



## Settlement of traditional disputes on errors of implementation of traditional sanctions by pageu gampong

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### Abstract

Based on Article 18 of Aceh Governor Regulation Number 60 of 2013 concerning Implementation of Customary and Customary Dispute Settlement/Dispute which states that, 1). Customary court decisions are peaceful and binding, 2). Customary court decisions refer to deliberation for consensus." According to the Joint Decree (hereinafter abbreviated as SKB) between the Governor, Kapolda, and the Aceh Customary Council Number: 189/677/2011, 1054/MAA/X11/2011, B/121/1/2012, the administration of gampong and mukim customary courts or other names in Aceh in giving decisions are prohibited from imposing corporal sanctions, such as imprisonment, washing with dirty water, shaving hair, cutting clothes and other forms that are contrary to Islamic values. The results of this study indicate that, the role of the gampong apparatus in resolving disputes over gampong customary law against errors in the procedure for applying sanctions by the gampong pageu in Banda Aceh, namely Gampong Pineung in adjudicating acts prohibited in Article 13 of Aceh Qanun No. 9 of 2008 concerning the life of Customs and Customs, one of which is light theft and the method of settlement carried out by the village apparatus legally. After the perpetrators of the theft were arrested, the customary pretrial process was taken over entirely by the village apparatus, who previously had this role interfered with the local residents who angry about the theft in the village.

**Keywords:** dispute settlement, gampong customary law mistakes in implementing sanctions, and gampong pageu

### Introduction

Humans always live in society, so that human life in society is orderly and orderly, law is needed. Humans, society, and law are meanings that cannot be separated. The Roman proverb which states "ubi societas ibi ius" (where there is society there is law) illustrates this relationship very well. In the association between humans in society, it is not only regulated by law but is also guided by religion, morals, ethics, decency and other social rules. Between law and other social norms there is a close relationship, one strengthening the other. One thing that distinguishes law from other social norms is that compliance with legal provisions can be enforced in an orderly manner.

Law as a social rule cannot be separated from the values that apply in a society, it can even be said that the law is a reflection of the values that live in society. Good law is a law that is in accordance with the living law in society, of course it is a reflection of the values that live in society.

The values that live in society (behavior) may at first be a habit which later emerges as a feeling in a society that adheres to that habit into something appropriate. Something that should later become a custom. It is the proper element that makes it a custom, not an element of habit or custom. These rules of behavior become customary rules. From the rules of behavior, some become customary, some become law. The difference between custom and law is in the presence or absence of certain bodies which the state is given the task of determining, implementing, treating and maintaining the code of conduct in a certain way. These bodies include legislators, judges and others whose decisions have binding legal force.

So far, customary law is seen as unwritten law, although in practice customary law is written or documented, but the concept of unwritten law remains attached to customary

law. Along with the development of customary law where customary law has been formally recognized in legislation, such as Aceh, Papua, West Papua, Central Kalimantan, Central Sulawesi and in other blood areas, the force of entry into force may be enforced with the intervention of law enforcement officials, especially law enforcement officials. Village.

Customary law comes from Arabic, "Huk'm" and "Adah" (plural, Ahkam) which means orders or provisions. In Islamic law it is known for example "Shari'ah Law" which contains five kinds of orders or orders called "al-ahkam al-khamsah" namely fardh (mandatory), haram (prohibition), mandub or sunnah (recommended), makruh (reproach) and jaiz, mubah or halal (permissibility). This adah or custom in Arabic is called the meaning of "custom" which is the behavior of people who always occur. So "customary law" is "customary law".

Customary law is a customary rule that has long been known in Indonesia, such as in Aceh Darussalam during the reign of Sultan Iskandar Muda (1607-1636) the term customary law has been used, this is found in the book of Ma Baui-asSalatin law which is named "Adat Makuta Alam" . Hadih Maja shows that, Ma bain-as Salatin is another name for Acehnese customs. Then in the book "Safinatul Hukkam Fi Takhlisil Khassam" written by Jalaluddin bin Syeh Muhammad Kamaludin son of Kadhi Sultan Khatib Negeri Trussan under the orders of Sultan Alaidin Johan Syah (1781-1895). In the preamble of the procedural law book, it is stated that in examining a case a judge must pay attention to Syara Law, Customary Law, and Custom and Reusam.

During the Dutch colonial administration, the Governor-General sent Snouck Hurgronje and was appointed Advisor for Eastern Languages and Islamic Law, and sent him to go

to Aceh, because at that time the conditions in Aceh were very crucial for the Dutch Government, from Snouck Hurgronje's experience studying the language in Makkah, he quickly adjusted. At that time Van Heutsz gave a book in Arabic for Snouck to study.

