to explore or organize their governance independently, based on prevailing customary values and laws. This also applies to Sabang City, which has its own regulations concerning Mukim governance, reinforced by Sabang City Qanun No. 6/2010. The Mukim has the authority to manage and regulate the interests of the local community. The Mukim Customary Assembly is a body specifically established to resolve customary issues at the Mukim level. Therefore, the existence of Mukim as a customary institution in resolving customary disputes is crucial, as it can lighten the burden on law enforcement agencies.

Sabang City is one of the cities in Aceh Province that still upholds customary law in its community life. Sabang City comprises 18 villages (Gampong) and 7 Mukim. Qanun No. 6/2010 provides the foundation for Mukim governance in Sabang City, stating that customary dispute resolution at the Mukim level must first be deliberated at the village level. However, despite the well-established system, challenges in its implementation have not yet aligned with the existing regulations. The Mukim institution has not been fully functional. The duties and functions of the Mukim have become limited due to the failure of the Keuchik to refer issues to the Mukim.

Based on this overview, this article seeks to answer how customary dispute resolution is conducted in Sabang City and the effectiveness of the Mukim customary court in resolving customary disputes in Sabang City.

Research Methodology

This research employs an empirical juridical method, which seeks to identify the law existing in society with the aim of understanding other phenomena.¹ This research is conducted by analyzing and examining how the law operates within society, which can be evaluated based on legal effectiveness, compliance with the law, and the influence of social issues on legal regulations.² The data sources used in this research are obtained from interviews and literature studies with respondents and informants collected from field research.³ The data collection technique involves sampling, which is gathering part or a portion of the population.⁴ This research obtains data through field and literature studies, which are analyzed using a qualitative approach. The qualitative approach is used to produce descriptive analytical data from information provided by respondents and informants, both in written and oral forms, which are then studied and examined as a unified whole.⁵

¹ Amiruddin dan Zainal Asikin. (2003). *Pengantar Metode Penelitian Hukum*. Matarram: Divisi Buku Perguruan Tinggi PT. Raja Grafindo. h.19.

² Salim Dan Erlies Septiana Nurbani. (2017). *Penerapan Teori Hukum Pada Penelitian Tesis Dan Disertasi*, Jakarta: PT Rajagrafindo Persada, h. 20.

³ Amiruddin dan Zainal Asikin. (2018). *Pengantar Metode Penelitian Hukum*, Depok, cetakan ke10 : PT.Raja Grafindo Persada. h.82.

⁴ Bambang Sunggono. (1996). *Metode Penelitian Hukum*, Jember: Rajawali Pers. h.145.

⁵ Soerjono Soekanto. (2014). *Pengantar Penelitian Hukum*, Jakarta: Universitas Indonesia. h.32.

Research Findings

A. Customary Dispute Resolution Through the Customary Court in Sabang City

Article 13 of Qanun No. 9 of 2008 stipulates that the resolution of customary disputes must proceed in stages. Disputes that arise must first be resolved within the family. If the dispute cannot be resolved amicably, it will be addressed through customary law at the village level, and if unresolved at the village level, it will be escalated to the Mukim level.

In light of this, law enforcement authorities should give Keuchik and Mukim the opportunity to first resolve disputes through customary law at the village and Mukim levels.⁶

Recently, a Joint Decree (SKB) was issued between the Governor of Aceh, the Aceh Regional Police, and the Aceh Customary Assembly on December 20, 2011, concerning the administration of the Customary Court at the village and Mukim levels. The decree established several decisions:

