

Implementation of "*Parak*" Customary Sanctions Against *Satu Belah* Marriage According to Gayo Customary Law (A Research in Central Aceh District)

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ABSTRACT

This study explores the use of Parak customary sanctions in the Central Aceh District under Gayo Customary Law. This study employs a descriptive-analytical empirical juridical method. Two sub-districts in Central Aceh Regency were chosen for the study. The study's findings indicate that Parak customary sanctions have been commonly used in two subdistricts of the Central Aceh Regency due to the absence of standard rules. Since customary law is a living document that changes with the times, the traditional Parak punishments or customary fines meted out to violators of *Satu Belah* weddings differ per community. Parak customary sanctions are administered by a local customary government agency known as "Sarak Opat."

KEYWORDS: Customary Law; Marriage; *Satu Belah*; Parak.

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I. Introduction

There are fourteen (14) subdistricts in the Central Aceh Regency of Aceh Province, Indonesia. Astronomically, the location of Aceh Tengah is between 40 10' 33" and 50 57' 50" north latitude and 950 15' 40" and 970 20' 25" east longitude. Central Aceh Regency is geographically bordered by Bener Meriah to the north, Gayo Lues to the south, Nagan Raya to the west, and Aceh Timur to the east. The majority of Central Aceh Regency's, around 212,494 inhabitants in 2020 is belong to the Gayo Tribe.^[1]

Customary law is a habit or culture of the people in a particular location, and it is a component of the national legal system of Indonesia. The term customary law is derived from the Dutch word "*adatrecht*," which was coined by Snouck Hugronje and popularized by Van Vollen Hoven. "*Adatrecht*" refers to religious laws, people's institutions, customs, original institutions, etc. In accordance with the provisions of Article 75 RR (*regeringsreglement*), customary law is a body of law governing religion and customs.^[2]

According to the people of Central Aceh Regency, customs are values, norms, obligations, and habits that have been ingrained in social life for generations. For instance, the purpose of the marriage process is not only to unite two individuals in a relationship based on mutual agreement, affection, and trust, but also two families. Traditionally, marriage also aims to foster a relationship between the bride and groom's families. Marriages that do not adhere to customary laws and customs can cause social alienation and even hostility.^[3]

According to customs, marriage is about the personal and familial affairs of the bride and groom, who have merged and formed a new relationship. Marriage is an inner and outer bond between a man and a woman to establish a happy and eternal family on the basis of the One Godhead.^[4]

Society acknowledges the existence of kinship resulting from marriage. In the legal system of marriage, endogamy (marrying a relative), eleuthero gamy (not recognizing the prohibition on marriage), and exogamy (marrying someone outside the kinship) are recognized.^[5] *Belah* refers to a relative or family member who shares the same ancestry. Each member of *the Belah* adheres to a set of values and standards that have been agreed upon since the beginning of time, to the point where it has become a habit that is recognized and observed to this day.^[6]

Satu Belah marriage is one form of customs violation. This is because *Belah* is a genealogical unit, and a *Satu Belah* marriage is viewed as detrimental to *Belah* (traditional violation).^[7] *Satu Belah* marriages are viewed as inappropriate, so if a resident performs one, they will be subject to customary sanctions known as *Parak*.^[8]

Because the people of Central Aceh Regency, Aceh Province, Indonesia adhere to an *exogamous* marriage system, *Satu Belah* marriages are deemed a violation of custom and must be sanctioned by a *Parak* customary punishment. Currently, the Lut Tawar and Bintang subdistricts in Central Aceh District are subject to the *Parak* customary sanctions. The researcher is interested in *Parak* customary sanctions in *Satu Belah* marriages based on this description.

The name *Parak* is derived from the Arabic word "*faraq*," which means to be separated from the community for a period of time or expelled from the village.^[9] Article 13 (1) of Aceh Province Qanun Number 9 of 2008 concerning the Guidance of Customary Life and Customs states that custom can be used to resolve various types of societal disputes. The conclusion of customary court dispute resolution is the imposition of implementing sanctions following the issuance of a customary decision.^[10] Then, in Chapter VII, Article 16 of the qanun describes how to resolve customary conflicts, including expulsion from the village or payment of a fine.^[11]

Four customary bodies known as *Sarak Opat* administer *Parak* customary sanctions. These bodies consist of the village head (*reje*), the leader of the shari'ah leader (*imem*), village traditional leaders (*petue*), and representatives from all facets of society (*rakyat genap mufakat*). *Sarak Opat* can apply *Parak* customary sanctions and determine customary fines for violators of *Satu Belah* marriages or other customary regulations in the Central Aceh Regency.

II. Research Methodology

This research was conducted in the Lut Tawar and Bintang Subdistricts of the Central Aceh Regency. This study employs an empirical legal methodology grounded in normative legal science (laws and regulations). This study does not examine the system of norms in the rule of law; rather, it examines the reactions and interactions that occur when the system of norms functions in society.^[12] This study was analyzed using a descriptive-analytical method that describes the facts involved in applying customary sanctions to customary disputes based on statutory regulations. The data is then processed using a qualitative approach, i.e., a method that examines the problem at the time the research is conducted, with a theoretical foundation as a base, so that the research conducted is consistent with the facts of the field.

