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Legal Responsibility of Livestock Owners for Crop Damage: An Analysis of Article 84 (1) Qanun No. 3/2013 in Pidie Jaya

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Abstract

The formulation of qanun as a regional legal product should not only regulate administrative matters but also accommodate the living law within society. Article 84 paragraph (1) of Qanun of Pidie Jaya Regency Number 3 of 2013 recognizes that disputes related to livestock and animal health may be resolved through customary mechanisms. However, this recognition raises normative problems because it is not accompanied by clear regulations regarding implementation mechanisms, institutional integration, or the legal status of customary dispute settlements within the formal legal system. From the perspective of legal pluralism theory and legal norm theory, this condition indicates that the provision remains declarative rather than operational. This study aims to analyze the normative construction of the article and formulate a more operational normative reconstruction. The research employs a normative legal method using statutory and conceptual approaches. The findings show that Article 84 paragraph (1) does not regulate dispute settlement procedures, coordination between customary institutions and regional government authorities, or the legal consequences of customary settlement outcomes. Consequently, its effectiveness relies more on the social legitimacy of customary law than on formal legal structures. This study proposes a normative reconstruction emphasizing procedural clarity, documentation of customary deliberations, and institutional integration to strengthen legal certainty and harmonization between state law and customary law.

Keywords: *Normative Reconstruction; Customary Dispute Resolution; Islamic Legal Perspective; Legal Pluralism; Regional Qanun.*

Abstrak

Pembentukan qanun sebagai produk hukum daerah tidak hanya berfungsi mengatur aspek administratif, tetapi juga mengakomodasi sistem hukum yang hidup dalam masyarakat. Pasal 84 ayat (1) Qanun Kabupaten Pidie Jaya Nomor 3 Tahun 2013 mengakui bahwa sengketa terkait peternakan dan kesehatan hewan dapat diselesaikan melalui adat. Namun, pengakuan tersebut menimbulkan persoalan normatif karena tidak disertai pengaturan mengenai mekanisme pelaksanaan, integrasi kelembagaan, serta kedudukan hukum hasil penyelesaian adat dalam sistem hukum formal. Dalam perspektif teori pluralisme hukum dan teori norma hukum, kondisi ini menunjukkan bahwa norma tersebut lebih bersifat deklaratif daripada operasional. Penelitian ini bertujuan menganalisis konstruksi normatif pasal tersebut serta merumuskan rekonstruksi desain norma yang lebih operasional. Metode penelitian yang digunakan adalah penelitian hukum normatif dengan pendekatan peraturan perundang-undangan dan pendekatan konseptual. Hasil penelitian menunjukkan bahwa Pasal 84 ayat (1) belum mengatur prosedur penyelesaian, koordinasi antara pranata adat dan pemerintahan daerah, maupun akibat hukum dari hasil penyelesaian adat, sehingga efektivitasnya lebih bergantung pada legitimasi sosial masyarakat. Penelitian ini menawarkan rekonstruksi norma yang menegaskan tahapan penyelesaian sengketa adat, pencatatan hasil musyawarah, serta integrasi kelembagaan antara pranata adat dan

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pemerintah daerah guna memperkuat kepastian hukum serta harmonisasi antara hukum negara dan hukum adat.
Kata Kunci: Rekonstruksi Normatif; Penyelesaian Sengketa Adat; Perspektif Hukum Islam; Pluralisme Hukum; Qanun Daerah.

INTRODUCTION

The formation of laws and regulations at the regional level is basically an instrument of the state in presenting social order as well as legal certainty for various concrete problems that develop in society.[1] In the framework of regional autonomy, qanun as a product of regency/city law not only functions administratively, but also plays a role in regulating legal relations and providing a mechanism for solving social problems at the local level. Therefore, regional legal norms should ideally be formulated by taking into account the social structure, cultural values, and legal character of the local community, so that the laws formed are inseparable from the social reality that is the object of its regulation.[2]

Qanun of Pidie Jaya Regency Number 3 of 2013 concerning Animal Husbandry and Health contains the provisions of Article 84 paragraph (1) which states that disputes arising in the community related to livestock and animal health issues can be resolved customarily and applicable customary laws.[3] This formulation shows that the qanun does not merely regulate the technical aspects of livestock, but also provides normative recognition of the customary law-based dispute settlement mechanism. Thus, this article can be understood as a norm that regulates the choice of a dispute resolution forum, not a norm that regulates civil liability.[4]

