State legal pluralism: the intersection of adat, jinayah, and national penal law in Gayo, Indonesia

Arfiansyah, A.

Chapter III
Temporary Uses and Changes of Adat

Introduction

The intersection of adat and state penal law relating to minor cases in this chapter starts the discussion of the intersection of the three penal law systems: adat, Aceh Shari'a and Indonesian national penal law. Here, I investigate the interest of formal and informal actors regarding adat and the effect of state recognition of adat on the authority of village elites, on the disputants, and on the state itself.

In this chapter, I argue that adat law of the Gayonese is a transformative collective idea, which contains several manifestations of religious teachings (some other adat in Indonesia also include religious teachings such as Christianity in the Toba Batak communities of North Sumatra (Bemmelen, 2012) or Hindu in Bali (Widnyana, 2013)). Adat is used to maintain social stability and continuity, as it cents on the village and extended family. It is a manifestation of religious teachings, which is also found in some other places in Indonesia like. By a transformative collective idea I mean that adat changes over time as a consequence of adaptation to external influences, whether religious campaigns, government projects, or secular norms. The outcome of the transformation varies from one place and time to another.

Adat law is also itself an instrument for social transformation, not only a source of law of limited importance. Transforming the content of adat affects the way the Gayonese live and the way they judge their actions and those of others. In the process of transformation, adat becomes an arena for contestation about how Gayonese should lead their life.

In this chapter, I also demonstrate the usefulness of adat for the government following adat's institutional recognition. The codification of adat has moved its jurisdiction from persons to territory, and has sharpened adat differences from one village to another. In addition, the formalization of adat penal law constrains the freedom of disputants to choose among the existing laws but provides an opportunity for state legal agencies to choose an appropriate law to suit their interests. As a result, the changes have not been very favorable for justice seekers.

Adat

The term adat (*êdêt* in Gayonese) is used and understood differently by diverse communities in Indonesia. The practice of adat encompasses all aspects of the life of a community. Adat can refer to a set of social practices and organization,

but also to a sense of appropriateness, habits, tradition and custom, art, and to a set of rules. Dutch anthropologists and colonial officers in the East Indies of the past preferred to use the word "adat" over "indigenous custom." "Indigenous custom," according to Van Vollenhoven, conveys a narrow understanding of adat as it excludes external elements, such as, religion (Vollenhoven, 1981, pp. 5). The Dutch also identified a legal aspect that was embodied in adat. They added the word "law" to it. This was meant to distinguish adat with legal consequences from mere social norms, and to stimulate Dutch officials to investigate and collect adat rules that could be applied by the colonial administration and in the colonial courts (Vollenhoven, 1981, pp. 4–5).

Dutch scholars, like Van Vollenhoven, Snouck Hurgronje and Ter Haar argued that adat law is separated and therefore independent from, religious law. Religious law, such as Shariah, is referred to independently by concepts such as *agama* (Javanese), *hukum* (Acehnese and Gayo), and *hukum agama* (Southern Sumatra) (Vollenhoven, 1981, pp. 4). Snouck Hurgronje was influential in proposing this argument. He has argued that Islamic law was applicable only when accepted in adat law, thus limiting its scope to family issues (marriage, inheritance and divorce) (Thalib, 1982, pp. 23). Snouck, Van Vollenhoven and Ter Haar thus rejected the theory proposed by their predecessor, Dutch professor Van Den Berg, who argued that for Muslims of the East Indies, with some deviations, Islamic law was the central reference (Thalib, 1982, pp. 15–18; Huis, 2015, pp. 39). Their thought has become the main reference in discussions about adat law and Islamic law until the present.

The concept proposed by these Dutch scholars is still reflected in the work of recent scholars who have carefully observed the development of adat. Bowen, for example, defines the adat of the Gayonese as distinct from Islamic law and state law. He defines adat of the Gayonese as "...certain ideas of collective social continuity, centered on the village and the descent line, that are to be distinguished from the rules of Islamic law, or the workings of the state. As they are represented and typified at such "metanormative" moments of contrast, adat norms highlight the values of maintaining links to the ancestor" (Bowen, 2003, pp. 44). The given definition is most probably grounded in the property system of the Gayonese and its link to ancestry underlying Gayo's adat on inheritance in contrast to the Islamic principle of individual ownership is based on the principle that a deceased transfers ownership to his/her living descendants. Bowen's definition of adat law is reflected in much of his work discussing adat law relating to family issues and his analysis of inheritance proceedings in the state religious courts. Bowen demonstrates that Gayonese Muslims always try to reconcile and select

among competing sets of values and norms. At the same time, he shows that Islam is central in the reconciliation from which the Gayonese take reference justifying their interests and producing legal reasonings. (Bowen, 1988, 1991, 2003, p. 30).

Other scholars consider adat as having an anti-Islam aspect. David Henley and Jamie Davidson, for example, have argued that the current revival of adat in Indonesia is concentrated in areas where Christianity or Hinduism blocks the progress of Islam or where pre-Islamic elements remain unusually important in the social life, such as in the Minangkabau community (Henley and Davidson, 2008, pp. 843–844). They further say that

> "...burgeoning Islamic revivalist (*dakwah*) movement and its attempt to promote the implementation of Shari'a (Islamic law) show some striking parallels with the adat revitalization... adat revivalism inevitably involves a strong anti-Islamic element" (Henley and Davidson, 2008, pp. 843–844) .

However, Aceh Province provides a completely different picture. In post-authoritarian Aceh, Sharia and adat have been formally revived through different regional regulations with the support of many inhabitants. In practice, supporters of Shari'a or adat have forged a system in which Shari'a and adat co-exist and complement each other. This development has made Aceh province unique in Indonesia, with both adat and Shari'a having become parts of the state legal system. In the coastal areas of Aceh province, adat has inspired local people to increase control over what they consider immoralities. In the name of Shari'a, and sometimes adat, people find justification to act violently toward those who break local norms . This work (see chapter IV) also finds a clear relationship between Islam or Shari'a with the current revival of adat in Gayo. Adat is important not only for the Gayonese to stress their identity, but it is also important for the government to support the enforcement of Aceh Shari'a and national law to increase social order and stability.

The current development of adat law and Shari'a in Aceh province, particularly in Gayo, has made clear to me that adat law of the Gayonese today is a mixture of many elements from Islam, state regulation, and other secular and international external norms such as protection of women and children. This mixture has also been observed by F. and K. von Benda-Beckmann in West Sumatra. Instead of putting adat as distinct from Islam and the State, they argue that the adat of the Minangkabau is a mixture of tradition, Islam, and the state. They call this mixture a hybrid law. This hybridity of adat and the state makes adat

more prominent for the Minangkabau (F and K Von Benda-Beckmann 2013, pp. 421–22). This concept of adat suits my own observations about adat law in Gayo today, which is a hybridity of many external elements that have been introduced by actors and institutions at the local, national and international level, and that directly influence the life of the Gayonese.

In Gayo, adat is important in two different ways. First, it is a repository of collective ideas. It is a source for, among others, local identity, social organization and legal order. Secondly, adat – and adat law in particular – is important for re-organizing, reconstructing and reinforcing social transformation. Adat law is an instrument of and, at the same time, an arena for social transformation, from before the introduction of Islam in Indonesia (Azra, 1994) to the present. Changing adat means changing social behavior and the way a community see themselves and others.

Therefore, speaking about adat today invariably involves speaking about the application of Islamic teachings. Instead of presenting adat as opposed to Islam, as Bowen did in his study on inheritance cases at the local religious court, I see the current situation as one where a different set of conflicting norms are reconciled and put together into adat law through continuous efforts to translate and adapt external norms into local language (vernacularization). Rather than a clash between Islamic law and adat law, I observe vernacularization of Islam into adat to support the practice and the objective of adat as a social check and guarantor of internal communal and extended family stability. Adat and Islam are continuously reinterpreted to make them fit one another.