This study's data were derived from both primary and secondary sources. Primary data are data collected directly from the field (field research) from parties associated with the organizers of customary fines, in this case the *Sarak Opat* institute. In contrast, secondary data consists of information gathered from library research involving books, laws and regulations, and other relevant materials. This study's data were collected by conducting direct interviews with respondents and informants as follows:

1. Respondents:
 - Village Head (*reje*) 4 people;
 - Village Traditional Leader (*petue*) 4 people; and
 - The *Satu Belah* marriage perpetrator 2 people.
2. Informants:
 - Gayo Customary Council 2 people;
 - Residents 4 people.

III. Findings

a. *Satu Belah* Marriage and *Parak* Sanction

The Indonesian legal system refers to customary law as unwritten law, distinguishing it from written law. Although customary law is occasionally recorded and documented in practice, its undocumented nature continues to be observed.^[13]

Customary law is a social product that belongs to the social community of indigenous peoples and is the result of collaboration, agreement, or joint work. In Indonesia, the application of customary law varies significantly from region to region. Some regions use customary law, which is very similar to religion (Islamic law), while others are animist, patrilineal (following the father's lineage), matrilineal (following the mother's lineage), or parental (following the father's and mother's lineage).^[14]

In traditional communities, marriage is a sacred institution. There are several marriage legal systems, including endogamy (marrying a relative), eleuthero gamy (not recognizing the prohibition on marriage), and exogamy (marrying someone outside the kinship).^[15] In the society of Central Aceh Regency, the marriage system must adhere to the exogamy system, which mandates that individuals marry outside of the *Belah* (lineage). This is something that was practiced by ancestors in the past and was integral to the community.^[16]

Belah refers to kinship members who are considered to be a single family or share a common ancestry. Each member of the community binds themselves to a system of values and norms that have been agreed upon since the dawn of time, so that it becomes a habit that is recognized and applicable to the present day.^[17] *Belah* derives from the Arabic word for "tribe" which refers to a community of *Belah* individuals who share a common

ancestry. All citizens are subject to the values and rules that have been acknowledged by the community, and this has become an enduring custom. The purpose of *Belah* is for individuals to become acquainted with one another in order to respect and assist one another.^[18]

According to traditional village leaders (*petue*), the customary law (prohibition of *Satu Belah* marriage) applicable to the citizens of the Central Aceh Regency does not conflict with Islamic Religious Law.^[19] According to Van Den Berg's explanation of the *Receptio Incomplexu* Theory in Sayuti Thalib's book, "as long as the opposite can be demonstrated, indigenous law follows their religion, because if you embrace religion, you must also follow the religious law faithfully."^[20] Islamic law prohibits marrying someone from the same nursing mother (one mother), but marriage within the same tribe is permitted. According to Gayo Customary Law, however, Central Aceh Regency residents are prohibited from marrying within their own tribe.

To prevent marriages between members of the same tribe, the community and the *Sarak Opat* Institute enacted a law known as *Parak* sanction. A proverb in the Central Aceh Regency says that "*edet muperala agama mubeza*" which means "strong religious customs are preserved" which easily understood by customary law is the fence of religion. However, there are still individuals in Central Aceh Regency who practice *Satu Belah* marriages.

In each village in the two subdistricts of Central Aceh Regency, the customary *Parak* sanctions were implemented differently. The *Sarak Opat* Institute makes no standard decisions in each village.

The *Parak* customary sanction is applied to *Satu Belah* marriages in Central Aceh Regency because the marriage is deemed to be in violation of local customs regulations. Because *Belah* is a genealogical unit, a *Satu Belah* marriage is considered to cause harm to the *Belah*, which is a customs violation that must be punished with customary sanctions. In the Central Aceh Regency, only *Satu Belah* marriages have been subjected to the application of *Parak* customary sanctions.

Satu Belah marriages that occur in the Central Aceh Regency are deemed non-traditional. According to customary rules, *Satu Belah* is considered a blood relative who maintains a strong sense of closeness and kinship with other village relatives. Thus, the *Belah* view the *Satu Belah* union as unnatural and destructive. The prohibition on marriage between *Belah* is a norm that has been passed down from generation to generation to preserve self-respect and prevent Shari'ah violations. This prohibition is also intended to preserve social order and harmony. Currently, the community maintains and enforces the norms despite the fact that some offenders have committed multiple violations for which they will be shunned.

People can become citizens of a *Belah* in a village, if they meet three elements, namely:^[21]

1. The original inhabitants of the village by descent and birth;
2. Residents become residents of one side due to buying land in the village; and
3. The villager's wife is married to an immigrant tribe, such as the Acehnese.