Recognition of customary dispute resolution in formal norms can raise normative problems if it is not accompanied by clarity on the position, limits of authority, and relationship between customary mechanisms and the formal legal system of the state.[5]In legal theory, norms that only provide recognition without detailing the procedure, scope of the case, and its relationship to the institutional structure have the potential to cause legal uncertainty.[6] Such norms tend to have a declarative character, i.e. simply recognizing a social practice without providing adequate operational tools to ensure its application in the broader legal system.[7]

This problem becomes increasingly complex in the context of Aceh, which has a social structure of gampong and mukim with a tradition of dispute resolution based on customary deliberation.[8] This mechanism is part of the *living law* that has strong social legitimacy in people's lives. Customary law not only functions as a social norm, but also

[1] Ni'matul Huda, *Local Government Law* (Bandung: Nusa Media, 2019), p. 94.

[2] Djawas et al., “Harmonization of State, Custom, and Islamic Law in Aceh: Perspective of Legal Pluralism.”

[3] Ramli et al., “State, Custom, and Islamic Law in Aceh: Minor Dispute Resolution in the Perspective of Legal Pluralism.”

[4] Maria Farida Indrati Soeprapto, *Legal Science: Types, Functions, and Content* Materials (Yogyakarta: Kanisius, 2007), p. 194.

[5] Nggilu et al., “Indonesia’s Constitutional Identity: A Comparative Study of Islamic Constitutionalism.”

[6] Anggraeni, “Islamic Law and Customary Law in Contemporary Legal Pluralism in Indonesia: Tension and Constraints.”

[7] Jimly Asshiddiqie, *Regarding the Law* (Jakarta: Rajawali Pers, 2010), pp. 122-123.

[8] Febriandi, Ansor, and Nursiti, “Seeking Justice through Qanun Jinayat: The Narratives of Female Victims of Sexual Violence in Aceh, Indonesia.”

as an instrument to maintain the balance of social relations and maintain community harmony. When the qanun provides space for customary dispute resolution, the qanun is actually integrating the living legal elements into the formal legal framework of the region.[9]

The effectiveness of a norm is greatly influenced by the harmony between the substance of the law, the institutional structure, and the legal culture of the community. These three elements must work synergistically so that legal norms are not only normative, but also able to be applied effectively in social practice. If formal norms are not designed in harmony with social practices that live in society, then these norms have the potential to become symbolic rules.[10] In the context of Article 84 paragraph (1), recognition of customary dispute settlement has been stated normatively, but the regulatory design has not yet demonstrated systemic integration with regional institutional structures.[11]

From the perspective of Islamic law, the recognition of customary practices as part of the legal system also has a strong normative foundation. One of the rules of jurisprudence states *"al-'ādah muḥakkamah",* which means that customs can be used as a basis for legal considerations as long as they do not conflict with the principles of sharia.[12] This rule shows that Islamic law provides space for the enactment of social practices that live in society as one of the considerations in the formation of legal norms. Thus, the recognition of custom-based dispute resolution mechanisms in the regional qanun is basically in line with the principle of integration between the social norms of the community and the values of Islamic law.

A number of previous studies have also shown that legal pluralism is the main character of the legal system in Aceh, where state law, customary law, and Islamic law interact with each other in the social practices of the community. Several studies on customary dispute resolution in Aceh show that gampong deliberation mechanisms are often more effective in resolving social conflicts than formal mechanisms, because they have strong social legitimacy and are based on community closeness. However, most of the research emphasizes the social practice aspect of customary dispute resolution, while normative analysis of the design of its arrangements in the qanun is still relatively limited.

Based on these conditions, there is a *research gap* between empirical studies on customary dispute settlement practices in Aceh and normative studies that examine how these mechanisms are accommodated in regional legal products. In fact, an analysis of the construction of norms in the qanun is very important to assess whether the recognition of customary mechanisms has been designed as an operational legal instrument or only in the form of normative recognition without a clear implementation tool. The absence of an adequate normative design has the potential to cause legal uncertainty in the practice of dispute resolution in society.

Based on this background, this study asks several main questions, namely: (1) how is the normative construction of Article 84 paragraph (1) of the Qanun of Pidie

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[9] Soerjono Soekanto, *Indonesian Customary Law* (Jakarta: RajaGrafindo Persada, 2015), pp. 123-124.

[10] M Syahrizal, "The Existence of Customary Law in the National Legal System," *Rechts Vinding* Journal 7, no. 2 (2018): 201–203, https://doi.org/10.33331/rechtsvinding.v7i2.250.

[11] Achmad Ali, *Sociology of Law* (Jakarta: Kencana, 2009), p. 82.

[12] Jumarim, Muhsin, and Huda, “The Interplay of Fiqh, Adat, and State Marriage Law: Shaping Legal Consciousness of Sasak Women.”

