



Theory and Practice of Mediation in Gayo Indigenous Peoples

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ABSTRACT

Mediation is one of the dispute resolution mechanisms that has long been practiced in customary law communities in Indonesia, including the Gayo Indigenous people who inhabit the Central Aceh, Bener Meriah, and Gayo Lues regions. This study aims to examine the theory and practice of mediation in the Gayo customary law community and its relationship with the national legal system. The problem raised in this study is how the concept of mediation is applied in Gayo indigenous peoples and the extent to which the practice intersects with Indonesian positive law. This research uses normative juridical method with qualitative approach through literature study on the sources of law and current literature. The results showed that mediation in the Gayo customary law community was carried out by traditional institutions informally by prioritizing the value of deliberation and restorative justice. Gayo customary mediation has proven effective in resolving disputes without further conflict and in line with the spirit of non-litigation settlement in the national legal system. This finding confirms the importance of strengthening the legality of indigenous institutions within the national legal framework as a form of protection and empowerment of Indigenous Peoples.

INTRODUCTION

Dispute resolution through mediation is an integral part of the customary law system in various regions in Indonesia, including the Gayo Indigenous people. In the context of Gayo Indigenous Peoples, mediation is not just an alternative, but rather a key mechanism in maintaining social harmony. The importance of this study lies in how the Gayo customary mediation system not only resolves conflicts, but also preserves the social and spiritual values of the community.

Indonesia is a country that has a pluralistic legal system, which consists of national law, religious law, and customary law. In the context of Indigenous Peoples, customary law has an important role in regulating social life, including in terms of dispute resolution. One of the most prominent dispute resolution mechanisms in Indigenous Peoples is mediation, which is non-litigative and oriented towards rapprochement between individuals within the community.

Gayo customary law communities located in the Central Aceh region, Bener Meriah, and Gayo Lues have a conflict resolution system based on deliberation and Customs. Gayo traditional mediation is carried out by traditional figures such as village reje, village priests, and traditional tips that are trusted by the community as Guardians of social and moral balance. The values underlying such mediation practices include the principle of kinship, restorative justice, as well as the restoration of social harmony.

The existence of adat mediation in the Gayo community not only has historical and cultural value, but is also relevant in the context of modern law. Currently, the Indonesian national legal system is beginning to accommodate non-litigation dispute resolution approaches, as stated in Supreme Court Regulation (Perma) No. 1 of 2016 on mediation procedures in court. However, formal recognition of Indigenous mediation practices at the state level is still limited, so the position of indigenous institutions in the national justice system is not fully strong.

In this context, this study raises three main issues. First, how mediation theory is developed and understood in the Gayo customary law community. Second, how mediation practices are carried out in the daily lives of Gayo Indigenous people. Third, how the intersection between Indigenous dispute resolution practices Gayo with the Indonesian national legal system.

This study aims to examine the theory and practice of mediation in the Gayo customary law community comprehensively and analyze its

interaction with the national legal system. Thus, this study is expected to contribute to the strengthening of the dispute resolution system based on local wisdom, as well as supporting legal recognition of the existence and role of indigenous peoples in the Indonesian legal system.

METHOD

This research uses normative juridical method with qualitative approach. The Data were obtained through literature study on the latest Gayo customary law books, journals, and documents. Literature search focused on current sources related to mediation, customary law, and Gayo society.

RESULTS AND DISCUSSION

A. History Of The Gayo Indigenous People

The Gayo people are an ethnic group that inhabits the Highlands of Aceh, especially in Central Aceh, Bener Meriah, and Gayo Lues. They are known for collective social systems, strong Indigenous structures, and cultures that uphold the value of togetherness. Since the time of the Kingdom of Linge, the structure of Gayo Customs has been formed and continues to develop today.

The Gayo Indigenous people are one of the ethnic communities that inhabit the Highlands in the central part of Aceh province, namely in the Central Aceh, Bener Meriah, and Gayo Lues regencies. The Gayo people are known to have a strong social structure and indigenous system, which evolved over a long history of migration and cultural interaction in the northern Sumatra region.