This study examines the application of Gayo customary law-based *Parak* sanctions to *Satu Belah* marriages in Central Aceh Regency. Observations were conducted in two subdistricts: Lut Tawar District, comprised of Bujang Village and Toweren Toa Village, and Bintang District, comprised of Kejurun Syiah Utama Village and Bewang Village.

According to the findings of the study, the application of *Parak* customary sanctions in Lut Tawar District's Bujang Village and Toweren Toa Village consisted of expelling the perpetrators of *Satu Belah* marriage for two years. In Bujang Village, *Parak* sanctions can be redeemed by providing food for the villagers. In Toweren Toa Village, the *Parak* customary sanctions can be redeemed by voluntarily working in agricultural areas of the village for one harvest season or by raising buffaloes until they produce young. Another option is to slaughter a buffalo to provide food for the villagers.

The application of *Parak* customary sanctions for the Bintang Sub-district in Kejurun Syiah Utama and Bewang Village differs little from the Lut Tawar District's villages. Adultery, incestuous marriages, and disobedience to the village chief were punishable by the traditional *Parak* sanction in the village of Kejurun Syiah Utama. In Bewang Village, customary *Parak* sanctions are also imposed on marriages between individuals whose parents reside in the same village. Therefore, despite the fact that the spouses come from different families, they are still considered *Satu Belah* because they reside in the same village. Also, if the *Parak* customary punishment consists of a fine, it must be redeemed immediately. If not redeemed, the perpetrator and his family will be excluded from village social activities.

b. Lembaga customary *Sarak Opat*

The *Parak* sanctions imposed on the subdistricts of Lut Tawar and Bintang are determined by four traditional government institutions known as *Sarak Opat*. The institutions that comprise *Sarak Opat* are:^[22]

1. The village head (*reje*);
2. Shari'ah (Islamic) leader (*imem*);
3. Village traditional leaders (*petue*); and
4. Representatives from every element of society (*rakyat genap mufakat*).

For perpetrators of *Satu Belah* marriages or other violations of customary regulations, the *Sarak Opat* institution can apply *Parak* customary sanctions and determine customary fines. The *Sarak Opat* Institute engages in deliberations to plan, implement, supervise, and evaluate community-beneficial development programs in accordance with applicable regulations. Additionally, it has the authority to investigate, prosecute, and punish those who violate societal norms.

In accordance with the mission of the *Sarak Opat* institution, village heads (*reje*), Islamic leaders (*imem*), village traditional leaders (*petue*), and representatives from every segment of society (*rakyat genap mufakat*) must understand and obey sharia, positive law, and customary law, as well as be loyal to the people they lead. Members of *Sarak Opat* must have an intelligent disposition, be adept at studying science, and be diligent in their reading, research, and problem-solving abilities. The members of *Sarak Opat* must also be diligent (*lisik*), noble, disciplined, creative and productive, quick (*bidik*) and organized in their thought processes, as well as open-minded, robust (*mersik*), and tough. *Sarak Opat* members must also adhere to principles, be physically and mentally healthy, be willing to make decisions based on the truth, and be accountable.^[23] All of these qualities and values are designed to solve commonplace issues. The institution of *Sarak Opat* can provide community justice so that existing indigenous institutions can grow, develop, and restore balance.

c. The absence of standard *Parak* Sanctions

In each village, the nature of customary law that follows the times (*mulur mungkret*) determines the form of sanctions (duration, number, and type) imposed on violators of *Satu Belah* marriages (customary *Parak* and fines). The current application of *Parak* customary sanctions in two subdistricts of the Central Aceh Regency is extremely diverse. This is due to the absence of a standard rule. Moreover, the application of *Parak* customary sanctions against *Satu Belah* marriages among the people of Central Aceh Regency demonstrates legal pluralism, which makes its existence difficult to acknowledge when resolving legal conflicts.

Obviously, if customs still need to be preserved and developed, a framework or reference must be established as a standard for implementing customs and culture. Then, in terms of developing customs and cultures, it is necessary to select and adopt values that are not categorized as negative. To be beneficial for indigenous peoples, only cultures and customs with positive values must be developed. Numerous factors must be considered in order to revitalize customs and culture, including how to unite the perceptions of all relevant layers and how the system is handled or preserved so that it is effective and appropriate.^[24]

IV. Conclusion

It can be concluded from this research that:

1. *Parak* customary sanctions on *Satu Belah* marriages are still applied in two sub-districts in Central Aceh District, namely Lut Tawar District and Bintang District.
2. The application of *Parak* customary sanctions varies between villages and subdistricts. This occurs due to the nature of customary law, which is strongly influenced by the times (*mulur mungkret*), and the lack of a standard for determining the type of *Parak* sanctions that must be applied.
3. The *Sarak Opat* Institution, composed of the village head (*reje*), the leader of the shari'ah implementer (*imem*), traditional village leaders (*petue*), and representatives from every segment of society (*rakyat genap mufakat*), administers *Parak* customary sanctions.

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