

Application of *Langgeih* rights in buying and selling land in west Aceh district

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Abstract

Law No. 44/1999 on the Implementation of the Specialty of the Special Province of Aceh is the legal basis for the application of *langgeih* rights in Aceh in accordance with the values and culture of the people of Aceh. Law No. 11/2006 on the Governing of Aceh also states that the Aceh government recognizes the rights of indigenous peoples with the issuance of Law No. 3/2013 on Aceh Customary Community Institutions. This law provides formal recognition of customary institutions and traditional community rights, including land rights, namely *langgeih* rights. This study aims to examine and analyze the implementation of *langgeih* rights in land sale and purchase, as well as to examine and analyze the factors causing and legal consequences of the non-implementation of *langgeih* rights in land sale and purchase in West Aceh Regency. The type of research used is empirical juridical, with a legal sociology approach and a legal anthropology approach. The data sources in this research are primary data obtained from field research and secondary data obtained from library research. The results of field research show that the implementation of *langgeih* rights in the sale and purchase of land in West Aceh Regency in general still exists and is applied even though it is rarely found considering that this *langgeih* right is an unwritten law, causing no clear regulation of the obligation to implement *langgeih* rights. Factors causing the non-implementation of *langgeih* rights in the sale and purchase of land are caused by people who do not understand the purpose of *langgeih* rights, economic factors, the location of the land is not strategic, and the lack of purchasing power of the community is also a factor in the non-implementation of *langgeih* rights. Hak *langgeih* does not affect the sale and purchase transaction between the seller and the buyer, however, if someone feels aggrieved as a result of the sale and purchase, the aggrieved person has the right to sue to cancel the sale and purchase. It is recommended that provincial regulations agree to re-enact *langgeih* rights in order to have one diversity and one vision, so that *langgeih* rights will continue to exist and apply in Aceh. Serious efforts are needed by every customary element to overcome the challenges that cause the non-implementation of *langgeih* rights, and to strengthen policies that can be an important solution in ensuring the implementation of *langgeih* rights remains effective and sustainable in West Aceh District.

Keywords: Application, hak *Langgeih*, and sale and purchase of land

Introduction

Adat Recht is a Dutch term first proposed by Snouck Hurgronje which means customary law. Customary law is an unwritten rule that grows and develops in society and is maintained by its legal awareness. Because it is unwritten and grows and develops in society, customary law can change and change (Sudiyat, 2010) ^[5]. To be able to provide fair decisions, Law No. 48/2009 on Judicial Power was issued which states in Article 5 paragraph (1) that: "Judges and constitutional judges shall explore, follow, and understand the values of law and the sense of justice that lives in the community". This law emphasizes that judges must understand the customary cultural values that exist in society. One of the provinces in Indonesia that continues to maintain its customary laws and culture is Aceh. This is evident in the continued functioning of customary institutions at the gampong or mukim level. Despite attempts by the law to abolish the function of the imum mukim, in reality the imum mukim in Aceh still exists and operates. In line with the above, there are Hadih Maja or proverbs that strengthen the argument that Aceh still highly upholds customary law, namely, "*Adat bak Poe Teu Meureuhom, Hukom bak Syiah Kuala, Qanun bak Putroe Phang, Reusam bak Lakseumana*". (Nurdin, 2018) ^[8]. Furthermore, with its privileges, several regulations related to customs and custom implementation institutions in Aceh were formed, including: (1) Law No. 44/1999 on the

Implementation of Aceh's Privileges, (2) Law No. 11/2006 on the Government of Aceh, (3) Law No. 6/2014 on Villages, (4) Aceh Qanun No. 4/2003 on the Government of Mukim in the Province of Nanggroe Aceh Darussalam, and (5) Aceh Qanun No. 10/2009 on Customary Institutions (Nurdin, 2018) ^[8].

According to customary land law, the sale and purchase of land is the transfer of land in perpetuity to the seller upon payment of a sum of money, or the purchase price (Soepomo, 1982) ^[7]. In practice, the sale and purchase of land by indigenous communities is done openly and directly in the presence of the customary authority, namely the customary head or village head in Aceh called Keuchik, and is currently done in the presence of an authorized official, namely the Land Deed Official (PPAT) or the Sub-district Head known as the Temporary Land Deed Official (PPATS). Law No. 5/1960 on Basic Agrarian Principles does not provide a clear definition for the term "sale and purchase". However, it must be noted that Indonesian agrarian law is based on customary law (Zumrohatur, 2017) ^[6]. In addition, hak *langgeih* is one of the customary rights of the Acehnese people that should remain in force until today. If the transfer of rights to a plot of land is not carried out in accordance with the order of bidding that must take precedence, the aggrieved party can challenge the validity of the sale and purchase because it violates the previous right known as "hak *langgeih*" (Ismail, 2011) ^[4].

