

The Influence of Post Tsunami Aceh Aid Agencies on the Participation of People in Banda Aceh Toward the Arrangement of Land Tenure and Its Use

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ABSTRACT

This paper aims to examine the participatory land tenure and land use management concepts that have not been implemented in Banda Aceh, as well as their obstacles. This study used a qualitative method, involving secondary data, i.e., field and library data, relevant documents, government reports, case studies and literature. The results showed that after the 2004 Aceh Tsunami, many national and foreign institutions came to Banda Aceh to assist. This condition was not addressed by the Banda Aceh Government by applying a pattern of an aid policy that adheres to cultural values inherent with Aceh people. One of the reasons for the loss of community participation in Banda Aceh is that many programs provide incentives to the community for whatever they do during the rehabilitation and reconstruction period. Acehnese lost their basic nature as a society that has a high level of participation in the development. National Land Agency (BPN) Regulation Number 4 of 1991 concerning Land Consolidation aims to ensure that in the development, the Government organizes land tenure and its use by involving community participation. However, the concept of participation has not been integrated into the policies in Banda Aceh. It is recommended that the Government uses the concept of land consolidation in the management of land tenure and its use by involving community participation. The Government is expected to release a firm reference for aid agencies which come to Banda Aceh to protect and respect the cultural values of the local community. It is necessary to develop a pattern to re-develop the values of community participation as a characteristic of Aceh people.

Keywords: *community participation, land tenure arrangement, land use arrangement*

1. INTRODUCTION

Difficulties in obtaining land for implementation of development go hand in hand with the rate of population growth. Although according to Indonesian land law, state power includes the earth, water and space as well as the natural resources contained therein whether it is on the rights of a person or legal entity or not [1].

Based on Article 6 of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, "All land rights have a social function. But that does not mean that if the state needs land, the land belongs to anyone for any purpose, the state can take it for granted, it must be done by deliberation to reach an agreement both on the surrender of land and compensation [2]. The Government of Indonesia in carrying out its duties and obligations must be based on laws and regulations [3].

For that reason, in the implementation of development, community participation is urgently needed, bearing in mind that every land held has ownership rights. According to Slamet [4], community participation in development was defined as community participation in

development, participation in development activities and participation in utilizing and enjoying the results of development.

Head of BPN Regulation No. 4 of 1991 concerning Land Consolidation has set a model of community participation inland in the framework of providing land for development [5]. In principle, Land Consolidation is one way to arrange an area (urban and rural) that has minimal or poor facilities and infrastructure into an area that is equipped with ideal infrastructure and is in harmony with spatial planning.

Structuring activities through land consolidation do not displace the community out of their residential environment; the community remains in their environment so that they really enjoy the development. This is in line with one of the principles of the 2005 International Covenant which was adopted through UNDP - UN; the community must not be forced out of their dwelling environment by force and arbitration [6].

The city of Banda Aceh is the capital of the Aceh Province which is actively implementing development. As an impact of the 2004 Tsunami, many residents moved to areas where not affected by the Tsunami. The growth of

new settlements is without control, and it is not equipped with adequate road facilities and the absence of public and social facilities. This condition ultimately shows the face of Banda Aceh, which is less aesthetic, develops without direction, ignores the rules and functions of the environment. This also happened to almost all cities in Indonesia [7].

Various ways have been carried out by Banda Aceh Government to overcome this problem. In 2014 the Banda Aceh Government issued a policy in the form of a Decree of the Mayor of Banda Aceh Number 372 of 2014 concerning the Determination of the Location of Slums in Banda Aceh. Subsequently, the Decree was renewed with Mayor Decree Number 268 in 2018. As a follow up to the Management of Slums and Settlements, Banda Aceh Qanun Number 8 of 2018 was issued concerning the Prevention and Quality Improvement of Slums. The increasing growth in Indonesia both in terms of population and economy will encourage greater demand for the construction of various public facilities [8]. One factor that is believed to hamper economic growth in Indonesia is the high cost of development [9].

However, policies regarding development in slums and residential areas have not been based on the participation model as referred in *BPN* Regulation Number 4 of 1991.

This paper aims, first to explain how the level of community participation in Banda Aceh towards the implementation of development. Second, to examine land consolidation regulations as a model of community participation to carry out development towards harmonious, optimal and balanced housing in Banda Aceh.

2. The Influence Of Aid Agencies On The Participation Of The People Of Aceh After The Aceh Tsunami

2.1. Concept Of Participation

Participation Theory stated that every person entitled to express opinions in making decisions related to his life. The meaning of participation if related to Hugo Grotius's theory which positions the law as social awareness, was that the community participation could drive social awareness.