1. Minor disputes occurring at the village and Mukim levels must first be resolved through the Customary Court at the village and Mukim levels or other names in Aceh.
2. The police must provide an opportunity for every dispute to be resolved first through the Customary Court at the village and Mukim levels or other names in Aceh;
3. All parties must respect the administration of the Customary Court at the village and Mukim levels or other names in Aceh;
4. Decisions made by the Customary Court at the village and Mukim levels or other names in Aceh are based on customary laws and customs applicable in the local area;
5. Customary court hearings at the village and Mukim levels or other names in Aceh are attended by the parties, witnesses, and open to the public, except for certain cases that, according to custom and propriety, should not be open to the public and do not involve costs;
6. Decisions made by the Customary Court at the village and Mukim levels or other names in Aceh are final and binding and cannot be appealed in general courts or other courts;
7. Every decision of the Customary Court at the village and Mukim levels or other names in Aceh is made in writing, signed by the Chairman and members of the assembly, and both disputing parties, and copies are sent to the Sector Police Chief (Kapolsek), Subdistrict Head (Camat), and the Aceh Customary Assembly at the subdistrict level;
8. The imposition of corporal punishment, such as imprisonment, bathing with dirty water, cutting hair, cutting clothes, and other forms that contradict Islamic values, is prohibited;
9. If the dispute cannot be resolved at the village level, it will be resolved at the Mukim level;
10. The Aceh Government and District/City Governments shall supervise and monitor the administration of the Customary Court at the village and Mukim levels or other names in Aceh;
11. The Aceh Regional Police Chief and Chairman of the Aceh Customary Assembly, along with all their subordinates (provincial, district/city levels), are required to provide guidance, training, development, and supervision of customary law materials and Customary Court Administration according to the principles and values of customary law/customs applicable in the local community;⁷
12. The Aceh Government and District/City Governments may provide administrative funding assistance for the administration of the Customary Court at the village and Mukim levels or other names in Aceh according to the region's capabilities;

⁶ IPDA Khairul Saleh Ritonga, Direktorat Reserse Kriminal Umum Kepolisian Resor Kota Sabang, *Wawancara*, Tanggal 20 Juni 2023

⁷ Taqwaddin Husin (2016), *Penyelesaian Sengketa/Perselisihan Secara Adat Gampong di Aceh*, Simposium Masyarakat Adat II, Banda Aceh, h. 10.

13. The Mukim Customary Court Assembly or other names in Aceh, in resolving disputes, is guided by Aceh Qanun No. 9 of 2008 and Aceh Governor Regulation No. 25 of 2011 concerning General Guidelines for Village Government Administration.⁸



Customary Dispute Resolution Flow

Based on the above scheme, it can be seen that dispute resolution should first be settled through customary law, as it is considered more effective due to its emphasis on resolving disputes in a familial and peaceful manner. The disputing parties report to the Keuchik (village leader) that a conflict has occurred. The Keuchik, through the gampong's customary court, is required to address the dispute within a maximum of 3 days after the incident or report is received. If within these 3 days the customary dispute at the gampong level does not result in a resolution, it will then be addressed at the Mukim level. The Mukim will then handle the issue, which will be resolved by the Imeum Mukim and Tuha Peut through the Mukim's customary court. If the dispute cannot be resolved at the Mukim level, the Mukim will issue a statement declaring that the issue has been attempted to be resolved through customary law but without success. With this letter, the community can then report the matter to the police.⁹ However, currently, the Mukim customary court in Sabang City is not functioning effectively, leading to its frequent neglect. In reality, the Mukim's existence is not just as a customary institution but also as a governmental one.

B. The Effectiveness of the Mukim Customary Court in Resolving Customary Disputes in Sabang City

The process of dispute resolution through customary courts aims to provide an opportunity for the disputing parties to discuss differences of opinion with the assistance of the gampong and Mukim customary institutions. Dispute resolution through customary courts is a practical step to interpret the obligation of judges to reconcile the disputing parties.¹⁰

Effectiveness is a measure of whether or not an organization succeeds in achieving its goals. If an organization successfully achieves its goals, then it is considered effective. Therefore, in relation to this understanding, the measure of the effectiveness of the Mukim customary court is whether or not it successfully resolves a problem at the Mukim level through the Mukim customary court.

⁸ Lailan Sururi, Dahlan Ali, Teuku Muttaqin Mansur, "Penyelesaian Sengketa Melalui Peradilan *Gampong Dispute Settlement Through Gampong Court*", *Kanun Jurnal Ilmu Hukum*, Vol. 21, No. 1, (April, 2019), p. 61-76.