In the transfer of land rights, the following parties should be prioritized, namely: (1) Close relatives of the landowner, (2) Landowners directly adjacent to the land being sold; and (3) Local residents. Thus, hak *langgeih* is the right to block or cancel a land sale transaction to a foreigner or outsider. This aims to limit any harm that may arise from the process of buying and selling land in accordance with the Fatwa of the Aceh Ulema Consultative Assembly No. 8/2015 on Hak *Langgeih* in Islam. If the transfer of rights to a piece of land belonging to another person is not carried out in accordance with the bidding order, the aggrieved person can sue the sale and purchase of the land to the Gampong and Mukim Courts or the local District Court. (Duhriah, 2022)^[2]

In line with Carl Von Savigny's legal philosophy theory of the Historical Mazhab. Von Savigny explains that "Law is not made, but it grows and develops and disappears with society and can be found through the soul of the nation (volksgeits)." In this case, the above explanation shows that the people of Aceh still have volksgeits and customary rights. Despite the rules and culture that still strongly uphold customary law rather than national law, not all regions in Aceh still utilize this *langgeih* right, some have forgotten this rule. This will certainly have a negative impact on the development of Aceh's culture. Every indigenous community must protect their culture because the existence of customary law makes the city more unique and has its own specialty from other cities.

Based on the description above, it is necessary to conduct a research and study on the application of *langgeih* rights in the process of buying and selling land in West Aceh Regency. This is because it is not always the case that the process of buying and selling land that occurs and is carried out by authorized officials is definitely correct, but it is not uncommon for the process of buying and selling land to deviate from the rules of national law and the rules of customary law that have been established and are still developing in the community. Therefore, legally, the land sale and purchase process that has been carried out can be canceled and creates uncertainty for land rights holders.

The problem identification discussed in this research is twofold, namely how is the implementation of *langgeih* rights in land sale and purchase, and what are the factors causing and legal consequences of the non-implementation of *langgeih* rights in land sale and purchase. The scope of this research is in accordance with the title of the thesis, namely "Implementation of *Langgeih* Rights in Land Sale and Purchase in West Aceh Regency" which covers the field of Civil Law, especially Kenotariatan, which discusses and focuses related to *langgeih* rights in the process of buying and selling land in West Aceh Regency which aims to examine and analyze the implementation of *langgeih* rights in land sale and purchase and examine and analyze the factors causing and legal consequences of not implementing *langgeih* rights in land sale and purchase.

This research is based on several previous studies that have similar characteristics but are not the same. Previous studies may differ in terms of the subject, the number and position of the variables used, and the analysis methods used. Basically, this research must be original to find out how the topic to be studied relates to similar previous studies, so that there is no repetition or plagiarism. Based on the results of literature searches, several previous research literature were found that examined *langgeih* rights, namely (1) Aulia Rahman (2014)^[16] with the title: "Juridical Study of

Langgeh (Syufah) Rights in the Customs of the Acehnese Community in Langsa City", (2) Carissa Vialyta Lubis (2021)^[17] with the title: "Legal Consequences of Violation of *Langgeh* Rights in the Land Sale and Purchase Process in Payak Bujuk Tunong Village, Langsa Baro District", and (3) Ghazi Ahmad Tijani (2022)^[18] with the title: "Dispute Resolution of *Langgeh* Rights in Land Sale and Purchase in Baitussalam District, Aceh Besar Regency".

Research Methods

This research is an empirical juridical research that combines primary and secondary data, primary data consists of interviews in the field, while secondary data consists of literature such as books, journals, articles, theses, laws and regulations, and other sources related to the research topic. This study uses two approaches: legal sociology and legal anthropology. After primary and secondary data are obtained, they are then analyzed using a qualitative approach, which displays the findings of field research, connects them with literature research, and is compiled using descriptive research methods, namely trying to provide a real picture of the facts found in field research then the results of the research are expected to answer the problems that have been formulated in problem identification then conclusions and suggestions are drawn.