In the social field, where the Dutch East Indies government set a policy to take advantage of indigenous customs and encourage the people to preserve them. This policy was based on the "reception theory" (theory in civil law) developed by Snouck Hurgronje in relation to Islamic law in the Dutch East Indies, which concluded that what actually prevailed in Indonesia was customary law, not Islamic law. Islamic law only applies in Indonesia if it has become customary law, so that when it will be enforced, Islamic law will appear as customary law, not as Islamic law. His theory, which has received much support from legal experts, is based on the idea that customary law is higher than Islamic law.

According to Teuku Juned, the word adat is defined as the rules or rules made by humans. Then it can be concluded that, customs are rules or rules made by humans that have been practiced since a long time ago in the form of actions, behavior, and words to regulate the rules of community members. Talking about Aceh's customary law, it cannot be separated from the early development of the entry of Islam in Aceh, this is in accordance with one of the Acehese philosophies which has always been used as a reference to this day. The philosophy reads,

"The law of traditional ngon hanjeut cree bree, lagee substance ngon sifeut"

Meaning: Islamic law is not separated from customary law, both are like substance (the substance of Allah) with His nature (the nature of Allah). The point is that customary law cannot be said to be customary law if it is contrary to Islamic law, when the law changes, the custom which is the substance of it adjusts to the rhythm of the law.

Aceh's customary law regulates the existence of Reusam as a source of law that must be able to realize order, order, peace and community welfare and can continue to be obeyed and implemented by the entire Gampong community. In formulating provisions/norms, reusam must take into account the needs and conditions of politics, social, economy, religion, culture, customs and local wisdom in order to avoid or prevent conflicts in the gampong concerned.

The legal basis for the application of customary law courts is contained in Article 18B paragraphs (1) and (2) of the 1945 Constitution which states,

1. "The state recognizes and respects special or special regional government units which are regulated by law.
2. The state recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated by law.

According to Law no. 11 of 2006 concerning the Government of Aceh, Chapter XIII concerning Customary Institutions states that the settlement of social problems in a traditional manner is taken through the Customary Institution. In order to prevent conflict in the gampong, Aceh Qanun Number 5 of 2003 concerning Gampong Government was born. emphasized that the duties and

obligations of the Gampong Government are:

- a. "Resolving customary disputes,
- b. Preservation and preservation of customs and traditions,
- c. Maintain peace and order and prevent the emergence of immoral acts in society,
- d. Together with Tuha Peuet and Imuem Meunasah, they are the judges of peace".

Based on Aceh Qanun No. 9 of 2008 concerning Customary and Customary Life in Article 13 it is stated that customary institutions have the authority to resolve 18 types of disputes or disputes which are then further clarified in Governor Regulation Number 60 of 2013 concerning the implementation of Customary and Customary Disputes/Disputes. The 18 types of disputes are:

- a. "Disputes in the household
- b. Disputes between families relating to faraidh
- c. Disputes between citizens
- d. Seclusion (perverted)
- e. Disputes over property rights
- f. Theft in the family (light theft)
- g. Disputes over common property,
- h. Minor theft
- i. Pet cattle theft
- j. Violation of adat regarding livestock, agriculture and forests
- k. Disputes at sea
- l. Disputes in the market
- m. Mild molestation
- n. Forest burning (on a small scale to the detriment of indigenous communities)
- o. Harassment, slander, sedition, and defamation.
- p. Environmental pollution (mild scale)
- q. Threatening threats (depending on the type of threat)
- r. Other disputes that violate customs and customs.

Based on Article 10 paragraph (2) of Aceh Qanun No. 9 of 2008 concerning Customary and Customary Life states, "every Law Enforcement Apparatus on duty in Aceh. Must understand and respect Aceh's customs and customs. This means that all forms of Qanun regulations in resolving customary disputes/disputes must be understood and respected by gampong officials in Aceh. In terms of the enforcement of customary law against the 18 types of violations above committed by the violators, the legal apparatus must also understand the custom itself, in accordance with religious values, morals, ethics, courtesy and other social rules. So that the enforcement of customary law itself does not violate customary law itself.