Jaya Regency Number 3 of 2013 in regulating the recognition of customary dispute settlement related to livestock and animal health; (2) what are the weaknesses of the norm design in the article that cause the recognition of customary dispute settlement to be not operational in the regional legal system; and (3) how to reconstruct the design of norms that are more operational so that customary dispute resolution can be functionally integrated with the regional legal system and provide legal certainty for the community. These questions are the basis for analysis in the results and discussion of this study.

RESEARCH METHODS

This research uses a normative juridical research method, which is research that focuses on the study of legal norms contained in laws and regulations, legal doctrines, and legal literature relevant to the object of research. This study aims to analyze the construction of legal norms in Article 84 paragraph (1) Qanun of Pidie Jaya Regency Number 3 of 2013 in relation to the customary law that applies in Aceh. The approaches used include a statutory *approach* to examine relevant legal provisions, a *conceptual approach* to understand legal concepts and principles related to the integration of customary law and formal law, and a *historical approach*) to trace the background of the formation of these legal norms in the context of Aceh's special autonomy and the development of Islamic sharia regulations.[13]

The data sources in this study consist of primary legal materials and secondary legal materials. Primary legal materials include the Qanun of Pidie Jaya Regency Number 3 of 2013, as well as other laws and regulations related to the implementation of government and customary law in Aceh. The secondary legal materials are in the form of law books, scientific journal articles, research results, and other academic literature that discusses customary law, Islamic law, and the regional legal system. Data collection is carried out through library *research* by systematically examining and reviewing various relevant legal documents and literature to gain a comprehensive understanding of the norms being studied.[14]

The data that has been collected is then analyzed descriptively analytically using a normative juridical approach. Analysis is carried out through grammatical interpretation techniques, to understand the meaning of the normative text in language; systematic interpretation, to see the relationship of Article 84 paragraph (1) with other legal provisions in the applicable regulatory system; and teleological interpretation, to interpret the purpose and intent of the formation of these norms in the context of the implementation of customary law and positive law in Aceh. Through this analysis, it is hoped that a comprehensive understanding of the construction of norms and their normative relevance and strength in the applicable legal system can be obtained.[15]

RESULTS AND DISCUSSION

Normative Construction of Recognition of Customary Dispute Settlement in Article 84 Paragraph (1) Qanun of Pidie Jaya Regency Number 3 of 2013

Article 84 paragraph (1) of the Qanun of Pidie Jaya Regency Number 3 of 2013 states that "disputes that arise in the community related to livestock and animal health issues can be resolved in accordance with customary and applicable customary laws." This formulation shows that the norm that is built is not a norm for determining individual obligations directly, but a recognition norm that provides recognition for the

[13] Negara, "Normative Legal Research in Indonesia: Its Origins and Approaches."
[14] Pohan, "Legal Research Methods."
[15] "Legislative Approach (Statute Spproach)."

existence of custom-based dispute resolution mechanisms.[16] From the perspective of legal theory, norms that function to provide recognition of legal practices that have lived in society can be understood as the norms that link between state law and living law. This kind of norm does not directly create new rules, but affirms the legitimacy of social practices that have developed in society.

The recognition of the customary dispute resolution mechanism is also related to Aceh's special autonomy framework which provides a wider space for the existence of customary institutions in the social life of the community. Through Law Number 11 of 2006 concerning the Government of Aceh, the state normatively recognizes the role of customary in regulating the lives of the Acehnese people, including in resolving social conflicts at the local level. Thus, Article 84 paragraph (1) cannot be understood separately from the broader legal framework, but rather as part of an effort to integrate customary law practices into the regional legal system.[17]

Normatively, this provision shows that the qanun does not monopolize the dispute resolution mechanism through formal state channels, but opens up space for social institutions that have been operating in society for a long time. In the context of Aceh, the existence of gampongs and mukim is not only an administrative entity, but also a unit of the legal community that has social authority in maintaining order and resolving various disputes through the mechanism of customary deliberation.[18] Dispute resolution through customary practices generally emphasizes the principles of peace, restoration of social relations, and balance in the community, in contrast to the approach of the formal justice system which tends to focus on procedural enforcement of legal norms.