The origin of the Gayo people is believed to come from the migration of Austronesian groups that entered the interior of Aceh in prehistoric times. In various oral records and anthropological research, the Gayo people have a fairly close kinship with the Batak and Alas ethnic groups in North Sumatra and Southeast Aceh, characterized by the similarity of language elements and kinship patterns. Gayo language itself is included in the Batak language family, although it has developed into a distinctive variant and stands alone as an ethnic identity.

Historical records about the existence of the Gayo people began to appear more systematically during the Aceh Darussalam Kingdom. In the 17th to 19th centuries, the Gayo region became part of the kingdom's dominions, especially in the context of the spread of Islam and the political integration of inland regions into the power structure of coastal Kingdoms. However, the Gayo people still maintain their social system and customs, including in the form of customary government led by reje (village head) and

customary institutions called sara ine-sara ama (male and female customary institutions).

During the Dutch colonial period, the Gayo region became one of the regions that experienced quite strong resistance to colonization efforts. Local figures such as Panglima Polem and Gayo Indigenous leaders engaged in armed resistance as well as Indigenous diplomacy in defending Indigenous peoples' rights to their lands, forests, and social sovereignty. The customary system is maintained as a stronghold of cultural identity, including in aspects of dispute resolution, heritage distribution, and Natural Resource Management.

After Indonesian Independence, the Gayo people began to interact more intensely with the modern state system of government. However, traditional values are maintained and carried out in daily life, including through traditional forums such as village deliberations and other traditional institutions that still exist today. This long history has shaped the Gayo community as a resilient community and has strong values in maintaining social balance and conflict resolution based on deliberation.

B. The Gayo Customary Law Society

Gayo customary law society is formed based on the recognition of the social structure and customary norms that are passed down from generation to generation. This structure is recognized by the state through Law No. 6 of 2014 concerning villages which strengthens the existence of customary institutions at the village level.

Gayo Customary Law Society was formed as a result of the interaction between social systems, cultural values, and traditional power structures that have developed for generations in the Highlands of Aceh. The concept of "customary law society" refers to a community that has its own legal unity, a certain territory, and a system of customary norms that bind all its members in everyday life. In the context of the Gayo people, these three elements have been consistently fulfilled in their history and social practice.

Genealogically and territorially, the Gayo people developed in social units called kute or kampongs, which consisted of several large families that had kinship relations. Each village is led by a village reje (village head) who is in charge of maintaining social order, resolving disputes, and leading customary deliberations. Above it are larger territorial structures such as sara inen (women's customary institution) and sara ama (men's customary institution), which function as normative and executive customary institutions.

The formation of the Gayo customary law community is inseparable from the role of customary law (adat law) which is used as a guide for community life. This customary law covers various aspects of life, such as natural resource management, inheritance, marriage, and dispute resolution. Adat is used as a living law, because it grows and develops based on the values upheld by the community, and is inherited orally and through sustainable social practices.

During the colonial period, the existence of the Gayo customary law community began to be recorded administratively by the Dutch East Indies government. In the reports of the colonial government, the Gayo region was classified as an area that had Indigenous autonomy and was given freedom to practice customary law as long as it did not conflict with colonial interests. This recognition indirectly strengthens the structure of the Gayo Indigenous legal community, although it also brings challenges to indigenous authorities who are sometimes politicized by outside interests.

Post-independence, the Gayo people retained their legal structure, although state intervention through modern regulation and formal government structures began to influence their social dynamics. In recent decades, there has been a movement to strengthen the existence of indigenous peoples through constitutional recognition and local regulations, especially after the Constitutional Court Decision No. 35/PUU-X/2012 which affirmed the rights of indigenous peoples to their land and territory.

Thus, the Gayo customary law community is a historically and culturally formed social and legal entity, based on local value systems and run by Indigenous institutional structures. Their existence was not only recognized by their own communities, but also began to have a place in the national legal framework as part of the recognition of the rights of indigenous peoples in Indonesia.

C. Mediation Theory In The Gayo Customary Law Community

In Gayo society, mediation does not merely refer to the resolution of legal disputes, but rather becomes part of a social structure that prioritizes deliberation and consensus. Indigenous leaders play an important role as mediators by promoting the principle of balance and restoration of social relations. This concept aligns with mediation theory in the perspective of progressive law and restorative justice.

