

Marosok Tradition in the Process of Buying and Selling Cattle in Payakumbuh: A Comparative Study between Adat Law and Positive Law of Indonesia

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Abstract : Indonesia is a constitutional state. As the constitutional state, Indonesia is not only using a single legal system, but also adopting three legal systems consist of: The European continental legal system or positive law of Indonesia, adat law system, and legal system of religion. This study will discuss Marosok tradition in the process of buying and selling cattle in Payakumbuh: a comparative study between adat law and positive law of Indonesia. The objectives of this research are: First, to find the meaning of the philosophical of Marosok tradition in Payakumbuh. Second, to find the legal implications of the Marosok tradition reviewed aspects of adat law and positive law of Indonesia. Third, to find legal procedure in arbitrating the dispute wich is potentially appear in the post-process of buying and selling cattle based on positive law and adat law adopted in Indonesia. This research is empirical legal research that using two model approaches which are statute approach and conceptual approach. Data was obtained through interviews, observations, and documents or books. Then a method of data analysis used is inductive analysis. Finally, this study found that: First, tradition of Marosok contains the meaning of harmonization of social life that keep people from negative debate, envy, and arrogant. Second, Marosok tradition is one of the adat law in Indonesia; it is one of contract law in the process of buying and selling. If the comparison between the practice Marosok tradition as adat law with the provisions of Article 1320 book of civil code about the terms of the validity of a contract, the elements contained in the provisions of these regulations are met in practice Marosok. Thus, the practice of Marosok in buying and selling cattle process in Payakumbuh justified in view of the positive law of Indonesia. Last of all, all kinds of disputes arising due to contracts made by Marosok tradition can be resolved by positive law and adat law of Indonesia.

Keywords : Adat law, contract, Indonesia, Marosok

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