This kind of approach reflects the pattern of legal pluralism in the local legal system. In a society with a strong legal tradition such as Aceh, dispute resolution is not always placed exclusively in the country's judicial system. On the contrary, various customary-based settlement mechanisms continue to function as an effective means of conflict resolution because they have high social legitimacy in society. Therefore, the existence of Article 84 paragraph (1) can be understood as a form of recognition of the social reality that customary law still has an important role in maintaining social order and harmony.[19]

However, when examined from the perspective of the construction of legal norms, these provisions are still very general. This article only states that disputes can be resolved customarily without explaining in detail the form of dispute in question, the settlement procedure used, the position of the customary settlement results, or the relationship of the mechanism with formal state institutions. In legal theory, norms that only state recognition without being followed by technical regulations tend to be classified as declarative norms, namely norms that affirm a principle but have not yet provided an operational tool for its implementation.[20]

This condition can cause problems in practice, especially when there is an overlap between dispute resolution through customary mechanisms and settlement through formal legal channels. On the one hand, people may prefer customary settlements because they are faster, simpler, and in accordance with applicable social values. However, on the other hand, without a clear regulation of the legal status of customary

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[16] Indrati Soeprapto, *Legal Science: Types, Functions, and Content Materials, p. 194*.
[17] Asshiddiqie, *On the Law, pp. 112-113*.
[18] Huda, *Local Government Law, p. 108*.
[19] Huda, *Local Government Law, p. 108*.
[20] Satjipto Rahardjo, *Legal Studies* (Bandung: Citra Aditya Bakti, 2014), p. 117.

settlements, there is potential uncertainty regarding the legal force of the settlement in the formal legal system.[21]

If examined further, the scope of the regulation of Article 84 paragraph (1) actually lies in the recognition of certain types of disputes related to the field of livestock and animal health. In other words, this norm does not regulate certain acts directly, but determines the domain of dispute resolution that can be pursued through customary mechanisms. From the perspective of legal norm theory, this kind of regulation can be understood as a norm that determines the area of application of a particular legal mechanism.[22]

Textually, the scope of the norm has two main limits, namely the limit of the material of the dispute and the limit of the resolution mechanism. In terms of material, the disputes in question are limited to issues related to livestock and animal health. This restriction indicates that the qanun performs specification on a specific social field that can be resolved through customary mechanisms. This kind of restriction technique is commonly used in laws and regulations to provide certainty regarding the object of regulation.[23]

In the social practice of the community, disputes related to livestock can arise in various forms. The dispute can be in the form of a civil dispute, for example when one person's livestock damages another person's crops or causes certain material losses. On the other hand, such disputes can also have a minor violation dimension that in society is often resolved through customary mechanisms without involving formal law enforcement officials. However, this qanun does not explicitly explain whether the dispute in question also includes minor criminal offenses or is it only limited to civil disputes between citizens.[24]

In addition, in terms of the settlement mechanism, this article only mentions "customary and applicable customary law" without explaining the customary institution or structure that is authorized to resolve the dispute. In the practice of the Acehnese people, the mechanism for resolving customary disputes is generally carried out through social institutions such as gampongs and mukim, which function as social institutions that have legitimacy in regulating people's lives. Therefore, although this article does not explicitly mention the institution in question, sociologically it can be understood that the mechanism refers to the dispute resolution system that has lived in society.[25]

From the point of view of Islamic law, disputes related to livestock also have a conceptual basis in the fiqh of muamalah. In jurisprudence literature, the harm caused by one's pet to another party is generally associated with the principle of responsibility for losses (ḍamān) as well as acts of overstepping the boundaries or negligence (al-ta'addī). This principle emphasizes that animal owners have responsibility if animals under their control cause harm to other parties, such as damaging crops or damaging property. In this context, dispute resolution is basically directed at the recovery of losses and peace between the parties.

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[21] Atmadja, "Legal Pluralism in the Perspective of National Legal Development."

[22] Sudikno Mertokusumo, *The Discovery of Law: An Introduction* (Yogyakarta: Liberty, 2009), p. 67.

[23] Maria Farida Indrati Soeprapto, *Ilmu Perlaw-Undang-Undang-(* Yogyakarta: Kanisius, 2007), p. 67.

[24] Bushar Muhammad, *Principles of Customary Law* (Jakarta: Pradnya Paramita, 2006), p. 31.

[25] Ali, *Sociology of Law, p. 82*.