Article 2 Aceh Qanun No. 10 of 2008 concerning Customary Institutions states that:

1. "Indigenous institutions function as a vehicle for community participation in governance, development, community development, and the resolution of social problems.
2. The customary institutions as referred to in paragraph (1) are:
  - a. Aceh Customary Council;
  - b. imeum mukim or other names;
  - c. imeum chik or any other name;
  - d. keuchik or any other name;
  - e. tuha peuet or other names;
  - f. tuha eight or another name;

- g. imeum meunasah or other names;
- h. keujruen blang or other names;
- i. panglima laot or other names;
- j. glee/uteun handler or other name;
- k. seuneubok advice or other names;
- l. Haria Peukan or other names; and
- m. syahbanda or any other name”.

Technically, the operational procedures for resolving disputes/disputes in traditional villages have been regulated in Article 18 of Aceh Governor Regulation Number 60 of 2013 concerning Implementation of Customary and Customary Dispute Resolution/Disputes which states that,

1. “The decisions of the customary courts are peaceful and binding.
2. Customary court decisions refer to deliberation for consensus.”

Minor disputes/disputes that occur at the gampong and mukim levels as referred to in Article 13, Article 14, and Article 15 of Aceh Qanun Number 9 of 2008 must be resolved first through the Gampong and Mukim Customary Courts or other names in Aceh. The role of the police is to provide the opportunity for any dispute/dispute to be resolved first through the gampong and mukim customary courts or other names in Aceh.

According to the Joint Decree (hereinafter abbreviated as SKB) between the Governor, the Kapolda, and the Aceh Customary Council Number: 189/677/2011, 1054/MAA/X11/2011, B/121/1/2012, the administration of gampong and mukim customary courts or other names in Aceh in giving decisions are prohibited from imposing corporal sanctions, such as imprisonment, washing with dirty water, shaving hair, cutting clothes and other forms that are contrary to Islamic values.

Besides Aceh Qanun Number 5 of 2003 concerning Gampong Government which applies to the entire Aceh region. Banda Aceh City as the government at the city level issued Banda Aceh City Qanun No. 1 of 2019 concerning Gampong Government. Article 1 point 15 of the Banda Aceh City Qanun states that, reusam gampong is a gampong regulation that is determined by the Keuchik after being discussed and agreed with Tuha Peut. The gampong authorities according to this Qanun include:

- a. “authority in the field of gampong administration;
- b. authority in the field of implementation of gampong development;
- c. authority in the field of gampong community development; and
- d. authority in the field of village community empowerment.

Banda Aceh City Qanun No. 1 of 2019 has clearly provided space for the gampong to regulate the existence of running the gampong government, but also provides limitations in running the gampong government. The limitations are contained in Article 19 of the Banda Aceh City Qanun No. 1 of 2019, stipulates that gampong equipment is prohibited:

- a. “harming the public interest;
- b. violate Islamic law and commit other disgraceful acts;
- c. make decisions that benefit themselves, family members, other parties, and/or certain groups;
- a. abuse their authority, duties, rights, and/or obligations;
- b. carry out discriminatory actions against certain citizens

- and/or community groups;
- c. take actions to disturb the gampong community;
- d. commit corruption, collusion, and nepotism, receive money, goods, and/or services from other parties that may influence the decisions or actions to be taken;
- e. become the administrator of a political party; and
- f. become a member and/or administrator of a prohibited organization.”

The prohibition provisions above are also in line with several principles of customary justice including:

1. “Responsibility/Accountability,
2. Equality before the law/Non-discrimination (Equality before the law/Non-Discriminaton),
3. Settlement of peace/harmony (Peaceful Resolution),
4. The Presumption of Innocence,
5. Fair (Proportional Justice)”.

Settlement of customary disputes can be seen that, customary law does not distinguish between civil and criminal cases. In general, the procedure for resolving disputes through customary peace courts is carried out with procedures and stages, this is in accordance with the contents of Article 103 paragraph (1) of Qanun Number 1 of 2019 which states that, at the gampong level, customary Dispute resolution can be carried out by customary institutions in Dispute Settlement Council forum.

Then, at the gampong level, provisions are also set for resolving customary disputes in the gampong called reusam gampong. Of course, the gampong reusam must not conflict with the Banda Aceh City Qanun concerning Gampong Government and the Aceh Qanun which has a higher position. The reusam regarding dispute resolution at the gampong level is regulated in Chapter IV dispute resolution/customary disputes Article 4 Reusam Gampong Pineung Number: 01 of 2015 concerning Structuring the Implementation of Customs and Customs, Implementation of Islamic Shari'a in the Pineung Village Community, Syiah Kuala District, Banda Aceh City mention that,

Disputes/disputes between customs and customs include:

- a. domestic disputes;
- b. disputes between families related to faraid;
- c. disputes between citizens;
- d. lewd seclusion;
- e. disputes over property rights;
- f. theft in the family (minor theft);
- g. dispute over common property;
- h. petty theft;
- i. pet cattle theft;
- j. violation of adat regarding livestock, agriculture, and forest;
- k. disputes at sea;
- l. disputes in the market;
- m. minor abuse;
- n. forest burning (on a small scale to the detriment of indigenous communities);
- o. harassment, slander, sedition, and defamation;
- p. environmental pollution (mild scale);
- q. threatening threats (depending on the type of threat) and
- r. other disputes that violate customs and customs

1. Settlement of disputes/disputes between customs and customs as referred to in paragraph (1) shall be settled

- in stages.
2. Traditional settlements in Gampong are carried out by traditional leaders consisting of:
    - a. keuchik or any other name;
    - b. Immuem Gampong or other names;
    - c. tuha peut or other names;
    - d. village secretary or other name, and
    - e. ulama, intellectuals and other traditional leaders in the Gampong or other relevant names, as needed.
  3. The deliberation session for resolving disputes/disputes is held at the Meunasah or Darul Falah Mosque or other places designated by the Keuchik”.

However, in reality, in the jurisdiction of Banda Aceh City, there are still some gampongs that do not understand and appreciate the customs and traditions themselves. Pageu gampong who violate these provisions will not be subject to customary sanctions for those who violate them. In fact, if the village pageu violates these provisions, the punishment should be greater than that of ordinary people who make mistakes. The right term in this case is hedgerows.

The case that occurred in the city of Banda Aceh, gampong officials in the enforcement of gampong pineung customary law who made arrests for cases of khalwat and also cases of theft, where the gampong pageu immediately took action in the form of taking the law into its own hands, be it torture, bathing the perpetrators with sewer water and so on. Resulting in harm to the perpetrator.

Based on preliminary data collection through interviews at the Keuchik office in January 2020 there were two customary settlement disputes, first, in 2016 the gampong pineung apparatus had arrested a thief who was suspected of having entered an empty house in one of the housing estates in the gampong. This case was tried by gampong enforcement officers by bathing the perpetrators with sewer water and there were few indications of abuse from the village youth.

On November 26, 2017 in Gampong Pineung there was a light theft, namely the perpetrator stole a Sony brand cellphone. The actions given by the pageu gampong were violent, by beating and kicking the perpetrators of the theft until they were battered, this action was not in line with the contents of the Qanun of Banda Aceh City, and Reusam Gampong Pineung.

Another case, which occurred in Gampong Beurawe, was the plan to steal money from the mosque's charity box, in 2019, Perpetrator Sy (28), a resident from Tangse, Pidie, was secured by Al-Furqan mosque officials. According to the information, this perpetrator is a specialist in stealing money from charity boxes in mosques in a number of sub-districts in Banda Aceh City, because we found a lot of evidence and suspected the proceeds of crime. This security has an indication of minor mistreatment by residents. Residents are outraged by the actions of the perpetrators who dared to steal the Al-Furqan Mosque charity box. This security is stated in Reusam Gampong Beurawe Number 01 of 2014 concerning General Guidelines and Government of Beurawe Gampong.

The above dispute should provide legal certainty to the community, but in practice there are still elements in the village who arbitrarily treat perpetrators of customary law violators who are not prosecuted in accordance with

applicable laws and regulations, this is like a fence that eats plants, it means that the village apparatus is supposed to act in accordance with the Reusam gampong but, in fact, there are individuals who violate it themselves, therefore the author is interested in studying "settlement of customary disputes against errors in the application of customary sanctions by the village pageu".

Based on the background described above, the identification of the problem in this research is what is the role of the gampong pageu in resolving customary disputes in the gampong.

This type of research uses empirical juridical, namely, research on the role of law enforcers in carrying out their functions, which discusses how the law operates in government agencies, namely law enforcement. The data used are primary data and secondary data. Data collection techniques using interview techniques and reviewing documents and laws related to this research. Furthermore, the data is processed and analyzed using qualitative descriptive analysis techniques.

## Results and Discussion

### A. Gampong Customary Dispute Resolution

Punishment for violators is not only in the form of decisions of customary authorities or judges. However, punishment can also be in the form of reproach, not being spoken to, not being given a place in village ceremonies, being expelled or expelled from the legal community and so on. All public attitudes towards the person concerned are a form of social punishment for social actions according to customary law.

Customary law does not make a separation between violations of the law that require demands to reform the law in the criminal field and violations of the law that can only be prosecuted in the civil field. Therefore, the customary law system only recognizes one procedure for both civil prosecution and criminal prosecution. This means that legal officers are authorized to take concrete actions (customary sanctions) to correct the law that is violated.