Results and Discussion

1. Application of *Langgeih* Rights in Land Sale and Purchase

Community rights in customary law encompass a range of rights and obligations that are recognized and governed by the customs, norms and traditions that prevail in a society. While these rights can vary from one community to another, there are some rights that are often found in customary law. Hak *langgeih*, or the right of priority in the purchase of land, is one example of a right that also falls under the rights of indigenous peoples. This right gives priority to members of an indigenous community to purchase or own land in their customary territory before outsiders or other parties. The application of *langgeih* or right of precedence is unique. The government's granting of privileges to Aceh Province to implement Islamic sharia is reflected in Law No. 44/1999 on the Implementation of the Privileges of Aceh Special Region Province. This law provides the legal basis for the application of Islamic law in Aceh Province.

Another regulation that emphasizes that Aceh has special autonomy in its own legal system is based on Law No. 11/2006 on the Government of Aceh. In addition, the Aceh government has also recognized the rights of indigenous peoples in Law No. 3/2013 on Aceh Customary Institutions. This law gives formal recognition to Acehnese customary institutions and traditional rights, including land rights, namely hak *langgeih*. Hak *langgeih* is a special right that gives priority to family, neighbors and the main purpose of hak *langgeih* is to maintain a close relationship between the landowner, family, neighbors and the local community. By giving them the opportunity to buy land first, hak *langgeih* helps in maintaining peace and harmony among them.

One of the things described in Article 49 of Qanun Number 10 of 2002 concerning Islamic Sharia Courts is that Hak *Langgeih*, which is included in the mua'malah section, is closely related to land sale and purchase transactions. Hak *Langgeih* is a requirement that must be implemented before a person or legal entity carries out the process of buying and

selling land transactions in addition to the requirements stipulated in Government Regulation Number 24 of 1997 concerning Land Registration. This is because hak *langgeih* has evolved in the customary law of the Acehnese people. In addition, hak *langgeih* also aims to prevent future conflicts between families, neighbors, and the local community regarding the local community's land ownership to buy the land to be sold before it is given to another party.

Over time, the implementation of hak *langgeih* has changed and adapted in accordance with the changing social, political and economic context. Nevertheless, the basic principles of hak *langgeih* are maintained and serve as a guideline for the people of Aceh in carrying out the process of buying and selling land. It is not certain when hak *langgeih* was established, but it has been in place since the time of our ancestors and has become an integral part of the cultural identity of the Acehnese people. This shows how important *langgeih* rights are in maintaining social balance and justice in Aceh, as well as one of the valuable heritages that must be maintained and preserved by future generations.

Based on the research conducted, it was found that the application of *langgeih* rights in the sale and purchase of land in West Aceh District still exists and applies in the life of the customary law community there. However, it is unfortunate that the application of *langgeih* rights is rarely found today. Interviews with several customary leaders and government officials in West Aceh District revealed that the application of *langgeih* rights is very limited and almost non-existent, although the rights still exist, the percentage of application is relatively low. However, the practice of offering land to family members is still frequent and common, but offers to neighbors and the surrounding community are rare. The application of *langgeih* rights is not clearly visible in daily practice, but it is believed that the process of offering land under *langgeih* rights still exists. This means that although the community does not always mention the term "hak *langgeih*" explicitly, the principles still exist and are implemented in the practice of buying and selling land in West Aceh District.

This is based on the pattern of behavior and legal order of a community group that has been different from time to time, which results in the cultural context of the customary law community itself changing. Context analytically has several elements that produce certain conditions for legal behavior. Nonetheless, it is important to note that while the application of *langgeih* rights may be rare, their value as part of cultural heritage and local identity is invaluable. Preserving and strengthening traditional practices such as *langgeih* rights remains relevant, as they can assist in maintaining environmental sustainability, social justice and harmony in society.

2. Causal Factors and Legal Consequences of Non-Exercise of *Langgeih* Rights in Land Sale and Purchase

Every process of implementing *langgeih* rights certainly experiences various factors that can occur which cause the *langgeih* rights cannot be implemented properly. These factors can arise from the parties, government officials, as well as the social and cultural conditions of the community. With this condition, various efforts are certainly made in the event of a dispute, this can be done through a process of deliberation and consensus, although at certain stages it is possible that the process may not necessarily run effectively.