The harmony between the principles of fiqh and the practice of customary dispute resolution shows that the settlement mechanism that has developed in society is inseparable from the values of Islamic law that have long been part of the legal culture of the Acehnese people. Settlement through deliberation and peace is a form of implementation of restorative justice values that emphasize the restoration of social relations rather than just the imposition of sanctions.[26]

When viewed from the character of the norm, Article 84 paragraph (1) can be categorized as a declarative norm. Declarative norms are norms that affirm a principle or recognition, but are not equipped with implementing tools that allow these norms to work concretely in the legal system. The formulation "customary resolveable" indicates recognition of the existence of customary mechanisms, but does not explain in detail how such mechanisms are implemented within the framework of local law.[27]

In the perspective of the theory of legal norms put forward by Hans Kelsen, a legal norm acquires validity when it is in a hierarchical structure of interrelated norms. Norms that do not have a clear relationship with other norms in the legal system will have a difficult time giving rise to definite legal consequences. In the context of Article 84 paragraph (1), recognition of customary dispute settlement has not been followed by regulations regarding procedures, authority of customary institutions, and the position of the settlement results in the formal legal system.[28]

This analysis can also be understood through the legal system theory approach put forward by Lawrence M. Friedman.[29] According to Friedman, the functioning of law is influenced by three main elements, namely the structure of the law, the substance of the law, and the culture of the law. In this context, Article 84 paragraph (1) can be seen as a form of recognition of the legal culture of the community that still relies on dispute resolution through customary mechanisms. However, this recognition has not been fully supported by the legal structure and legal substance that clearly governs the mechanism for its implementation.[30]

As a result, these norms have the potential to cause legal uncertainty. Legal certainty requires clarity about who has the authority to resolve disputes, how the resolution procedure is, and what the legal consequences of the settlement result are. When norms only state the possibility of settlement through custom without explaining the legal consequences, then the subject of law does not obtain clear guidelines on how the norm should be applied.[31]

Another problem that arises is related to the integration of customary dispute resolution mechanisms with the formal legal system of the state. In the national legal system, dispute resolution is in principle within the jurisdiction of the judicial institution as stipulated in Law Number 48 of 2009 concerning Judicial Power. Therefore, if dispute resolution is carried out through customary mechanisms, there needs to be clarity on the relationship between these mechanisms and the formal justice system.[32]

In addition, the recognition of customary law communities in the national legal system also has a constitutional basis as stipulated in Article 18B paragraph (2) of the

[26] Asshiddiqie, *On the Law, pp. 122-123*.

[27] Indrati Soeprapto, *Jurisprudence, p. 110*.

[28] Achmad Ali, *Uncovering Legal Theory and Judicial Prudence* (Jakarta: Kencana, 2010), p. 204.

[29] Dancer, “Harmony with Nature: Towards a New Deep Legal Pluralism.”

[30] Howse and Langille, “Continuity and Change in the World Trade Organization: Pluralism Past, Present, and Future.”

[31] Mertokusumo, *Legal Inventions: An Introduction, p. 67*.

[32] Atmadja, "Legal Pluralism in the Perspective of National Legal Development."

1945 Constitution of the Republic of Indonesia. This provision emphasizes that the state recognizes and respects the unity of customary law communities and their traditional rights as long as they are alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia.[33]

Within this framework, the integration between customary law and formal law is an important aspect of a pluralistic regional legal system. Without a clear arrangement of the relationship between the two systems, it is possible that customary law and formal law will run in parallel without clear coordination. Sociologically, people may continue to use customary mechanisms because they are more in line with applicable social values. However, normatively, the settlement results do not necessarily have the legal force recognized in the formal legal system.[34]

Thus, Article 84 paragraph (1) of the Qanun of Pidie Jaya Regency Number 3 of 2013 can be understood as a norm of recognition of the mechanism for resolving customary disputes that live in the community. The norm reflects a pluralistic approach to law that provides space for the existence of customary law in the regional legal system. However, from the point of view of normative construction, these provisions are still declarative because they are not equipped with operational arrangements regarding dispute resolution mechanisms, the position of customary institutions, and the relationship between customary settlement and the formal state justice system.

Vacancy in the Design of the Mechanism for the Implementation of Customary Recognition in Article 84 Paragraph (1)

Article 84 paragraph (1) of the Qanun of Pidie Jaya Regency Number 3 of 2013 provides recognition that disputes related to livestock and animal health can be resolved through customs. However, the recognition is not accompanied by an arrangement on how the mechanism is carried out within the framework of regional law. The norm only states the possibility of customary settlement without explaining the procedures, procedures, or forms of the authorized institution. In the study of legislation, this kind of condition shows the existence of a void of implementative design, where norms are at the level of principles, but have not been supported by implementation instruments.[35]

The absence of an implementation design results in norms that are difficult to operate in the formal legal system. Sociological customary settlement is indeed alive and carried out by the community, but when the qanun recognizes it as part of the regional legal system, the recognition should be followed by arrangements about the stages of the process, the form of decision, and the relationship between the results of customary settlement and government administration. Without such arrangements, qanun norms do not provide a bridge between social mechanisms and formal legal systems.[36]

In addition, this void also raises problems regarding the distribution of authority. Qanun did not explain whether gampong, mukim, or local government officials have a coordinating role in the settlement process. This ambiguity has the potential to cause differences in practices between regions, as the implementation of norms depends on local customs, not on uniform normative guidelines.[37] In regional law, clarity of the

[33] Muhammad, *Principles of Customary Law, p. 18*.