Correction of the law that is violated so that it can restore the balance that originally existed, can be in the form of an action, but sometimes, given the nature of the violation, some actions need to be taken. To restore the legal balance, two kinds of efforts are needed, namely the payment of a fine to the affected family and the surrender of a sacrificial animal to the head of the alliance to make a traditional meal so that the community becomes clean and holy again.

Dispute resolution in customary law communities is based on the view of life adopted by the community itself. This view of life can be identified from the characteristics of customary law communities that are different from modern society.

Understanding the tradition of dispute resolution in customary law communities, it is necessary to understand the philosophy behind the occurrence of disputes and the impacts that occur as a result of disputes on the values and communities of indigenous peoples. This philosophy is very important to know in order to understand the decisions taken by customary holders (customary leaders) in resolving their disputes. Philosophical considerations based on a view of life are very important, because they can measure the level of justice, peace, sacrifice and welfare that will be felt by indigenous peoples, for the decisions taken.

Dispute resolution in customary law communities is determined by customary law values, traditional leaders, and

customary institutions. Customary law values are norms that become the standard of behavior patterns of customary law communities. This value is also a guide for traditional leaders in carrying out their duties to resolve disputes. Traditional leaders are people who have "customary charisma" and understand customary law that has been passed down from generation to generation. They become a reference in resolving disputes in customary law communities. Customary law is in their hands and they are the ones who inherit customary law and enforce it in the life of indigenous peoples.

The tradition of dispute resolution in customary law communities tends to use the "customary pattern" or in other terms it is often called the "kinship" pattern. This pattern is applied not only to civil disputes but also to criminal cases. Settlement of disputes in a customary pattern does not mean that there is no compensation or any punishment for violators of customary law. Penalties are still enforced in the form of corporal punishment and property compensation. The application of this penalty is highly dependent on the type and severity of the dispute between the parties. It is important to emphasize here that the essence of dispute resolution in customary law is to realize peace in a comprehensive sense. Peace is meant here not only for the parties or perpetrators and victims, but peace for society as a whole.

### B. The Role of Gampong Officials in Settlement of Customary Disputes Against Errors in Application of Customary Sanctions by Pageu Gampong

Gampong as the lowest government structure has been given autonomy in carrying out the wheels of government. Not only power in the gampong executive field, but also in exercising power in the judicial sector, for example implementing the Customary Court in resolving disputes or disputes that occur in the gampong.

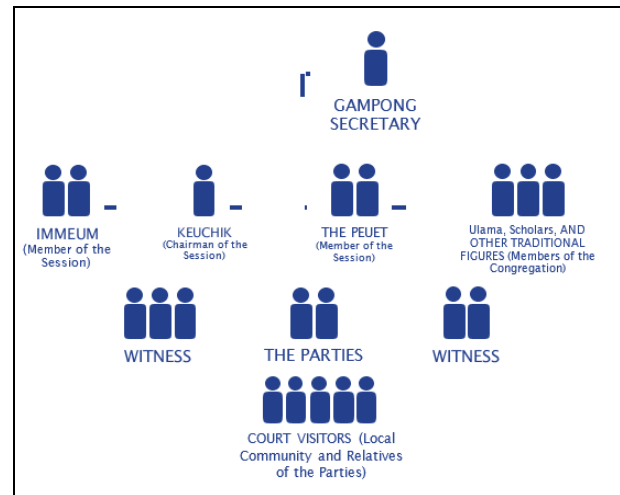
This authority is absolute. Legal institutions such as the Police provide the opportunity for any dispute/dispute to be resolved first through the Gampong and Mukim Customary Courts or other names in Aceh. However, this gampong decision is not final and binding. The Parties can still take other legal remedies to seek justice and legal certainty if they do not agree with the decision of the Customary Court. Attributive authority (authority based on the law), in addition to strengthening the existence of the gampong as a community of indigenous peoples, on the other hand, also assists law enforcement in solving community legal problems. Due to limited law enforcement resources and the community having difficulty accessing legal institutions, this has resulted in the slow settlement of cases. Justice seekers are also not fully satisfied with the decisions of formal legal institutions. This is different from the settlement of cases at the gampong level, where the parties can easily and freely prove. The customary justice mechanism uses the principle of deliberation for peace, in contrast to judicial institutions which are limited by formal rules. This Customary Court is in accordance with the principle of a simple and fast court,

Keuchik and other gampong apparatus must be able to accommodate all the interests of the parties and apply the principle of win-win solution in decision making. The mechanism used is very easy. From the stages of receiving reports, deliberations, and making decisions, they are arranged very simply and quickly.