Public participation is also related to social morals as the theory developed by Emile Durkhem [10] that law was a reflection of solidarity. Solidarity was an abstract unit. It is a spirit that binds people to the framework of shared beliefs in building an integrated life. According to Leon Duguit in the legal theory, the order of social work clarified the notion of solidarity, namely generating two feelings, i.e. (i) Sense of social necessity (*sentiment de la socialite*), (ii) Sense of justice (*sentiment de la justice*). The sense of social necessity appears as a belief in the need for shared guidelines that are in line with the needs of the 'work society'. While the sense of the necessity of justice points to the sensitivity of how to share

proportional burdens and rewards [11]. Simatupang [12] argued that some details about participation are : a) Participation means what we do is part of a joint effort carried out hand in hand with our countrymen and fellow citizens to build a common future: b) Participation also means as work to achieve the common goal among all citizens who have diverse belief backgrounds in Pancasila country or the basis of the same rights and obligations to contribute to the development of a new future of the nation; c) Participation does not only mean taking part in the implementation and planning of development. Participation means contributing so that in our understanding of our development, human values and ideals regarding social justice remain upheld; d) Participation in development means pushing towards development that is in harmony with human dignity, social justice and national justice, and which preserves nature as a human environment for future generations. Thus community participation in the implementation of development is needed, especially in overcoming the availability of land and the considerable development costs.

In the context of the Indonesian state based on law, public participation must be regulated in statutory regulations. The conceptual model of community participation regulated in Regulation of the Head of Land Agency Number 4 of 1991, is very accommodating to the principle of development by the people and for the people. Without the agreement (consensus) of the community holders or landowners, the arrangement of control and arrangement of land use cannot be carried out.

2.2. The Low Of Community Participation In Banda Aceh Toward the Implementation Of Development

Disasters in Indonesia and other countries had attracted empathy, support and assistance from the international community. There is no country that can refuse international assistance without a clear reason. Various kinds of assistance were given, such as financial assistance, food aid, sanitation, shelter, air transportation, medical assistance, and so on [13]. In the infrastructure and housing sector, the challenges for the Indonesian Government were enormous. This was due to 85% damage in this sector after the 2004 Tsunami or almost all infrastructure and housing was destroyed by the tsunami waves [14].

In rehabilitating facilities and infrastructure, aid agencies built emergency sanitation facilities, brought clean water, protected springs, cleaned wells and provided disinfection by involving the local community. The involvement was carried out by giving fee to the community (Relief Web, Special Report: The IRC's Emergency Response to The Tsunami Disaster in Aceh, Indonesia). According to Dailiy [15], the extraordinary reconstruction and development agenda had failed to touch the cultural and historical dimensions of social recovery. Most international and national organizations had little or

no knowledge or disregard for the cultural and social practices of the local community. So, the culture of the community in the value of mutual cooperation and participation was low.

Giving money or incentives to people who participated in the rehabilitation and reconstruction of post-Tsunami Aceh had an effect on the level of community participation in Banda Aceh. Thirty respondents expected incentives in every community activity to engage in consultations in the village and sub-districts. The community that lacks capacity and expertise was not involved so that the results of the implementation were not in line with community expectations [16]. This condition also occurred in the community of Aceh Besar District. The community expected incentives in every activity, but did not want to contribute to the common interest, did not care and felt less important in each meeting, so that those who attended the meeting were only community leaders (stakeholders) [17].

Banda Aceh is one of the areas in Aceh which was hit by a quite severe Tsunami. The change in the value of community participation in Banda Aceh had eroded the basic characteristics of the people in Aceh. Based on historical studies, Aceh people are basically the most tolerant and participatory people, especially in the struggle for an independent Indonesia. This could be proven historically [18] that in 1948, people of Aceh collected 20 kg of gold donated to the Indonesian state to buy a plane named Dakota RI-001 Seulawah [19]. Police, army, employees, students, and people around Darussalam village, participated in the cooperation with sincerity to establish and contribute energy for the construction of Darussalam Campus, which is considered as the "Heart of Aceh people" [20]. The high level of participation of Acehnese in the development is a reflection of one of the unique characteristics of Aceh people [21].

Since the principle of community participation in Banda Aceh has shifted, it is very difficult for the community to participate and be involved in the development. As a result, many housing and human settlements lack of public facilities have narrow streets and even broken roads. One of the reasons for the difficulty of the community to evacuate during the Aceh Tsunami was because the roads were narrow and cut off. In addition, housing and settlements that grew after the tsunami were not equipped with drainage channels, and there was no open public space to play. The community does not want to give up their land for these needs if it is not paid. This attitude is contrary to the original nature of Acehnese, who is full of tolerance in the implementation of development. Based on the level of community participation in Banda Aceh, it is necessary to regulate the importance of participation in the implementation of development. The conception of the development participation model as regulated in BPN Regulation Number 4 of 1991 can be integrated into the regulations and policies of Banda Aceh to obtain the availability of land in the context of the implementation of development.