[34] Satjipto Rahardjo, *Law and Society: An Introduction* (Bandung: Citra Aditya Bakti, 2005), pp. 86-87.

[35] Nurbaiti, "The Principle of Absolute Responsibility in Indonesian Civil Law."

[36] Agustina, "Unlawful Acts."

[37] Syahrizal, "The Existence of Customary Law in the National Legal System."

implementing structure is an important element so that norms do not stop at symbolic recognition.

From the perspective of legal certainty, norms that do not have an implementation design risk causing uncertainty regarding the position of customary settlement results. Whether customary decisions have binding power, how they are recorded, and whether they can be used as a basis for administrative settlement are not regulated in this article. In fact, legal certainty demands clarity of procedures and legal consequences of every state-recognized mechanism.[38]

Thus, the main weakness of Article 84 paragraph (1) lies in the recognition that the implementation design is not followed. Norms have opened up space for customs, but they have not built an implementation framework that links customary settlement with the formal regional legal system. This shows that the norm is still at the level of principle recognition, not yet an operational rule.

Although Article 84 paragraph (1) recognizes that certain disputes can be resolved customarily, the norm does not explain how the position of the customary settlement is in the local legal system. The Qanun only provides space for customary applicability, but does not formulate a normative relationship between customary mechanisms and formal legal structures. In the study of legal pluralism, the recognition of the law that lives in society requires an integration framework so that there is no separation between *legal recognition* and *legal functioning*.[39] Without normative integration, the recognition of customs is only symbolic.

In the context of Aceh, dispute resolution through gampong and mukim has a strong social structure and legitimacy. However, such social legitimacy is different from normative legitimacy in the formal legal system. When the qanun does not regulate the institutional relationship between the customary apparatus and the local government apparatus, the outcome of the customary settlement is in an unclear position: socially recognized, but lacking certainty of standing in the formal legal structure.[40] This condition creates a distance between social practice and the written legal framework.

The unclarity of integration also has the potential to give rise to dualism of dispute resolution mechanisms. Communities can use customary channels based on local customs, while formal legal systems run on administrative or judicial procedures. Without a provision linking the two, there is no guideline on whether customary settlements are final, alternative, or just socially mediated. In the theory of the legal system, the overlap of authority without clear normative boundaries has the potential to cause inconsistencies in the application of the law.[41]

From the perspective of legal certainty, normative integration is important to ensure that the mechanisms recognized by the qanun have clear legal consequences. Without integrative arrangements, customary law still functions on the basis of social legitimacy, but is not fully protected within the framework of state law. In fact, in the approach to national legal development, customary law is seen as part of the legal system that needs to be accommodated through clear arrangements.[42]

Thus, Article 84 paragraph (1) shows recognition of customary law, but has not built a design for normative integration between customary mechanisms and the formal

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[38] Indrati Soeprapto, *Legal Science: Types, Functions, and Content Materials, p. 194*.
[39] Atmadja, "Legal Pluralism in the Perspective of National Legal Development."
[40] Syahrizal, "The Existence of Customary Law in the National Legal System."
[41] Ali, *Uncovering Legal Theory and Judicial Prudence, p. 204*.
[42] Atmadja, "Legal Pluralism in the Perspective of National Legal Development.", p. 368.

regional legal system. The absence of this normative bridge gives rise to the fragmentation of the legal system, where customary law and formal law go hand in hand without a firm structural relationship. This condition is a weakness in norm design that has an impact on legal certainty and the effectiveness of legal protection in society.

Article 84 paragraph (1) of the Qanun of Pidie Jaya Regency Number 3 of 2013 recognizes that certain disputes can be resolved through custom, but does not regulate the legal status of the results of the settlement. The norm does not explain whether customary decisions or agreements are legally binding, how their evidentiary strength is, and whether they have administrative consequences in the local government system. This void creates normative ambiguity because the mechanism recognized by the qanun does not have a strictly defined legal status.[43]

In customary law practice, dispute resolution generally ends in a peaceful agreement that is adhered to by the parties based on the social and moral legitimacy of the community. However, social legitimacy is different from juridical legitimacy in the country's legal system. Without a regulation regarding the recording, ratification, or formal recognition of the results of customary settlement, the decision is in a non-formal area even though the qanun norms have recognized it.[44] This shows that there is a distance between normative recognition and legal certainty.