However, the transformation of adat is not only limited to its incorporation of Islamic norms. Secular state policies and globalized ideas such as human rights, including women's rights and child protection, which are carried out by many international and national institutions also play a considerable role in transforming adat. The development of the understanding and the intensified campaign of promoting external (religious and state) norms have changed the substance and practice of adat to become more lenient or stricter in addressing certain social or legal situations.

The nature of adat today, as I observed it, makes the definition given by Bowen about Gayo adat not suitable for this work, as it is too far removed from the emic use of the term adat as became clear to me during my fieldwork. This has also to do with differences in Bowen's and my places of research and the topics we addressed – this work focuses on adat relating to penal law (minor cases and sexual offenses) by studying Gayonese in Kebayakan sub-district of Central Aceh and few

villages in Bener Meriah District; by contrast Bowen looked at adat family law in Isak villages of Central Aceh (Bowen, 2003, pp. 45).

In short, Gayo adat law today, as I have observed, is a transformative collective idea about rules that is related to Islamic teachings and state law and policy. It is administered in the extended family and/or village to ensure continuity and stability and its interpretation and application are strongly localized.

The following analysis will show how adat has incorporated more ideas from Islam, and how at the same time it has become more concerned with state legal preoccupations such as sense of justice, equality and mechanism for human rights protection. I will start by discussing the changes and the use of adat family law, in which Islam and state policies play important roles in the transformation. Then I present the changes and the use of adat criminal law, where social activists, with the support from international institutions, have contributed to changes. In the following discussion, I will also show that in the development of Islam, adat was a contested concept between the traditionalist and modernist Muslims in their campaigns about the proper way of being Muslim. Adat is important for these groups in two different ways. For the traditionalists, the construction of adat has to be sustained, filled and nuanced with Islamic teachings. While for the modernist with their religious purification campaigns, adat has to be completely replaced with new Islamic traditions.

Early Islamic Reform and Family Law

The coming of the Dutch to Gayo in 1902 intensified the process of contextualizing and vernacularizing Islamic norms into adat in the area. The Dutch introduced the cultivation of new crops as potatoes, cabbage, tea, and Arabica coffee, and constructed a road that connected the central part to the northern coast of Aceh. The construction of this infrastructure as well as the plantations required many laborers, mainly Javanese and Chinese, who were brought to Gayo from other parts of Indonesia. Many also came by their own, mainly the Minangkabau, for trading as well as for spreading Islamic reform and purification. These developments increased multi-cultural interaction (Bowen, 1991, pp. 76–79).

In the early 1910s, the Dutch started promoting colonial administration in Gayo by establishing schools. They initially built two *volksscholen* (popular schools) with three-year programs. By 1940, the Dutch had built another eleven *volksscholen* (Bowen, 1991, pp. 94; PaEni, 2003, pp. 187). They brought Tapanuli and Minangkabau teachers, most of them with a Muhammadiyah background, to teach basic reading skills and arithmetic. In the absence of regular control from

the Dutch, the Minangkabau teachers inserted Islamic reform agendas into the curriculum. (Bowen, 1991, pp. 97).

The Dutch sent a small number of pupils who had completed the *volksscholen* to the Dutch-funded schools in Pematang Siantar of North Sumatra and Koetaradja (Banda Aceh today) for further education. There, many of the Gayonese students became involved in nationalist movements. Once they returned they started replacing immigrant teachers at the schools (PaEni, 2003, pp. 187), and troubled the Dutch with their nationalism. The best-known figure of this group was Abdul Wahad who later became the first regent of the area in post-independence Indonesia (Bowen, 1991, pp. 94).

The Minangkabau immigrants and teachers also opened an alternative school in Gayo, with a seven-year program modeled after the *Hollandsch-Inlandsche School* (H.I.S). This school taught secular as well as religious subjects in Dutch and Malay (Bowen, 1991, pp. 97). By the end of 1935, the number of Gayonese pupils continued to rise and encouraged the Muhammadiyah-affiliated Minangkabau immigrants to open two other schools; the *Instituut voor Lager Onderwijs* (IVOORLO) and another H.I.S model one (PaEni, 2003, pp. 187). To avoid interference from the Dutch and to invite more Gayonese to come to these schools, the Minangkabau involved representatives from the Gayonese elites, who were allied to the Dutch, in their management. (PaEni, 2003, pp. 188).

Gayonese also started to go to other places in the Netherlands Indies to pursue education as a result of the cultural and knowledge exchanges between locals and immigrants. Among them were Ahmad Damanhuri (died 1942)[13], Abdul Jalil (died 1976)[14] and Abdurrahman Daudy (1911- ?) who created their own "religious circles" and intensified the islamization in Gayo. Damanhuri and Abdul Jalil created opposing groups of Islamic schools: the *kaum tue* (old group) and *kaum mude* (young group).

These two terms of *kaum tue* and *mude* probably appeared for the first time in Minangkabau at the beginning of the 1900s. The first did not question traditions, required pupils' obedience to the teacher, tended to be moderate toward and

[13] Ahmad Damanhuri built the traditional Islamic school of *Tarbiyah Islamiyah* (Islamic Education) in Jongok Bathin village of Kebanyakan sub-district today. In 1938, He was asked to lead the first modern school built by Gayonese, modeled after the Dutch and Minangkabau' schools. Before the return of Abdul Jalil, Damanhuri dominated socio-religious life in Gayo with his traditional Islamic thoughts (PaEni, 2003, pp. 184).

[14] Abdul Jalil studied in the modernist Islamic school of *Persatuan Islam* (Islamic Union) in Bandung. In 1937, Abdul Jalil and those who returned from Al Irshad, another religious school in Bandung, to Gayo founded a school named *Taman Pendidikan Islam* (Garden for Islamic Education). The school used Arabic as the main language of instruction (Bowen, 1991, pp. 99).

negotiating with adat, acknowledged individual ulama rights to produce *ijtihad*, were less concerned with *fiqh* (Islamic jurisprudence) than with *tarekat* (Sufi order), and adhered to the Shafiite school of law. The second group sought reform and purification of Islam from unlawful religious practices in adat, condemned Sufism, and used the *Akal* (intellect) to produce *ijtihad* (Abdullah, 1970, pp. 2, 34, 64–66).

Both groups were involved in politics. *Kaum tue* refused to cooperate with the government. Its members were small traders and peasants. By contrast, *kaum muda* tended to cooperate with authorities and promoted modernization in education. They developed a new method of teaching and curriculum that was a mixture of religious and secular lessons, established a grading system, and updated textbooks. This school was later known as the modernized *Madrasah* that became a model for other *Kaum Muda* Schools (Abdullah, 1970, pp. 11, 41-42,48, 66). Large numbers of Minangkabau who migrated to Gayo were part of the second group. Some of them worked at the Dutch schools, which indicates their cooperation with the authorities. Others built their own schools modelling the Dutch's H.I.S schools.

Aside from the *kaum tue* and *kaum mude*, there were also scholars who used art as a medium for their Islamic campaigns. In the 1930s, a group of local religious scholars, led by Tengku Yahye, invented a new genre of oral tradition, called *syaer* (*sya'ir* or *sha'ir*). Originally, the *syaer* was a means of teaching scripture and Quranic instruction. The teachings were delivered in a mosque in a steady rhythm, almost like a Malay genre. Tengku Yahye avoided discussing contentious topics with the community, as his main concern was introducing the Quran. Later, one of his students, Abdurrahman Daudy, used *syaer* to develop a social critique that caused religious debate with the community (Bowen, 1993, pp. 632–633).

In an interview, L.K. Ara, who himself is a well-known local and national poet, mentioned that Abdurrahman Daudy graduated from the *Volksschool* where he was closely in touch with Islamic reform ideas. He also went to the Islamic school of Gele Gantung of Kebayakan, where he learned *tafsir*, Arabic language, Hadith, and Arab-Malay script. According to Bowen, Abdurrahman Daudy studied religious education under the instruction of Abdul Jalil, who was the most vocal advocate of replacing Gayo adat with Islamic norms.