To prevent the disruption of the cultural values of the Acehnese people, the Government issued Law Number 24 of 2007 on Disaster Management which provides opportunities for various stakeholders to participate in disaster management including international institutions and foreign non-government organizations. The participation of international institutions and foreign non-government institutions in disaster management is strictly regulated in Chapter III Article 7 number 1 letter d and number 2 and Chapter VI Article 30 of Law Number 24 Year 2007 concerning Disaster Management, and Government Regulation Number 21 and 23 of 2008 on the Role of International Institutions and Foreign Non-Government Institutions in Disaster Management. International agencies and foreign non-government organizations can participate in disaster management if the Government declares that it needs and/or accepts assistance in accordance with regulations and needs in the affected area. Regulation of the Head of the National Disaster Management Agency Number 22 of 2010, concerning Guidelines for the Participation of International Institutions and Foreign Non-Government Institutions during emergency response, it should be in accordance with local values and culture, supports self-reliance, adequate to meet the needs of people affected by disasters and in accordance with applicable national and international quality standards.

3. PARTICIPATORY LAND CONSOLIDATION MODEL IN THE IMPLEMENTATION OF BANDA ACEH DEVELOPMENT

The model of community participation in land consolidation in several countries [22] namely Japan, Germany, and Thailand, land consolidation financing is carried out using funds originating from community land donations, government subsidies, and cooperation with banks. Collaboration between the community, Government and the private sector is the key to success in implementing consolidation.

The low of community participation level in Banda Aceh towards the implementation of development can be addressed by applying BPN Regulation Number 4 of 1991 concerning Land Consolidation. According to the regulation, Land Consolidation is a land policy regarding the restructuring of land tenure and its use as well as land acquisition efforts for development purposes, to improve the quality of the environment and the maintenance of natural resources by involving the active participation of the community. Thus, there are two things in terms of land consolidation, namely the first arrangement of control and its use, and secondly the acquisition of land for the implementation of development [23].

The principle of application of participation in the implementation of development in Banda Aceh, although using the pattern as regulated in the Land Consolidation Regulation, must still prioritize mutual agreement.

Article 4 paragraph (2) of the Head of *BPN* Regulation Number 4 of 1991, stated that land consolidation could be carried out with at least 85% of the landowners whose land area covers at least 85% of the total area of the land to be consolidated, declaring their agreement.

In Article 6 paragraph (1) the implementation of the arrangement of land tenure and its use of the object of land consolidation, the participants surrendered a portion of their land as donations of land for development which will be used for the construction of road infrastructure and other public facilities and financing for the implementation of land consolidation. With this participation model, the availability of land for development can be obtained, and funding for development costs can be overcome.

The land consolidation model derived from *BPN* Regulation Number 4 of 1991 can be integrated into various *Kanun* or Government policies regarding land tenure and its use in Banda Aceh. However, at present some of the canons relating to land use and management have not yet adopted the model of community participation, such as *Kanun* Kota Banda Aceh Number 8 of 2018 concerning Prevention and Quality Improvement of Slum Housing and Settlements. In Article 54 of the canon, it is stated that the prevention and improvement of the quality of slums and slums in the city is carried out by taking into account the religious values, customs and culture of Aceh and other local wisdom [24], and does not against the provisions of the legislation. One of the values of local livelihood that is very basic for people in Banda Aceh is participation. *Kanun's* goals are a) to prevent the growth and development of slums and new slums; b) to improve the quality of slums and slums in the form of housing and habitable housing in a healthy, safe, harmonious and orderly environment. The achievement of these goals depends on the arrangement of land tenure and land use arrangement. During this time, people in Banda Aceh in the control and use of land are based on the principle of participation, for example in building existing roads around housing by donating part of the land for road construction and cooperation. These local wisdom values are almost lost in the life of the people of Banda Aceh in the control and use of land.

Arrangement of control means making detailed regulation, especially regarding the subject and object correctly and clearly [25] rights to housing and settlement land. According to the Law on State Administration, the arrangement of tenure in order to orderly carry out the administration of land, having clarity of subjects and objects of land rights used for housing and settlements involves community participation to avoid considerable development costs and must be allocated in advance in development planning. Development can proceed even if the development budget has not been realized.

Participation in land consolidation can have an effect on re-developing the attitudes and atmosphere of family and mutual cooperation [26] of Banda Aceh people.

4. CONCLUSION

This study concludes that aid agencies, both national and international, have an influence on the level of

participation of Banda Aceh people in the arrangement of land tenure and its use. The low level of community participation is due to a large number of aid organizations that provide financial incentives to the people who work and contribute anything in the rehabilitation and reconstruction of Aceh. As a result, Banda Aceh people no longer want to work without pay and no longer want to donate their land for public facilities. Slum housing and settlements grow without adequate road facilities, no waterways and no open space for public playgrounds. This shift in value impacts the difficulty of carrying out development which generally requires land. The model of building community participation in accordance with National Land Agency Regulation Number 4 of 1991 concerning Land Consolidation, should have been applied in the arrangement of land tenure and its use in Banda Aceh.

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