⁹ IPDA Suryadi, Kapolsek Sukakarya Kota Sabang, *Wawancara* tanggal 20 Juni 2023.

¹⁰ *Ibid.*

Based on interviews conducted by the author with 4 out of 7 Imeum Mukims in Sabang City, namely, Imeum Mukim Sabang, Imeum Mukim Ie-Meulee, Imeum Mukim Iboih, and a former Imeum Mukim Balohan, it was found that from 2022 to 2024, only 2 cases were handled by the Ie-Meulee Mukim, and 6 to 7 cases per year were handled by the Iboih Mukim. Meanwhile, no cases were reported or resolved at the Sabang Mukim and Balohan Mukim.

Despite the established structure, interviews with the four Imeum Mukims indicated that the Mukim customary court in Sabang City has not been operating effectively. The first interview with Imeum Mukim Sabang revealed that during his tenure, no cases have been reported or resolved at the Sabang Mukim level because disputes were either resolved at the gampong level or taken directly to formal legal channels.¹¹ Secondly, the interview with Imeum Mukim Iboih stated that approximately 6 to 7 cases are handled annually. All disputes that occur at the gampong level are reported to the Mukim through the gampong apparatus, but the recording of cases at the Mukim level is not done formally, often only being noted verbally and not documented. However, it was noted that many customary disputes in the Iboih area are reported directly to or resolved through formal legal channels.¹² Furthermore, the interview with Imeum Mukim Ie-Meulee revealed that it is very rare for customary disputes to be resolved through the Ie-Meulee Mukim customary court.¹³ Only land ownership and lease disputes have been reported in the past two years. Cases that cannot be resolved at the gampong level are referred to the Mukim but are not formally recorded. Finally, the interview with the former Imeum Mukim Balohan stated that no customary disputes have been reported or resolved at the Balohan Mukim level. This is because all disputes are resolved at the gampong level. Additionally, the facilities and infrastructure at the gampong level are sufficient to resolve customary disputes, resulting in many disputes being resolved at the gampong level.

Based on the above explanation, it is evident that the duties and functions of the Mukim have become limited because the Keuchik does not delegate issues to the Mukim.¹⁴ The primary duties of the Mukim have not been adequately fulfilled. In fact, the Mukim holds a higher position than the Geuchik.

Conclusion

Qanun No. 9/2008 grants authority to customary institutions to resolve 18 types of disputes in accordance with the mechanisms outlined in the Governor's Regulation No. 6/2013. Customary dispute resolution in Sabang City is conducted in a familial manner; if it cannot be resolved through family discussions, it is then handled by the gampong's customary law. If peace is not achieved at the gampong level, the dispute is resolved through the Mukim's customary law. If the issue cannot be resolved at the Mukim level, it may be taken to the police. However, the Mukim customary court in Sabang City is not functioning effectively and is often neglected.

This study finds that the effectiveness of the Mukim customary court in resolving customary disputes in Sabang City still requires improvement. Although there is a clear legal framework and support from the Sabang City government, the implementation of the Mukim customary court is often hindered by a lack of case documentation and low public awareness of the importance of utilizing customary courts before taking cases to formal legal channels. To enhance the effectiveness of the customary courts, training for village and Mukim officials, as well as improvements in case documentation and reporting systems, are needed. This will enable the customary courts in Sabang City to function more optimally in resolving customary disputes peacefully and fairly, in accordance with local values and customary law.

¹¹ Kamarullah, *Imeum Mukim Sabang*, Wawancara tanggal 29 Juni 2024.

¹² Tgk. Adi, *Imeum Mukim Iboih*, Wawancara tanggal 29 Juni 2024.

¹³ Ramli, *Imeum Mukim Ie-Meulee*, wawancara tanggal 1 Juli 2024.

¹⁴ Sulaiman Daud, Ketua MAA Kota Sabang, *Wawancara*, Tanggal 21 Juni 2023.

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