Abdurrahman Daudy took a more moderate approach than his teacher. Probably influenced by the traditional Islamic school of Gele Gantung, he chose to preserve Gayonese adat but argued that it should be modified and infused with religious teachings (Bowen, 1991, pp. 243). In 1937, he wrote a number of selected Quranic commentaries on 40 verses and 49 hadith. The work, titled Tafsir Gayo (the Gayonese Exegesis), was published in Cairo in 1938.

In my interview with Sirajuddin, a religious figure in Kebanyakan, and Ali Jadun, head of the Ulama Consultative Board (MPU, *Majelis Permusyawaratan Ulama*) of Central Aceh, Abdurrahman Daudy was presented as a prominent figure in the development of local literature. He wrote a local history and dozens of poems of Didong, another local oral tradition that is performed in a group and led by a *Ceh* (leader) who also acts as the main singer. Many *Ceh*'s sent their compositions to him for advice before performing them, which allowed Daudy to include his Islamic reform agenda into their works. After he finished the *Tafsir Gayo*, he asked many *Ceh's* to use part of the book in their performances. According to Asliyah, who is the most senior member of Jongok Bathin village and who was a student of Damanhuri, the *tafsir* was delivered at the mosque before the down prayer time of *Maghrib*. This helped to spread Daudy's social-religious critique to a wider and more diverse audience.

Changes in Adat Family Law

As discussed above, under Dutch colonial rule, local Muslim scholars established the foundation for the islamization of adat in Gayo. These efforts were continued after Indonesia became independent in 1945, transforming many aspects of adat in family matters. The transformation was eased by the oppressiveness of the Japanese army which occupied Sumatra in 1942. In the beginning, the Japanese were welcomed as liberators from the Dutch. However, they then required a total submission from the locals and offended their sensibilities more than the Dutch had ever done. Raping women as physiological attack on the Gayonese , forced labor and famine kept Gayonese away from practicing their beliefs and adat (Bowen, 1991, pp. 102–105). Pinan has observed that the Japanese occupation caused a huge decline of adat (Pinan, 2003, pp. 15–19).

In the very early period of Indonesian independence, some Muslim scholars considered the huge decline of adat from everyday life during the Japanese occupation as a great opportunity to create new Islamic and nationalist norms. Muslim scholars, both from the *tue* and the *mude* group, and nationalist figures, now started to share a common vision of creating a "modern Gayo." Although they had different ideas about this "modernity," Islamist groups of both *tue* and *mude* tried to replace adat, which was associated with religious backwardness, with Islamic traditions. In a meeting held in early 1946, Abdul Jalil called for the rejection of adat in its entirety and to replace it by Islam.

The nationalist group associated adat with the pro-Dutch policies of local lords and its leader, Abdul Wahab, insisted that adat was irrelevant to the new

republican social order. Nationalist groups tried to abolish adat practices and introduced new ideas from outside of Gayo. The nationalists promoted the wearing of Javanese style kebaya, and introduced opera and orchestral music as part of the preparation for independence. However, they were divided on what Islamic norms and traditions should replace the adat practices of that time (Bowen, 1991, pp. 111).

In any case, adat related to family matters such as marriage, dowry, and inheritance practices, gradually changed. In 1946, when Takengen became a government district, Muslim scholars introduced the *mahr* (Islamic marriage payment) to replace the former payment system that had been tied to the rank of the bride's father. Payments formerly made by parents of the bride and groom to their respective village leaders were also prohibited. However, local officials interpreted the "putting adat aside" in different ways, according to their understanding of adat and its relation to Islam and the Republic (Bowen, 1991, pp. 111). There is no further information on how this new marriage system was accepted and became the new norm of the Gayonese. I assume it was related to the massive Islamic movement in post- independence Indonesia, which was fully supported by the ulama affiliated with the Islamic resistance of Darul Islam.

Not all of this radical islamization of adat was accepted by local communities. When local officials tried to permit marriage within the same *belah,* some of the ruler's kin group and people protested by leaving their villages. This led to depopulation of and fractures within villages. Saleh Adri, who was assigned as a spokesman for the new district of Takengen worsened the situation. He traveled across the district proclaiming the "end of adat". Many villagers reacted angrily to his speech saying "...so we are to be like a goat?" implying that they would be like animals without the guidance of adat, as long as the alternative of a new adat had not been established (Bowen, 1991, pp. 112).

The Court's Contribution to the Adat Transformation

Among the main subjects of islamization was the inheritance division. Before the establishment of religious and public courts and the increase in coffee plantations in Gayo, a daughter could not claim any portion from inherited property. Neither had a divorced woman any rights over earned wealth. However, women gradually gained more rights after the establishment of the religious and public courts and the growing areal of coffee plantation.

Judges played an important role in transforming aspects of adat family law. In the early establishment of state religious and civil courts, judges of the religious court were mostly of Gayo origin. They were regarded as scholars in Islamic

studies. Because of their local origins, they were familiar with adat, social, and political dynamics and the demand of local Muslim scholars for the creation of a new society based on Islam. At the time, however, the judges were unsure whether to reaffirm property division based on either Islamic law or adat. This had also to do with the fact that their courts were established during the Acehnese ulama rebellion of Darul Islam against the Republic. The Darul Islam movement and the lack of popularity of the court made the decision to reaffirm property divisions based on either Islamic law or adat a contested political question. Judges, at that time, were worried about political retribution from the religious movement of Darul Islam if they did not apply Islamic law. At the same time, applying Islamic law triggered resistance from most Gayonese, and particularly from the village elites. However, reaffirming adat would contradict the mission of the religious courts (Bowen, 1988, pp. 281, 1998, 2000, pp. 107–112).

The force from ulama rebels and potential resistance from the adat elite drove the judges to opt for mediation. They avoided framing the case of "Islam versus adat". Instead, they brought the differing parties to a consensus outside the court, in which adat and Islamic law were mediated by judges, Muslim scholars and adat leaders. This consensus often concluded the inheritance case with equal shares between brothers and sisters. The new division practice gradually changed the old one, in which a daughter could not claim any portion from inheritance. Later, this became standard for Gayonese in dividing inheritance. Until the 1970s, judges kept confirming property divisions following the logic of the new invented adat. Even when a decision through consensus was brought to the religious court or a civil court for redistribution according to Islamic law, judges of both courts would refuse to invalidate past property divisions (Bowen, 1988, pp. 281, 1998, 2000, pp. 107–112).

Another important development was the introduction of *poroh* (jointly earned wealth that has to be divided equally after divorce), both at the religious and the civil courts. This development followed the expansion of coffee plantations (Bowen, 1988, pp. 281–282). Originally, joined property was not shared after a divorce. At that time, the shared property of husband and wife was usually a rice field. However, the rice fields were linked to the village and those who came to the village, according to the type of marriage, whether *matrilocal* or *patrilocal*, would not get any rights resulting from the improvement of the rice field by investing labor.

This adat law was replaced following the establishment of coffee estates in which a couple commonly had to clear land for the coffee plantation, located quite far from the village. Unlike rice fields, coffee estates' value increases over time. This

new economical source led judges to introduce *poroh*, which is a term adopted from the Acehnese that means "to clear a neglected rice field" (Bowen, 1988, pp. 278, 282–283).

Judges also started promoting bilateral inheritance, putting aside many earlier property distributions. Originally, a woman married patrilocally would not receive any inheritance, because she received the marriage goods from her parents, which was considered a form of inheritance. This made the eldest brother control the inherited land as he was the beneficiary of the local kinship system as the one in charge of family affairs after the death of the father. Judges of both religious and civil courts gradually eliminated the passing on of wealth based on marriage. Judges of the religious court introduced a division based on Islamic law, which strengthened the force of Islamic ideology in the village. Local Islamic jurists and Muslim scholars supported this new movement, arguing that his was the actual purpose of the adat (Bowen, 1988, pp. 282–284).