Mediation in the context of the Gayo customary law community is a process of dispute resolution

based on deliberation, which is carried out by Indigenous stakeholders as facilitators between the parties to the dispute. Mediation theory prevailing in the Gayo Indigenous people is built on the basis of collectivity values, social harmony, and restorative justice principles that have lived for generations in the social structure of society.

Conceptually, Gayo customary mediation is not solely aimed at achieving a legal settlement in a narrow sense, but rather prioritizes the restoration of social relations and community harmony. This is in line with the theory of restorative justice, which emphasizes the repair of social damage caused by conflict through the participation of all parties in the settlement process. In the Gayo community, this process is known as village deliberation, which involves Indigenous leaders such as *reje kampung*, *imem kampung*, and *petue adat* as mediators who are respected by the entire community.

The mediation theory of *Adat Gayo* is also influenced by a value system called *edet (adat)*, which is an unwritten law derived from the collective Customs and norms of the community. Values such as consensus, mutual assistance, and the spirit of kinship become the main foundation in the implementation of mediation. Mediation is not seen as a coercive mechanism, but rather a participatory process that emphasizes the awareness and social responsibility of the disputing parties to preserve the good name of the family and community.

In practice, mediation is carried out in stages: first, an informal approach by the family or village elders; second, an open deliberative meeting; and third, the provision of a decision agreed by all parties. This process reflects a multi-tiered dispute resolution approach, where settlement begins at the level closest to the root of the problem, before involving a broader structure.

Mediation theory that developed in Gayo customary law community also reflects the form of integrative negotiation, which is a conflict resolution approach that aims to find a win - win solution by considering customary values, feelings, and relationships between families. Unlike formal mediation, which is more oriented towards legal interests and written documents, customary mediation relies on collective will and cultural consensus.

Thus, mediation theory in Gayo Indigenous people cannot be separated from the local social and cultural context. Local values are at the core of any dispute resolution process, which makes mediation not just a legal technique, but a tangible manifestation of the living and dynamically developing legal culture of Indigenous Peoples.

D. Mediation Practices Within The Gayo Customary Law Community

The practice of Gayo traditional mediation is run by *reje kampung* and assisted by other traditional figures. Disputes that are usually resolved include land issues, marriage, inheritance, to social conflicts. The process begins with reporting, followed by closed deliberations, then a verdict accepted by the parties. Its distinctive feature is the use of local language and a settlement that prioritizes harmony over punishment.

The practice of mediation in the Gayo customary law community is an integral part of their social life and Customs. This process does not stand as a separate system from daily life, but rather is inherent in Indigenous structures run by Indigenous stakeholders. Mediation is not only understood as a conflict resolution process, but also as a mechanism for social rapprochement and respect for collective values.

The mediation process of *Adat Gayo* is usually done in stages and stages, starting from the family level, continued to the village community level through *adat* institutions. If it does not work at the family level, the parties will bring the problem to *reje kampung* (village head) who then invites the village *imem*, *petue adat*, and other community leaders to sit together in a deliberative forum called *Maxim-petiti* or *mupakat kampung*.

Mediation was conducted orally, using the Gayo language, and took place in a family atmosphere. The submission of opinions is carried out alternately, respectfully, and taking into account customary ethics. The parties to the dispute are given the opportunity to raise issues, then traditional leaders convey considerations based on customary norms in force. The main purpose of this mediation is to reach consensus and prevent the rupture of social relations between families or groups in the village.

One of the peculiarities of mediation practice in Gayo is the absence of coercion or coercive decisions. The decisions taken are consensus, and if there are parties who have not agreed, the deliberations will continue until a common point is reached. The results of mediation are usually conveyed symbolically in the form of customary advice, and are not infrequently closed with customary processions as a sign of social rapprochement, such as eating together or giving peace signs between parties.

Common types of cases resolved through customary mediation include inheritance land disputes, domestic disputes, conflicts between neighbors, defamation, and other violations of customary norms. This practice has proven effective

in resolving issues in a way that is fast, cost-effective, and still preserves the dignity of all parties.