The role for administering customary justice is carried out by several people who occupy certain positions in a gampong, namely:

1. "Keuchik (chairman of the trial)
2. Tuha Peut (trial member)
3. Imuen Meunasah (trial member)
4. Ulama, Scholars, Traditional Leaders (congregation members)
5. Gampong Secretary (Clerk of the Court)
6. Ulee Jurong (receiver of initial report)".

The layout of the gampong customary court trial can be seen in the following diagram:



**Source:** MAA, Aceh Customary Court Guidelines – For a Fair and Compatible Customary Court, Nanggroe Aceh Darussalam, 2008.

**Fig 1**

The organizers of customary justice as written above are not appointed or appointed "officially", but because of their positions as Keuchik, Imeum Meunasah, Tuha Peuet, and Ulee Jurong, they automatically become the organizers of customary justice. They are "officially" as organizers of customary justice, in fact, they are trusted by the community. Membership of the adat courts is not only limited to men but must also involve women. They are generally often involved as mediators and negotiators for cases involving women and children, even now there are many women's representatives who sit in the tuha peuet gampong or mukim. Being involved in solving a case is a big responsibility. Community members put their trust in traditional leaders to resolve disputes fairly and peacefully. The following are some of the responsibilities of adat stakeholders to ensure that the principles of adat justice are adhered to in any adat dispute resolution process. The main responsibilities of these customary holders are:

#### 1. Carry out the customary justice process

"Customary stakeholders are responsible for every stage of the customary court, starting from receiving reports, examining issues to the stage of the meeting preparation for the final trial and up to the giving of customary court decisions".

#### 2. Decide fairly

"Customary stakeholders must ensure that any decisions taken from a customary court process as far as possible

fulfill the sense of justice of the disputing parties, where decisions are made based on the results of the evidentiary and deliberation process, not based on the interests of one of the disputing parties".

### 3. Protect the rights of the disputing parties

"Customary stakeholders are responsible for fulfilling the rights of the disputing parties starting from the process of receiving reports, examining issues, the trial process to the stage of implementing decisions in court".

Technically, the operational procedures for resolving disputes/disputes traditionally in the gampong have been regulated in a Joint Decree (SKB) between the Governor, Kapolda, and the Aceh Customary Council dated December 20, 2011, which is described in Aceh Governor Regulation Number 60 of 2013 concerning Implementation of Dispute Resolution/ Customs and Customs Disputes. In the SKB several decisions were made:

1. "Disputes/disputes that occur at the gampong and mukim levels that are mild as referred to in Article 13, Article 14, and Article 15 of Aceh Qanun Number 9 of 2008 must be resolved first through the Gampong and Mukim Customary Courts or other names in Aceh.
2. Police officers provide an opportunity for any dispute/dispute as referred to in the FIRST dictum to be resolved first through the Gampong and Mukim Customary Courts or other names in Aceh.
3. all parties must respect the implementation of the Gampong and Mukim Customary Courts or other names in Aceh.
4. Gampong and Mukim Customary Courts or other names in Aceh in resolving and giving decisions based on customary law norms and customs that apply in the local area.
5. The trial of the Gampong and Mukim Customary Courts or other names in Aceh is attended by the parties, witnesses and is open to the public, except for certain cases which according to custom and propriety should not be open to the public and free of charge.
6. The decisions of the Gampong and Mukim Customary Courts or other names in Aceh are final and binding and cannot be submitted again to the general court or other courts.
7. Every decision of the Gampong and Mukim Customary Courts or other names in Aceh is made in writing, signed by the Chair and Members of the Council as well as both parties to the dispute, and a copy is submitted to the Head of the Sector Police (KAPOLSEK), the Camat and the Aceh District Customary Council.
8. The implementation of the Gampong and Mukim Customary Courts or other names in Aceh in giving decisions is prohibited from imposing corporal sanctions, such as imprisonment, washing with dirty water, shaving hair, cutting clothes and other forms that are contrary to Islamic values.
9. Cases that are resolved at the Mukim level are cases that are not completed at the gampong level.
10. The Aceh Government and the District/City Governments foster and supervise the implementation of the Gampong and Mukim Customary Courts or other names in Aceh.
11. The Head of the Aceh Regional Police and the Chair of the Aceh Customary Council and all their staff

(provincial, district/city) are obliged to provide guidance, guidance, development and supervision of Customary Law and Customary Court Administration materials in accordance with the order and principles of Customary Law/Customary Customs that applies to the local community.