The islamization process since the conquest by the Dutch until the present has led many Gayonese today to consider their adat as an actualization of Islamic teachings. Many local publications, such as Mahmud Ibrahim's three-volume books on Shari'a and Adat (Ibrahim and Pinan, 2002, 2005, 2010), seminars and talk on Gayo adat today speak about the contextualizing of Islam into adat.[15]

[15] It is also important to note that Abdul Wahab (1909-1967), Saleh Adri (1915-1973), Abdul Jalil (death 1976) and Ilyas Leube (a central figure of the Darul Islam movement in Central Aceh; he is not discussed here) were the last most dominant figures of authority in Gayo. After their death until the present, no one has replaced their dominance in how to conduct all aspects of communal life. According to Alyasa Abubakar, the first head of the provincial agency for Shari'a and a Gayonese himself, Gayo has been lacking in leading ulamas. However, during my fieldwork I found that Ali Djadun (1925-2016) and Mahmud Ibrahim (1929-2017) were also quite dominant in religious and social discourse of the Gayonese, even if I often found that many disrespected them because of their close affiliation to the government.

There are also fewer Islamic boarding schools compared to the coastal regions of Aceh province. This has led to a lack of ulama regeneration in the region. Accordingly, Gayonese tend to find references in adat for their social and religious issues. In my interview with Mahmud Ibrahim, he said that aside of lacking regeneration, a large number of ulama today are less connected with the broader context of Islamic discourse and the debate from other parts of the Islamic world. This weakens their religious and social position in the community. According to Mahmud Ibrahim, this situation led him and other senior ulamas in the region to fuse Islamic teachings to the adat or defend adat practices with Islamic arguments. Mahmud Ibrahim and Aman Pinan, an adat practitioner, defended and justified the adat practices through publication of a three-volume book on adat and Shari'a. By publishing the book, Ibrahim and Pinan expected people would not consider adat as opposed with Islamic teachings. Adat, Ibrahim said, even "glorifies" and "lives" Islam in daily life. The most fundamental from all practices of the adat, according to Ibrahim, is that adat does not go against the most fundamental principle of Islam; the oneness of God. Other principles of Islam can be adjusted since they are related to the establishment of social relationships, organization and behavior, such as the *sumang* norm (discussed in following chapter) which has strongly developed and formulated Islamic ethics in the local context.

Speaking about adat today means speaking about the articulation of Islamic teachings. An equal inheritance sharing (1:1), is an example of adat that is not considered against Islamic tenets. Although it appears to defy the basic inheritance formula of Islamic law, it is considered as implementing principles of Islam on justice and unity of kinship.

The changing practice of inheritance division has also been driven by the government policy on land management. In 1960, the Indonesian government promoted land ownership and certification through the Basic Agrarian Law 5/1960. Since then, the land gradually lost its tie to village and ancestry. Land is owned by an individual, a traditional community (adat land or *hak ulayat*) or the state. The new formal division in land ownership gradually changed the objective of inheritance practice in Gayo adat. Previously, the inheritance practice aimed at maintaining the link to village ancestry, as described by Bowen. After the introduction of the new categories of land ownership, the inheritance division started to aim at maintaining kinship relations.

Thus, adat practices in Gayo function to maintain the continuity of the local community and the family. They do not only provide a sense of justice, but also a sense of security and social stability, which would not have been realized if standard Islamic law had been applied. To justify this practice, jurists also employ Islamic reasoning by interpreting the objective of Islam and the revelation of the Quran. I venture that the informal assistance of the judges, who negotiated with the Muslims scholars and adat leaders to islamize the inheritance practice in their informal decisions in the early years of the Islamic court before the 1970s, has considerably contributed to the new practice and aims of adat in the inheritance division today.

Inheritance Division

This section provides some empirical evidence of the changes of adat family law and the influence of islamization on inheritance division. In Gayo, as Bowen describes, the oldest brother would control all family property and make important decisions for the family after the death of the father. Achyar, living in Takengen of Central Aceh district, is an example of such a figure although he is not the oldest son. His siblings preferred him rather than the oldest, who is seen as having a lack of leadership capacity and a lot of internal family issues. Achyar's role has been decisive in maintaining the bond of three generations of his extended family. Along with controlling private property, his role obliges him to maintain stability and ensure the presence of general harmony to maintain kinship ties.

Achyar has had control over the property left by his father. His father passed away in 1994 from a stroke. He left 37,482.5 square meters of the coffee estate to his family, located in Bathin Baru village of Bener Meriah district. Several months after his father's decease, Achyar suggested to all his siblings to allow Marini, the youngest sister who took care of their father and stopped her education in order to do so, to take 6,750 m2 of the coffee estate. Achyar realized that it was supposed to be the sons' responsibility to take care of their father during his illness. Unfortunately, everyone was limited by their business as breadwinners and state officials. Therefore, they agreed that Marini deserved to get the land to support herself.

However, another sibling, Amrun, was envious of Marini because he thought he also took care of their father during his illness, that is, he took care of the entire coffee estate, replacing many old unproductive coffee trees with new ones. He approached his mother without informing his siblings and asked her for a same amount of land as Marini had received. According to Achyar, their mother most probably did not respond to this request. Amrun then secretly took a portion of the estate as large as Marini received. Achyar and his other siblings did not react to Amrun's act when they became aware of it.

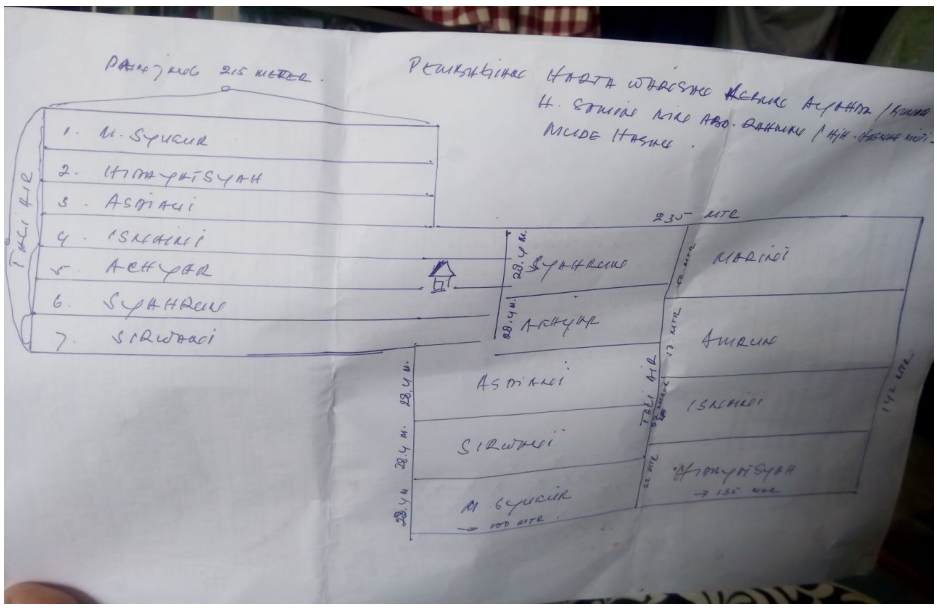
Although Achyar took on his father's role in the family, he did not divide the coffee plantation without his mother's consent. The latter, assisted by Marini and Amrun – who both were still unmarried and still lived in their mother's house – continued cultivating the coffee plantation. This served to support Syahrun, her youngest son, in completing his studies at Syiah Kuala University in Banda Aceh. In 2008, Syahrun got his diploma and the mother allowed the coffee plantation to be divided.