This ambiguity of position also has an impact on legal certainty. Legal certainty requires clarity about the status of an action or decision in the legal system. When the results of the customary settlement are not regulated, the parties have no guarantee that the agreement can be used as a legal basis if new problems arise in the future.[45] This condition has the potential to cause a recurrence of disputes or resubmission of cases through formal channels because there is no certainty regarding the finality of customary settlements.

In addition, the absence of regulation regarding the legal consequences of customary settlement shows that the norm of Article 84 paragraph (1) has not established functional integration between customary law and formal law. In a pluralistic legal system, recognition of customary law should be followed by the determination of the position of customary settlement results in the legal structure of the state, for example as a form of alternative settlement that has binding force after meeting certain conditions. Without such arrangements, customary law is only recognized as a social practice, not as a structured part of the local legal system.[46]

From the perspective of normative criticism, this ambiguity suggests that the qanun has not designed the legal consequences of its own recognized norms. Recognition of customary settlements does open up the space for legal pluralism, but without the affirmation of its legal position, norms have the potential to lose their effectiveness. Customary law continues to operate based on social legitimacy, while formal law does not provide a normative framework for the outcome of the settlement.[47]

Thus, Article 84 paragraph (1) contains weaknesses in terms of determining the legal status of customary settlements. Norma recognizes the mechanism, but does not regulate its legal consequences. This condition shows that the design of norms is still

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[43] Nadzir and Suwandi, "The Evidentiary Power of Land Certificates as Proof of Land Ownership Rights."

[44] Muhammad, *Principles of Customary Law, p. 18*.

[45] Ali, *Sociology of Law, p. 82*.

[46] Atmadja, "Legal Pluralism in the Perspective of National Legal Development."

[47] Rahardjo, *Law and Society: An Introduction, pp. 86-87*.

partial and has not reached an adequate level of legal certainty in the regional legal system.

Reconstruction of the Design of Operational Customary Dispute Resolution Norms

The normative reconstruction of Article 84 paragraph (1) of the Qanun of Pidie Jaya Regency Number 3 of 2013 needs to be directed at strengthening the design of the implementation of recognition of customary dispute settlement. The norm that currently only states that disputes can be resolved customarily is still at the level of principle recognition. In order for these norms to have real working power in the regional legal system, it is necessary to strengthen them through more operational arrangements, such as the determination of settlement stages, the authorized customary forum, and the relationship between the results of customary settlement and the local government administrative system. In the theory of the formation of laws and regulations, effective norms not only contain the recognition of principles, but are also equipped with procedural dimensions that allow these norms to be applied concretely.[48]

This reconstruction is important so that customary law is not only seen as a social practice that lives in society, but also as part of a regional legal mechanism that has normative legitimacy. Dispute resolution through customary mechanisms can be placed as one of the official channels for dispute resolution, especially in conflicts related to the social life of the community such as livestock and animal health issues. Therefore, arrangements are needed regarding the form of customary deliberation forums, mechanisms for recording the results of agreements, and coordination between customary institutions and gampong and sub-district government apparatus.[49]

The reconstruction approach reflects the integration model between formal law and living law. Within this framework, the qanun serves as a juridical framework that provides normative legitimacy, while customary law provides a social mechanism that has long been running and accepted by the community. The integration of the two results in a dispute resolution system that is not only adaptive to social realities, but also provides legal certainty. In the study of local law, the synergy between written norms and local institutions is seen as an important strategy to increase the effectiveness of the law at the community level.[50]

Thus, the reconstruction of norms not only aims to improve the redaction of articles, but also to build a clear and integrated implementation structure. The reconstructed norm needs to contain three main elements, namely recognition of customary settlement, regulation of implementation procedures, and institutional relations between customary institutions and local government structures. These three elements are the basis for the establishment of an operational dispute resolution mechanism in the regional legal system.[51]

In addition to procedural aspects, reconstruction also needs to emphasize institutional integration between customary institutions and local government structures. Qanun needs to explicitly determine the role of gampong and mukim customary institutions as facilitators of dispute resolution, as well as regulate their coordination with local government officials. This clarity is important so that customary mechanisms

[48] Philipus M Hadjon, *Legal Protection for the People in Indonesia* (Surabaya: Bina Ilmu, 1987), p. 38.

[49] Asshiddiqie, *On the Law, p. 138.*

[50] Bagir Manan, *Theory and Politics of the Constitution* (Yogyakarta: FH UII Press, 2003), p. 87.