12. The Aceh Government and District/City Governments can assist with administrative financing for the implementation of the Gampong and Mukim Customary Courts or other names in Aceh according to regional capabilities.
13. Gampong and Mukim Customary Courts or other names in Aceh in resolving disputes / disputes are guided by Aceh Qanun Number 9 of 2008 and Aceh Governor Regulation Number 25 of 2011 concerning General Guidelines for the Implementation of Gampong Government.

The pattern of dispute resolution/disputes based on Aceh's legal culture as stated above has implications, on the one hand, strengthening gampong autonomy and at the same time reducing the workload of law enforcement officers (police, prosecutors, state judges). But on the other hand, it is necessary to increase the capacity of gampong leaders, so that their wisdom, policies, and expertise in resolving various cases in the gampong can provide a sense of justice for its citizens.

Cases in customary courts can be categorized into two types, namely, cases involving two or more parties (both civil and criminal) and cases involving only one party, namely if there is a violation of customs by someone.

In the case that occurred in the city of Banda Aceh, gampong pineung officials in the enforcement of customary law have arrested the perpetrators of the khalwat case and also the theft case, where the gampong pageu immediately took action in the form of taking vigilante actions such as bathing the perpetrators with sewer water and also indicated minor abuse, this resulted in losses for the perpetrators from the youth of the village.

On November 26, 2017 in Gampong Pineung there was a light theft, namely the perpetrator stole a Sony brand cellphone. The actions given by the gampong pageu in the form of violence, by hitting and kicking the perpetrators of the theft, this action is not in line with the contents of the Banda Aceh City Qanun and Reusam Gampong Pineung.

The dispute in Beurawe Village, over a plan to steal money from the mosque's charity box, in 2019, Perpetrator Sy (28), a resident from Tangse, Pidie, was secured by Al-Furqan mosque officers. According to the information, this perpetrator is a specialist in stealing money from charity boxes in mosques in a number of sub-districts in Banda Aceh City, because we found a lot of evidence and suspected the proceeds of crime. This security has an indication of minor mistreatment by residents. Residents are outraged by the actions of the perpetrators who dared to steal the Al-Furqan Mosque charity box.

In Reusam Gampong Beurawe Number 01 of 2014 concerning General Guidelines and Government of Gampong Beurawe Article 74 states that, for pageu gampong who receive sanctions for their actions are in the form of:

1. rebuke;
2. Warning;
3. Suspension;

4. Dismissal;
5. Other forms of sanctions are determined in the results of the meeting.

Therefore, the gampong pageu cannot take arbitrary actions against residents or the general public. According to interviews, the role taken by gampong officials in Banda Aceh City in resolving disputes sometimes cannot be done because of the anger from the community at the time the dispute occurred, for example, if there is a provocateur to take arbitrary action, the community members can no longer on the back again.

After the anger subsides, the gampong apparatus can only take a full role in resolving disputes, this is also done to protect the rights of the perpetrators of customary crimes. The role of the gampong pageu also experienced deviations from the norms contained in the gampong reusam, this happened because many members of the community had a lack of understanding of the gampong reusam, so they seemed to not respect and obey the reusam. So, reusam gampong needs to be given training to understand the substance and its implementation to community members in resolving customary cases by law enforcement officers in the gampong.

The role of the gampong apparatus in Banda Aceh, namely Gampong Pineung, in prosecuting acts prohibited in Article 13 of Aceh Qanun No. 9 of 2008 concerning Indigenous and Customary life, one of which is light theft. The chronology of events in Gampong Pineung Banda Aceh gampong officials in the enforcement of customary law of gampong Pineung who made arrests for cases of theft, where the village pageu immediately took action in the form of taking the law into its own hands, either committing abuse, bathing the perpetrators with sewer water and partly causing losses to the community. Perpetrator. In 2016 the gampong pineung apparatus had arrested a thief who was suspected of having entered an empty house in one of the housing estates in the gampong. Furthermore,-

The settlement method carried out by the gampong apparatus legally is that after the perpetrators of the theft are arrested, the customary pretrial process is taken over entirely by the gampong apparatus, who previously had this role interfered with the local residents who were furious about the theft in the gampong.

The role of Keuchik as chairman of the trial to prosecute the perpetrators is to make a decision to pay diyat to the gampong in the form of a sum of Rp. 2,500,000 (two million five hundred thousand rupiah) which took place at the Keuchik Gampong Pieneung office, the perpetrator was secured in the Keuchik office for several hours and after the evidence of the theft was returned to the victim and the perpetrator was obliged to compensate for the loss in securing the village.