In the presence of their mother, Achyar presided over a family meeting with all the siblings present about the land division. He preferred a consensus to divide the land instead of arbitrarily employing Islamic law, which would benefit himself and his brother. Marini and Amrun were also present but could not get involved as they received their portion already. Achyar suggested to equally divide the plantation between brother and sister. Technically, Achyar added that the division would be conducted in a lottery. He argued that their father did not differentiate sons from daughters and he himself saw no reason for such differentiation, even as he was fully aware of the Islamic law formula suggesting that the son gets a larger portion than the daughter (2:1). Their mother chose to be silent, leaving it to her children to find a fair solution.

Hidayat Syah supported Achyar's proposal. He is one of Achyar's younger brothers and an imam of Jongok Bathin village. He was trained in Islamic studies

by his uncle, Saleh Adri, mentioned above. Hidayat Syah made the argument that Islam suggests maintaining brotherhood and mutual love; Islam does not suggest partition of groups and conflict. He further argued that the mission of Islam is to unite humankind, not to infuse it with harm, hatred and separation. According to Hidayat Syah, the unity of the family would be best achieved if they would reach a consensus rather than the standard division in Islamic law, which is too rigid and does not consider non-material aspects. Islamic law, according to him, would be the last resort if they were to face a deadlock.

Achyar's siblings agreed with Achyar's proposal after listening to Hidayat Syah's argument. They also agreed that the land would be divided in a lottery and that some portions of land would be smaller than other, taking into account their geographical location. Achyar asked his siblings to each pick a piece of paper from a glass. According to Hidayat Syah, any number they picked was a predestination from Allah; it was decided by Allah. As a result from the consensus, every sibling participating in the meeting got roughly 3.426 m2 of coffee plantation, so much less than Marini and Amrun who had each received 6.750 m2.



Land sketch of inheritance division of Achyar 's sibling

According to Achyar and Hidayat Syah, although there is a fixed formula in Islamic law to divide the inherited land, a consensus is the most basic legal procedure, before looking for other options in Islamic law. Achyar then quoted a verse of the Quran to support his argument:

"...and those who have responded to their lord and established prayer and whose affairs are [determined by] consultation among themselves, and from what We have provided them, they spend". [Quran 42:38]

The phrase "whose affairs are determined by consultation among themselves" of the verse was the source for their legal reasoning to reach consensus for the equal division. Moreover, according to Achyar and Hidayat Syah, the Islamic law formula does not consider the non-material aspects in inheritance division. These non-material aspects are more important. Such equal division is quite common in Central Aceh and Bener Meriah today. Sirajuddin, Head of the Adat Council of Bener Meriah says that he used to be acting as a witness in many family consensuses resulting in the equal sharing.

Islamic discourses provide many arguments to support Achyar and Hidayat Syah's proposal and argument. Muhammad Shahrur, for example, says that the fundamental principle in Islamic science of division is justice (*'adl*) and equality. The application of these principles may differ from one community to another depending on the sense of justice and freedom of the community (Shahrur, 2004, p. 336). According to him, Islam suggests advancing the bequeath rather than inheritance. It is not necessary to follow the rule of the fixed formula of inheritance division if a relative did not leave a will. Muslims are free to decide the method of inheritance division, if it helps to accommodate the sense of justice and equality (Shahrur, 2004, p. 335). In other words, the traditional Islamic rule of division is the ultimate resort when other means such as consensus fail to produce justice and equality (Shahrur, 2004, pp. 334–335).

Alyasa Abubakar, professor of Islamic Jurisprudence at the State Islamic University of Ar-Raniry and a Gayonese himself, gave the same explanation when I consulted him about Achyar's case. He said that an inheritance division based on Islamic law is not necessary as it only provides the last resort for a final solution. He further explained that the contextualization of Islam in local culture is very much influenced by the *ijtihad* of many ulamas since the period of the companions of the Prophet Muhammad. Ulamas have always been forced to solve issues which they do not find in classical Islamic texts and/or to make Islam acceptable to become a new faith of a non-Muslim community.

Some practices in Indonesia are good examples of the contextualization of Islam in local culture. One of the examples, according to Alyasa Abubakar, as I refer to his publication on *Metode Istislahiah: Pemamfaatan Ilmu Pengetahuan dalam Ushul Fiqh*, is the practice of inheritance in Minangkabau. Abubakar states that there are two kinds of inheritance for Minangkabau people. The first is Pusaka

Tinggi or Harta Tua which deals with property that is an integral part of the matriarchal system of the Minangkabau, linked to pre-Islamic society and maintained continuously until the present through adat. The property is managed by a group and needs to be maintained in its original condition. Sheikh Abd Karim Amrullah, a well-known scholar in Minangkabau, produced an *itjtihad* supporting the practice of the Pusaka Tinggi. According to Amrullah, the Pusaka Tinggi is a *musabbalah*. *Musabbalah* is a form of endowment in Islamic law in which the origin of the property and regulation of ownership are pre-Islamic. Based on that reasoning, the Pusako Tinggi cannot be inherited following the rule of Islamic law that stresses ownership. It has to be protected in the same way as a Muslim has to protect any donated property. The second form of inheritance is Pusaka Rendah. This property has to be inherited following the rule of Islamic law because it is wealth earned during the marriage (Abubakar, 2016, pp. 202).[16]

Achyar and Hidayat Syah did not claim similar freedom to justify their decision. However, their case reflects the everyday life of many Muslims in that, as devout followers of Islamic law and tradition, they tried to resolve the problem they encountered by referring to Islamic texts produced by ulamas. However, they encountered a situation that was not discussed in any Islamic text they were familiar with. They then tried to negotiate and establish a reason, which is still framed within an Islamic context, to escape from the standard procedure of Islamic law to accommodate their interest in uniting the kinship. In this way they did not think they deviated from Islamic teachings nor did others consider them using non-Islamic law. Achyar and his siblings even considered that they were applying part of the very basic forms and most fundamental teachings of Islam: unity and harmony that can be served through achieving a sense of fairness, justice and equality among them.

Changes in Adat Criminal Law: Qanun Kampong

We have seen the transformation of adat family law in the previous section. This section discusses the re-emergence, transformation and codification of adat related to public order and penal law. This development commenced in the post-

[16] In 1953, Amrullah's *itjtihad* became part of adat of Minangkabau through a great meeting called "*Rapat Empat Djinis Orang Alam Minangkabau* (A summit meeting of four groups of Minangkabau people). The four groups referred to were *Ninik Mamak*, who has the authority in adat matters, *alim-ulama* (Muslim scholars), *Cerdik Pandai* (public intellectuals) and *Manti-Dubalang* (ministries and chiefs) from all over the Minangkabau world. Hamka (Amrullah's son who later became a prominent Muslim Indonesian scholar), who joined the meeting, ended his testimony with "…this is what so called adat and *istiadat* (tradition) based on the saying "*bulat kata dimufakat* (a decision is reached from an agreement)." Those who offend it, would suffer curse from *kalamullah* (Allah's words) (Hamka, 1963, pp. 7–8).

conflict period when the Indonesian government granted Aceh province special autonomy in matters concerning culture, religion and education. As we have seen, this led to the revival of traditional political institutions and converted them into formal village institutions. Today, adat institutions are formal village institutions and codifications of adat law have been incorporated in village regulations.

The contemporary development of adat varies from one village to another, depending on the dominant actors and external powers that influence a community. As a result, some adat is progressive and heeds the global idea of human rights, particularly concerning women and children's rights, while some others go against human rights and other secular norms.

In this section, I discuss the "progressive adat law" by taking a case study from Rembele Village in Bener Meriah district. This village consists of roughly 60% Gayonese and 40% Javanese. The developments here were initiated by Yusdarita and Hasanah Silang, two women who have gradually developed into prominent figures in advocating women's and children's issues in Bener Meriah district. Their persistence and consistency in advocating women's and children's rights have made them into legal and social consultants for the newly elected regent of Bener Meriah district, Ahmadi.