The following factors cause *langgeih* rights in the sale and purchase of land cannot be implemented smoothly based on field research in West Aceh District, among others, the lack of understanding of the parties regarding the purpose and objectives of *langgeih* rights which can be caused by various factors, such as low education, lack of curiosity about customary rights and lack of access to information related to *langgeih* rights. As a result of this lack of understanding, the *langgeih* rights process is often underestimated or even ignored. Parties tend not to consider the *langgeih* rights procedure important as it does not have a significant impact or direct benefit for the parties.

This ignorance and lack of understanding can stem from a variety of factors, including a lack of socialization and education about customary rights within the community. Parties have never received adequate information or gained sufficient understanding about *langgeih* rights and their relationship to land sale and purchase transactions. As a result, parties find it difficult to understand the procedures and legal implications of *langgeih* rights, and tend to ignore or override them in their land transactions. In addition to ignorance and lack of understanding of customary rights, economic factors can also cause the non-exercise of *langgeih* rights in land sale and purchase transactions. Sometimes, even though a person has been offered to buy land that falls under their priority rights, they may not be financially able to make the purchase. In this situation, although there is a desire or right to exercise the *langgeih* right, the economic limitations of the individual prevent the proper exercise of the right.

These challenges reflect the complex social and economic dynamics in society, where factors such as social status, social hierarchy and social stigma can influence interactions between individuals. While *langgeih* rights are supposed to give priority to those who are entitled, the reality on the ground is often different from what is in the rules. The lack of purchasing power of the local community can be a significant factor in the dynamics of land ownership. Communities with higher purchasing power, including people from outside the area (cities) may have better economic conditions and can more easily buy land in the area. This can result in a shift of land ownership from the local community to outsiders. It is important to note that the issue of lack of purchasing power of the local community does not only impact land ownership, but can also affect various aspects of economic and social life in the area.

Another factor that can cause the non-implementation of *langgeih* rights in the sale and purchase of land in West Aceh District is the lack of interest in buying the land, which is caused by several factors such as the location of the land being sold is not strategic and the lack of good marketability. The non-strategic location of land can be one of the factors that make people reluctant to buy it. Land that is far from major transportation access, public facilities, or economic centers, may be less desirable because it is difficult to access or economically unaffordable. In addition, if the land does not have attractive development potential or is not suitable for needs, such as agriculture, housing, or industry, then its marketability will be low.

Thus, the above factors that cause the non-implementation of *langgeih* rights in land sale and purchase certainly have legal consequences. The legal consequences of the non-exercise of *langgeih* rights in the sale and purchase of land actually do not have a direct impact on the implementation

of the sale and purchase between the seller and the buyer. However, if there are parties who feel aggrieved by the sale and purchase transaction, they have the right to file a lawsuit for the cancellation of the transaction that has occurred. In this context, it is important for the Notary/PPAT to remain cautious and ensure that all parties involved in the land sale and purchase transaction have been given sufficient information about *langgeih* rights and its implications. In addition, the parties should also be prepared to provide assistance in the resolution of disputes that may arise as a result of the non-enforcement of *langgeih* rights. Thus, through the active role and integrity of the Notary/PPAT, it is expected that land sale and purchase transactions can be carried out more smoothly and in accordance with the principles of justice, so that the customary rights of the community can remain protected and respected, and potential conflicts can be minimized.

Conclusions

The implementation of *Langgeih* Rights in Land Sale and Purchase in West Aceh Regency generally still exists and is applied by the people of West Aceh although it is rarely found considering that *langgeih* rights are customary laws which are unwritten laws, causing the absence of clear arrangements for the implementation of *langgeih* rights. Factors causing the non-implementation of *Langgeih* Rights in Land Sale and Purchase are caused by people who do not understand the purpose and objectives of *langgeih* rights, economic factors, the location of the land is not strategic, and the purchasing power of the community is also a factor in the non-implementation of *langgeih* rights, as well as other social problems that can hinder the implementation of *langgeih* rights in land sale and purchase and the legal consequences do not affect the sale and purchase transaction between the seller and the buyer, however, if someone feels aggrieved as a result of the sale and purchase, the aggrieved person has the right to sue to cancel the sale and purchase that has occurred.

It would be better if there is a regulation at the provincial level for PPAT and PPATS and other customary institutions to agree to re-enact this *langgeih* right in order to have one diversity and one common vision, of course if it is pursued, this *langgeih* right will continue to exist and apply in Aceh and serious efforts are needed by every customary element to overcome the challenges that cause the non-implementation of *langgeih* rights, and strengthen policies that can be an important solution in ensuring the implementation of *langgeih* rights remains effective and sustainable in West Aceh District.

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