This is done after the adat holders and gampong leaders are more prominent and their active nature is also greater. Not infrequently Keuchik will ask the victim of the theft of the disputing party to seek detailed information about the existing problem. This action is an effort made with the intention of reducing the level of tension over the dispute faced by the parties and as a form of negotiation that Keuchik is trying to build to get a peace agreement. When Keuchik has received sufficient information from both parties regarding the matter, then the parties will be invited to meet in person.

Then, after the outcome of this reconciliation was carried out, the parties from the perpetrators asked the customary holders to be held accountable for the acts of violence he received at the time of his arrest, which according to him had violated the rules of customary law or reusam in force in the gampong. Because the perpetrator felt that he had been harmed, the Keuchik negotiated again regarding the acts of violence that the perpetrator experienced during the arrest process involving the village apparatus.

However, in the trial Keuchik did not get the word peace, because the perpetrator asked for compensation for the violence received, and this was not regulated in the Qanun or Reusam, it should be in accordance with Banda Aceh Qanun Number 1 of 2019 concerning Gampong Government which states that, at the gampong level, Customary dispute resolution is carried out by customary institutions in the Dispute Settlement Council forum, if there is no peace, then it is continued at the mukim court level.

However, the above was not implemented, the perpetrator immediately made a report to the police for the abuse he received, because the perpetrator felt that he did not get legal certainty in the gampong court, therefore, the police as a general legal apparatus in following up violence against the perpetrator gave an understanding to the perpetrator that the the police must provide the opportunity for the case to be resolved first through the village court and the police here are only the mediating party.

During the peace mediation process, the parties involved negotiated again to obtain peace between the disputing parties, after this the perpetrators received compensation from the parties involved, because if not, the legal route of punishment would be used.

According to the theory of dispute resolution in this customary court, it has violated the applicable legal rules if the police directly process reports from the perpetrators, because the police cannot resolve customary disputes, this is contained in Article 1 number 15 of Banda Aceh City Qanun No. 1 of 2019 concerning Gampong Government states that, reusam gampong is a gampong regulation set by Keuchik after being discussed and agreed with Tuha Peut. Existence to run the gampong government, but also provide limitations in running the gampong government. However, the police must provide an opportunity so that any disputes/disputes can be resolved first through the gampong and mukim customary courts or other names in Aceh.

Existence Reusam Gampong as a source of law must be able to create order, order, peace and welfare of the community and can continue to be obeyed and implemented by the entire Gampong community. In formulating provisions/norms, reusam must take into account the needs and conditions of politics, social, economy, religion, culture, customs and local wisdom in order to avoid or prevent conflicts in the gampong concerned.

However, in practice this has not been fully fulfilled as described above. The content of the gampong reusam must not conflict with the Banda Aceh City Qanun concerning Gampong Government and Aceh's Qanun which has a higher position. The reusam regarding dispute resolution at the gampong level is regulated in Chapter IV dispute resolution/customary disputes Article 4 Reusam Gampong Pineung Number: 01 of 2015 concerning Structuring the Implementation of Customs and Customs, which only states the settlement to the perpetrators, but does not regulate when the village apparatus violate the rules in the settlement

of customary disputes.

Therefore, here there is a vacuum of customary law in the role of resolving customary disputes in legal substance, this settlement is not only for customary dispute actors, but gampong officials as law enforcers who violate the action of customary actors can also be punished by customary law. Thus, then customary law can provide legal certainty in its entirety and in detail.

So, the role of customary dispute resolution needs to be reformed by law or adding substance in accordance with the cases described above in order to provide legal protection for the community and especially for village officials who violate customary law. Then the theory of dispute resolution can run according to what is expected by the state.

### Conclusion

The role of the gampong apparatus in resolving gampong customary law disputes for errors in the procedure for applying sanctions by Pageu Gampong Keuchik, Imum Meunasah and Ulee Jurong took the role of resolving minor theft disputes in a traditional manner as a whole to obtain peace and compensation to the gampong as an effort to restore the village from riots what happens, then the compensation money is entered into the village treasury. Then the error in the implementation of the customary court, the role of the customary holder took a stance to conduct deliberation and apologize to the perpetrators as a whole on behalf of the gampong, but this could not be taken for granted by the perpetrator because he felt very disadvantaged from the violent incident he experienced, so that there is a need for a further process in resolving errors in the application of customary disputes which are a form of non-litigation settlement as a whole. The theory of legal certainty can actually be used when there is a legal vacuum in the application of customary law as a form of settlement of customary law.

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