In 2011 to 2012, Acehnese women activists noted that violence against women in Bener Meriah was the highest in Aceh Province and decided to do something about it (Uzia *et al.*, 2013, p. 14). Unlike other local activists who preferred to tackle the issue from legal and state policy approaches, Yusdarita and Silang opted to work closely with adat institutions, aiming at reforming the adat. They started their social work by advocating for victims of domestic violence. Then, they gradually expanded their concern to victims of sexual harassment until eventually they moved to transform and codify the adat law of Rembele Village. They also designed the Rembele village to be "a safe village" for the victims of sexual harassment in Bener Meriah district.

The case of Rembele village, is a good example how adat has become a battleground for actors who want to direct the community to a particular ideal. By deploying a discourse based on adat, Yusdarita and Hasanah successfully stimulated the community to produce a progressive adat on women's and children's issues. This adat was codified into the *Qanun Kampong* (village regulation), which was the first time this happened.

The *Qanun Kampung* comprises a mixture of secular, Islamic, and adat norms. The secular tradition has expanded the definition of domestic harassment as not limited to physical harassment, but also including psychological, economic and sexual harassment. The outcome illustrates the flexibility of adat to adjust to, and

accommodate, external influences that rely on Islam and global ideas about human rights, child protection and other secular norms, which has resulted in a hybrid law.

Before addressing the transformation of adat, I will briefly go back to the post-conflict situation of Aceh Province to introduce the social activism of Yusdarita and Silang. In 2005, many national and international organizations were involved in maintaining the peace in Aceh at the grassroots level. One of their strategies was to strengthen the capacity of adat institutions to serve justice for the community. Some social activists considered this development a chance to transform the community from patriarchal into one which includes room for women's and children's protection.

Yusdarita and Hanasah Silang did not attempt to transform adat instantaneously. Both often worked together in advocating the cause of harassed women and children in need of justice from the state and adat. Their belief that social transformation should be started from adat, drove them to cooperate with village leaders. Yusdarita is a cadre of the Women Volunteers for Humanity (RPUK, *Relawan Perempuan untuk Kemanusiaan*), which was founded in 1999 and headquartered in Banda Aceh. Meanwhile, Hasanah Silang is a lawyer by training-when this research was conducted, she was part of the local Independent Committee for Election (KIP, *Komisi Independen Pemilihan*) of Bener Meriah district. She was also part of nationwide legal assistance organization of Indonesian Women's Association for Justice (APIK, *Asosiasi Perempuan Indonesia untuk Keadilan*). Before returning to Bener Meriah district, she worked at the Legal Aid Organization (LBH, *Lembaga Bantuan Hukum*) of Banda Aceh. Yusdarita and Silang were also part of the Integrated Service Center for Women and Children Empowerment (P2TP2A, *Pusat Pelayanan Terpadu Pemberdayaan Perempuan dan Anak*) of Bener Meriah district.

Their cooperative approach often elicited criticism from their colleagues at P2TP2A[17] and from fellow activists. These argue that negotiating with adat officials is useless because of the patriarchal nature of adat, which discriminates women and children. This caused them considerable hardship, particularly Yusdarita. She was accused of being a witch and an agent of American liberalism, not only by adat authorities – as she often challenged adat – but also by some colleagues from

[17] P2TP2A is a government agency for women's and children's protection and empowerment. The members of the agency are mostly social activists who are concerned with women and children's issues. Most of them are not permanent officials. The organization is led by the wife of the active regent. Some consider the agency as a meeting point for women activists or a hub between the activists and the government to increase protection of women and children.

P2TP2A. However, over time, they established a reputation as reliable socio-legal consultants, mediators, and women's and children's advocates at the adat council, not only in their home villages but also at the Mukim Council of Simpang Tiga of Bener Meriah district.

Yusdarita and Silang started their social work by advocating for victims of domestic violence. According to them the most important part of the advocacy is to look after the abused wife. The court may protect the wife from the husband by sending him to jail, but this is only a temporary solution. During court trial or in prison, the husband will sell all properties, including the house and the coffee estate, which are generally registered under his name. Subsequently, the husband divorces his wife. The prospect of being a single parent without income often forces a wife to return to her husband although she has suffered and will suffer again.

To avoid this Yusdarita and Silang started appealing to an adat norm stipulating compensation (*tutup babah*, literarily meaning "to hold the tongue") for harassed victims. Traditionally, the *tutup babah* is not given for any abuse that has taken place, but serves as a legal basis for responding to future violence. It needs to be written down, with several witnesses present. It is meant to deliver a warning message to the husband that he will have to pay compensation if he commits violence again in the future. Yusdarita and Silang instead argued that compensation should be given already when the abuse had taken place. To reinforce their argument, they sometimes threatened the adat elites/village apparatus that they would expose the case in the media, which could ruin the village's reputation. This approach proved effective in convincing the village leadership.

The new *tutup babah* practice paves the way to empowering women economically. During the negotiation for the compensation, they force their husbands to transfer the ownership of some property such as portions of coffee plantations, houses or any valuables like gold. According to local women, domestic violence happens precisely because the wife and children are economically dependent on the husband. They are unlike professional women, such as civil servants, who have financial autonomy in the household, and who still have financial security after they get a divorce. By contrast, in a rural and agricultural society like Bener Meriah, a husband controls the entire family and all its property. Such control has to be constrained to give the wife more negotiating power in the household. This can only be achieved by distributing ownership of land, house or other valuable properties from the husband to the wife.

Yusdarita and Silang also used legal procedures to force the application of the new *tutup babah* interpretation. Occasionally, Silang would report a case to the police to exert more pressure on the husband and on adat leaders. After they achieved their goal, they would rescind the report, which is allowed if done within a certain period. According to them, this is effective not only to prevent the husband from committing more violence - as he fears to have to pay more compensation - but also to empower women economically. According to Yusdarita and Silang, until 2015, they have advocated more than 50 such cases ranging from domestic violence to sexual harassment.

From there on, Yusdarita and Silang expanded their concerns. Domestic violence is the only case in which they collaborated with an adat institution. For other cases, such as rape and pedophilia, they convinced adat leaders that these are beyond their authority and legal capacity and that the police should be involved. Sometimes, like in the pedophilia case I will discuss in chapter five, they also involved adat leaders in the investigation, when searching for the victims in the village and controlling the impact of the case on the community.

Sometimes the victims, women and girls, are stigmatized as "bad", since they are culturally alleged to have provoked the crime. This inspired Yusdarita to initiate a so-called "safe village."[18] To realize this, Yusdarita pushed her brothers, who at the time were the *reje* and *imem* of Rembele village, to codify a Qanun Kampong about women and children issues.

This was not an easy process. Yusdarita had to convince her brothers, who both were educated in the patriarchal tradition, about the importance of *Qanun Kampong* on this subject. She consulted with Ridwan Qari and Ali Jadun, who are the most respected ulama in Central Aceh and Bener Meriah district, to learn more about women's and children's issues from an Islamic perspective. Yusdarita found that Islam provides a wide array of arguments to confront patriarchal ideas. Moreover, these ulama represented a respected social class and thus could exercise pressure on village elites and adat authorities. Both scholars are considered as most knowledgeable on Islam, and highly respected among ulama both in Central Aceh and Bener Meriah district. Yusdarita often referred to them in the private discussions she conducted with her brothers on the subject.

Eventually Yusdarita succeeded in changing her brothers' perspective on gender and sexuality. In early 2010, she brought a pregnant ex-prostitute to her village and allowed the woman to cultivate part of her coffee estate. She also helped girls who were raped domestically to give birth in her house. Although

[18] The safe village is a temporary safe social environment for abused women and girls.

Yusdarita's brothers supported the presence of the ex-prostitute, many villagers still spoke of sexually abused women as "impure women" who did not deserve to be in the village. Many villagers, particularly women, were afraid that the "impure women" would continue their "adulterous" behaviour in the village.