Although not formally written, the results of adat mediation are socially recognized and have binding force in the community. In some cases, village officials and even the local police respect the decisions of customary institutions, especially if the case is mild and does not involve a serious criminal offense.

Thus, the practice of mediation in the Gayo customary law community reflects a conflict resolution system that is based on local values, is participatory, restorative, and upholds social harmony. This practice is clear evidence that Indigenous peoples have their own legal and justice systems that are alive, effective, and relevant to this day.

E. The Intersection Of Gayo Customary Dispute Settlement And Indonesian National Law

Indonesian national law recognizes the existence of customary law as long as it does not conflict with state law. Article 18B of the 1945 Constitution and Constitutional Court Decision No. 31 / PUU-V / 2007 affirms the protection of Indigenous Peoples. In practice, the Gayo customary mediation system has worked in harmony with national legal principles, especially in the application of restorative justice within the police and prosecutors.

The Gayo Indigenous people who inhabit the Highlands region in Central Aceh, Bener Meriah, and Gayo Lues have a system of customary law that is deeply rooted in their social life. In this society, various forms of disputes related to land, inheritance, violation of social norms, to domestic conflicts are resolved through customary mechanisms known as *rejung* even. This process involves a traditional customary institution called *Sarak Opat*, which is an institution consisting of *Reje* (village head), *Imem* (religious leader), *Petue* (traditional leader), and *Cik* (customary legal advisor).

Customary dispute resolution emphasizes the principles of deliberation, peace, and social harmony, a value that is still highly upheld in the Gayo community. However, on the other hand, Indonesia as a state of law also has a national legal system that is sourced from legislation and managed by formal judicial institutions. The Indonesian constitution itself, through Article 18b paragraph (2) of the 1945 Constitution, recognizes the existence of indigenous peoples as long as they are alive and in accordance with the principles of the rule of law.

In practice, this creates a space of intersection between customary dispute resolution mechanisms

and national law. On the one hand, customary settlement is often considered to be faster, cheaper, and in line with local values. However, on the other hand, there are some forms of conflict or dualism of authority that arise, especially when customary cases involve criminal law offenses that are considered common offenses by the national legal system.

These intersections can be complementary. For example, in a dispute over customary land, the Gayo people will first resolve it by custom. But if no common ground is found, then the case is taken to a formal legal institution. On the other hand, formal institutions such as the police sometimes recommend that minor cases be resolved first through the customary forum, then the results of the agreement can be used as a basis for consideration in further legal proceedings.

However, not all forms of contact go smoothly. In some cases, there is overlap and even conflict between customary law values and national legal principles. One example is in the case of domestic violence (domestic violence). Indigenous Peoples sometimes encourage familial settlement through customary peace, but national law regards domestic violence as a general offense that cannot be removed with personal peace.

In addition to normative conflicts, other challenges arise in terms of institutional structure and recognition. Many indigenous institutions have not been officially recognized in the national legal system, so their decisions have no executorial power. In addition, the lack of written documentation on Gayo customary law also makes it difficult for state officials to integrate it into the formal system. Not all law enforcement officers have a sufficient understanding of Gayo customs, leading to their decisions often ignoring the local context.

To overcome this problem, it is necessary to harmonize efforts between the two legal systems. One of the steps that has been taken in Aceh is the enactment of Qanun Number 10 of 2008 which regulates the strengthening of Gampong customary institutions, which also includes the Gayo Indigenous community. Another step is to systematically codify customary law so that it can be accessed by formal legal institutions and used in decision-making processes.

With the strengthening of local regulations and increased cross-institutional understanding, the intersection between Gayo customary dispute resolution and the national legal system is expected to take place in a synergistic framework, not conflict. National law does not always have to replace customary law, but it can be an umbrella that

protects its existence, insofar as it does not contradict the principles of human rights and universal justice.

CONCLUSION

Mediation in the Gayo customary law community is a manifestation of local wisdom oriented to peaceful settlement and social rapprochement. The role of Indigenous leaders as mediators not only functions sociologically, but also contributes to the national legal system that recognizes the existence of Indigenous Peoples. Efforts are needed to strengthen the capacity and legality of indigenous institutions in order to continue to synergize with the formal legal system.

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