[51] Soekanto, *Indonesian Customary Law, pp.121-123.*

are not seen as mere informal practices, but as part of a legally recognized dispute resolution structure. [52]

Reconstruction must also determine the legal position of the customary settlement. A peace agreement or customary decision needs to be recognized as the result of a settlement that has binding force after meeting certain conditions, such as the agreement of the parties and recording by the gampong apparatus or authorized officials. This arrangement provides legal certainty for the parties while preventing re-disputes over the same issue. In the legal study of dispute resolution, strengthening the position of the results of deliberation or mediation is part of the strategy of legal reform based on peaceful settlement at the community level.

Conceptually, integration between customary law and formal law can be designed through three main stages. The first stage is dispute resolution through customary deliberation facilitated by gampong or mukim customary institutions. The second stage is the recording of the results of agreements or customary decisions by gampong officials as a form of administrative recognition.[53] The third stage is normative recognition, where the settlement is recognized as an agreement that is binding on the parties as long as it does not conflict with higher laws and regulations. This integration model allows customary law to continue to carry out its social function in resolving disputes peacefully, while providing legal certainty through administrative recognition in the local government system.[54]

As part of the normative reconstruction, Article 84 paragraph (1) can be reformulated in a more operational form as follows: Article 84 paragraph (1) (Proposed Reconstruction): "Disputes related to livestock and animal health in the community can be resolved through customary mechanisms implemented by gampong or mukim customary institutions through deliberation to achieve peace."

Paragraph (2): "The results of dispute resolution as intended in paragraph (1) shall be stated in the form of an agreement or customary decision agreed upon by the parties."

Paragraph (3): "Customary agreements or decisions as referred to in paragraph (2) are recorded by the gampong apparatus or authorized officials as a form of administrative recognition in the local government."

Paragraph (4): "Customary agreements or decisions that have been recorded as referred to in paragraph (3) are binding on the parties as long as they do not conflict with laws and regulations."

The reconstruction of this norm aims to realize three main goals in the development of regional law, namely creating legal certainty for the community, providing protection for the rights of parties to the dispute, and building harmonization between state law and customary law in a pluralistic legal system.

From the perspective of Islamic law, the integration of customary dispute resolution mechanisms with the regional legal system is also in line with the basic principles of sharia. In the fiqh tradition, the settlement of disputes through peace (iṣlāḥ) is highly recommended because it is able to maintain social harmony and prevent wider conflicts. In addition, the reconstruction of these norms is in line with the principles of maqāṣid al-syarī'ah, especially the rule of *jalb al-maṣlaḥah wa dar' al-mafsadah*, which

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[52] Agustina, "Unlawful Acts."

[53] von Benda-Beckmann, “Relational Social Theories and Legal Pluralism.”

[54] Bellamy and Kröger, “Countering Democratic Backsliding by EU Member States: Constitutional Pluralism and ‘Value’ Differentiated Integration.”

is to realize benefits and prevent harm. Through the integration of customary law and formal law, dispute resolution can be carried out peacefully, effectively, and still provide legal certainty for the community.

CONCLUSION

Based on the results of the research, it can be concluded that Article 84 paragraph (1) of the Qanun of Pidie Jaya Regency Number 3 of 2013 has represented normative recognition of the customary law-based dispute resolution mechanism as part of the living law in the community. However, the recognition is still declarative and has not been supported by the construction of operational norms, especially related to settlement procedures, institutional integration, and clarity of legal consequences of customary decisions. These findings show that there is a gap between the recognition of principles in regulation and practical implementation in the field, so that the effectiveness of norms is determined more by the social dynamics of society than by a structured formal legal system.

The theoretical implications of this study confirm that the recognition of legal pluralism in local regulations has not been fully followed by systemic and implementive normative designs. This condition indicates that the construction of regional law is still at a symbolic stage in accommodating customary law, so it has the potential to cause legal uncertainty and disharmony between state law and customary law. Practically, these weaknesses can have an impact on the weak protection of the rights of the parties to the dispute and the non-optimal function of customary institutions in resolving social conflicts at the local level.

Based on these findings, this study recommends the reconstruction of the norms of Article 84 paragraph (1) by adding operational and integrative arrangements, including procedural stages of customary dispute resolution, strengthening customary institutions, mechanisms for recording and recognizing the results of deliberations, and coordination with local government institutions. This recommendation is expected to strengthen legal certainty, increase the effectiveness of customary-based dispute resolution, and realize harmonization between state law and customary law within the framework of a responsive and fair regional legal system.

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