To change the community's perspective, Yusdarita requested RUPK to facilitate a series of training workshops on women's and children's issues for all the village functionaries, including some women. RUPK responded positively and in the end Yusdarita also invited officials from the Mukim of Simpang Tiga and other villages. Funded by Unifem (later UNWomen), RPUK gave trainings in Banda Aceh and Bener Meriah district. The organization vernacularized and contextualized global ideas on human rights, gender equality, and women's and children's rights. They avoided the use of international terms that would be associated with western ideas such as "gender," "equality," "rights" and "feminist", to prevent rejection from trainees. Local people associate these terms with non-Muslim traditions that are incompatible with their Islamic culture. Instead, the RPUK framed invited speakers to discuss Indonesian law and policies on women and children's issues, a pro-women Islamic perspective about husbands' and wive's responsibilities in the household, and the adat mechanism in solving communal issues as mandated by the Aceh and the national government. With the support from international donors like UN Women, international ideas concerning equality, justice, and prevention of child marriage became more accepted than before, including at the local level.

Among the outcomes of the localized international idea by the activists was the enactment of *Qanun Kampong* of Rembele village in late 2010. It took more than five months to draft the qanun because Yusdarita and RPUK wanted to make sure that everyone in the village could be involved in the process, particularly the women. The first *Qanun Kampung* provided a mechanism of solving communal disputes and indicated the limits of adat institutions' authority in criminal cases such as rape, child abuse and major domestic violence. The Qanun also promoted gender equality in adat institutions and society generally, as well as equal treatment of sons and daughters in a household. It also expanded the category of harassment from only physical to psychological, economic, and sexual harassment.

The first Qanun also prohibited a family from limiting a daughter's access to education. This is part of a strategy to prevent early marriage in the village. According to Yusdarita, this is an important stipulation because many villagers, particularly the Javanese, tend to limit access of their minor daughters (below 18 years old) to education by arranging them to marry at an earlier age. Although by

law a married minor can still go to school, in practice parents and school management do not allow this. The married minor is forced to become a "mature" wife. Pressing parents to give their daughters access to education therefore helps in reducing underage marriage. The Qanun therefore provides for fines and even removal of parents from the community. In general, the Qanun prohibits the community to make any financial contribution or give any support to those who violate the Qanun. This means that the community is not allowed to assist in organizing or attending the wedding of an underage couple.

Islamic norms and Gayo adat are reflected in Qanun Kampung in dealing with public morality issues such as prohibiting an unmarried couple to be in a secluded place. The Qanun of the village also regulates that adat institutions can address *zina* cases, which challenges the Aceh Shari'a that governs *zina* and *khalwat* and demands that such cases are dealt with by the state justice system.

According to Sawani, a housewife from Rembele Village whom I interviewed, her village became a better environment for women and children after the training organized by the RPUK and the codification. Early marriage is now less common than before, as was also confirmed by the village head. The involvement of the community in controlling and monitoring the behavior of adolescents has increased. Before the codification, the villagers also had an unwritten agreement that if daughters within a nuclear family were involved in premarital sex, the parents would be punished instead of the daughters. Such premarital sex is seen as a result of parental carelessness. According to the head of the village, the punishment was given once to a Javanese widower who was ordered to clean the mosque and gutters of the entire village for one month.

For her achievement, Yusdarita was invited to become a member of the Mukim Council of Simpang Tiga of Bener Meriah district. She is the only female member of the council. She and Silang assisted this Mukim Council to codify adat law, but not as elaborate and strict as the Qanun Kampong of Rembele village because the Mukim is much larger, supervising eighteen villages. The Mukim's codified adat law only regulates the adat mechanism in solving conflicts involving residents from different villages, disputes over villages' boundaries, the obligation to include women in village consensus building and the obligation to protect victims' rights to access justices in the village.

In summary, in this case, adat has played a positive role in addressing social problems. According to Leila Juari, the executive director of RPUK, since the government has a lack of sources to support legal enforcement, adat institutions are crucial in providing justice and protection to the most vulnerable groups in the community. Adat is one of the most expedient ways to protect women and

children, as they are often harassed by those who are very close to them. There is no law and institution closer to both the victims and offenders than adat. Although cooperating with adat leaders and institutions in reform in this case was time consuming, it paved the way for better access to justice for women and children.

Juari adds that adat should be written down to make it accessible for those who seek justice through the adat institutions. Codifying the adat serves to prevent the domination of men, particularly the elderly, in the adat institution. In the old unwritten adat law, elderly and village elites tend to monopolize adat interpretation. Such a situation has been unfavorable for women and children. Juari argues that codification does not mean to limit the development and change the nature of adat from dynamic to static. Instead, when necessary, the villagers can and should evaluate and change the provisions of adat law in response to new demands and needs of those in the village.

How flexible adat is after its codification seems to depend on the capacity of the local actors and the pressure and the assistance from external groups to adapt it to a certain situation. It is very much like the case from Rembele Village. As long as there are progressive actors like Yusdarita with the support from RPUK and international organizations like UN Women, the progressiveness of the new adat can be maintained. However, this is likely to be different in villages lacking progressive actors.

Such progressive use of adat is not limited to Gayo. In other parts of Aceh Province, adat has also transformed from the old conception of unwritten law dominated by elderly male to an organized and written law that is accommodative toward women and children's needs for justice. Likewise, this transformation has been driven by the social activists affiliated with local organizations, such as RPUK and the Center for Community Research and Education (PKPM, *Pusat Kajian dan Pendidikan Masyarakat*), which are funded by larger national and international organizations such as UN Women, USAID, AUSAID, UNDP, Restorative Justice Working Group, and UNICEF. With (in)direct international supports, local organizations have vernacularized and contextualized global concepts of human rights, sexuality, equality, women's rights and child protection to become accepted and practiced in the small locality of a village.

In sum, the aforementioned cases suggest that adat law changes following the promotion of global ideas inspired by Islamic and secular norms such as equality, human rights and child protection. The vernacularization and contextualization of the norms and concepts depend very much on the reaction and capacity of the various actors at different political levels (international, national, and local), and most of all on the capacity of local actors to translate different sets of concepts and

norms into practices. Adat is thus very dynamic and changeable and becomes an arena for contestation among various actors who seek to drive a community in a particular direction.

After having discussed the development of adat in the family and public order, I move the discussion in the following section to the development of adat in penal law. Before the inclusion of the adat institutions into the state apparatus, adat penal law was gradually abolished by the government as part of the efforts to centralize the legal system. A large number of Gayo penal law principles, such as the death penalty for murder, were replaced by national penal law provisions. After the peace agreement between the Aceh Rebellion Movement and the Republic of Indonesia was signed, the state revived certain categories of adat penal law. This re-introduction has opened opportunities for state legal actors to apply forum shopping and legal differentiation.

Adat Institutions

During the transition from authoritarianism to democracy the government's approach to the legal order changed from legal centralism to one allowing for more legal pluralism. This resulted in the implementation of more than 500 regulations codifying adat across Indonesian country (Arizona, Malik and Ishimora, 2017). However, the development of adat codification in Aceh province is different than in most other parts of Indonesia. Just like in West Sumatra where public debates about adat were concerned with fitting the adat government system of Nagari into the ongoing agenda of nation-state building of Indonesia (F. and K. von Benda-Beckmann, 2012a), adat in Aceh is concerned with nurturing local identity and developing legal and political aspects of adat, including a system for justice administration as an alternative to the state.

The presence of international organizations in Aceh in early 2005 helped the Aceh government to modernize adat law, its procedures and its institutions. In 2007, UNDP, in collaboration with the World Bank, launched a USD 7,9 million initiative to improve access to justice in Aceh called Strengthening Access to Justice (SAJI). Both organizations collaborated with the National Planning Agency (BAPPENAS) and the Aceh Adat Council (MAA, *Majelis Adat Aceh*) to improve legal awareness and strengthen dispute resolution at the community level. The primary objective of the project was to build a stronger base for sustainable peace in Aceh by supporting development and assisting the poor in securing their rights and improving their livelihoods (UNDP, 2007). With the support of these international and national organizations, human rights values have become shared values among village officials. This is particularly seen when villages elites

debate about the rights of individual non-natives, and when they contemplate about the need to codify adat law, in particular, about the adat law and punishment for sexual offenses (discussed in the next chapter IV).

An important aspect of the SAJI program was assisting the Aceh government in creating Qanun 9/2008 on the Supervision of Adat and Adat *Istiadat* (customs) and Qanun 10/2008 on Adat Institutions. Through Qanun 10/2008, the Aceh government authorized traditional political institutions at the village to tackle 18 minor issues and offenses specified in Qanun 9/2008. These include household quarrels, family disputes about inheritance division, residential disputes, illicit relations, disputes over property rights, theft in family or minor theft, disputes over joint property of husband and wife, minor theft, theft of cattle or domesticated animals, offending adat regulations on farming and forestry, fishery disputes, disputes in the market, offenses of minors, small-scale forest fires harming an adat community, molestation, sedition, agitation, defamation, minor cases of environmental pollution, threat (depending on the type), and lastly, "other disputes that offend adat law and customs" (Article 13).

Offenders can be subject to one or more penalties as regulated in Article 16 of Qanun 9/2008. These include advice, admonition, apologizing, *sayam* (a compensation given to a victim suffering permanent disabilities or whose property is badly damaged), *diyat* (blood money), isolation from the community, removal from the village, revocation of adat title, and "other punishments that are regulated by local adat". The final clauses of both Articles 13 and 16 make adat law uncertain and give almost unlimited authority to the adat institution to address any behavior considered to be offending local adat practice and customs.

The Qanun furthermore restores all traditional political territories, hierarchies and institutions of all ethnic groups in Aceh. Aside from turning them into formal village institutions, the Qanun also designs adat institutions as autonomous institutions assisting the government in preserving public order. As an official alternative to the state judicial system, adat institutions are allowed to resolve communal issues and restore peace in any conflict within the group by enforcing adat law (Article 3&4 of Qanun 10/2008). According to Badruzzaman Ismail, head of MAA, designing adat or village institutions for justice administration is to demarcate the limits of the state legal system in maintaining public order.

All official village institutions in Aceh province today are revived adat political institutions. The institutions vary from one district to another, depending on the dominant cultural values in the area. In Gayo, as I discussed in the previous chapter, all four adat political institutions (*Reje, Imem, Petue,* and, *Rayat* known as

Sara Kopat office) are considered village institutions. Those who are elected or appointed to these positions are now financially supported by the government. Among their responsibilities is to deliver justice and promote equality and security in the community. In most cases, *reje* and *imem* are the most important institutions in delivering justice to conflicting parties in their jurisdiction. Depending on the type of cases, the *reje* or *imem* solve an issue collegially with other officials or personally in their house.

According to Syik Junaidi, *reje* of Jongok Bathin village, and Ichwan, secretary of Lot Kala village, cases proceed through the adat institutions in a hierarchical manner. In this process, all village functionaries act as mediators or arbitrators individually or collegially based on the request from at least one of the conflicting parties. It also depends on the type of case. The first to process a case is the head of neighborhood. If (s)he fails to end the dispute or to settle the offense, then the head of village will be involved – after a request of those involved. *Reje* and *imem* will be immediately involved in cases that affect local sensitivities or taint the image of the village, such as cases related to public morality and *zina* (see the following chapter).

To avoid a contestation of authority between the Police Department and village functionaries, the Aceh government involved the Regional Police Department of Aceh Province in drafting Qanun 9 & 10/2008. According to Badruzzaman Ismail, the involvement of the police in the legalization of the Qanun and the project as a whole has been crucial, because the police is the institution with the power to enforce state law. Without their cooperation any case at adat institutions can be taken over or its outcome can be overruled.

To ensure that the Qanun is effective in legal practice, the Aceh government also cooperated with the Provincial Police Department of Aceh province to further define the jurisdiction of adat institutions. Their joint agreement[19] contains 14 points, six of them being relevant to the division of the legal jurisdiction between adat institutions and the state legal system.

Point one of the joint agreement states that disputes or conflicts tackled at the village and mukim levels are minor cases as mentioned in Articles 13, 14 and 15 of Aceh Qanun 9/2008. They have to be solved at the village and mukim level or by another 'cultural' mechanism. Point two states that police officers have to provide the adat institution the opportunity to handle minor cases, as regulated by Qanun 9/2008. Point three states that an adat institution decides a dispute based on adat law and tradition. Point four states that the decision of adat institutions is final and

[19] The agreement has three different official numbers: No. 198/677/2011 recorded for the Governor office, 1054/MAA/XII/2011 for the MAA, and B/121/I/2012 for the Police Department.

binding. It cannot be appealed to a public court (state court) or any other court. Point five states that every decision produced by the adat institutions has to be written and signed by the head of the village and the council (of the village) as well as by the disputants. A copy of the decision has to be shared with the head of the sectoral police station, head of the sub-district, and the sub-district adat council. Point six states that an unsolved dispute at the village level has to be transferred to the mukim level. If the dispute remains unsolved, it is then allowed to be transferred to the state court.

In 2013, the Aceh Government clarified and strengthened the legal boundary by issuing Decree 60/2013 on dispute/conflict resolution for adat and *Istiadat* (tradition). The decree states that adat institutions can only handle minor cases that involve no threat to a person's life. The most explicit limit given by the decree is for theft. The adat institution can only handle cases of theft below IDR. 2,5 million.

In summary, on the one hand, the Qanun sets the legal boundary for the adat institution to preside over minor crimes that do not threaten life. On the other hand, the Qanun seems to grant larger authority for the adat system to enforce its norms and laws to any cases offending local sensitivity. It is unclear, however, who defines the sensitivity and to what degree it must be harmed to constitute an offence. In practice it appears to be the decision of individuals or groups with authority in the village. The impact of this uncertainty of adat jurisdiction and the widely "open texture of law" (Hart, 1994, pp. 128), allow adat to govern all sexual offenses even if these are not within the adat institutions' legally designed jurisdiction.

Before enforcing the Qanun, the MAA trained a large number of adat/village functionaries to run the new system of adat jurisdiction (the MAA was fully supported financially by The World Bank, UNDP and BAPPENAS). From 2007 to 2015, it trained 4,000 adat practitioners and village functionaries from all over Aceh province. Once again, the training focused on vernacularizing and contextualizing human rights. The MAA included into the training the principles of human rights, women's rights, the Indonesian national legal system, child protection, effective mediation, case handling, recording, and reporting disputes (UNDP, 2015). The MAA also published a guideline for accessing and running the adat judiciary to ensure that it guarantees justice, fairness, and accountability (MAA, 2008).

In Gayo, the adat elites and religious scholars openly promote the adat judicial system and suggest people to bring their disputes to the adat institutions. During

one of these training events, Ali Jadun, head of the local Ulama Consultative Board, for example, said that:

> "...bringing a dispute to adat, [either you] win or lose, you remain healthy. Would you bring the case to the state, even if you win, you lose half. Not to say if you lose, only bones remain [in you]..."

According to Ali Jadun, the adat process does not cost disputants, unlike the state court which is expensive. To win a dispute in a state court, someone should spend a lot of wealth. During my fieldwork in the Kebayakan sub-district, I observed that the adat functionaries occasionally charged the disputants for their services, but only small amounts. Ichwan, a village secretary of Lot Kala village, said that this money is used for drinks during the meeting or sometimes to support the *reje* and *imem*, since community members occasionally prefer to have a private consultation in their homes.

Now, how do these adat judicial institutions function? In my observation, the capacity of the village functionaries, mainly the *reje* and *imem,* determines the effectiveness of the adat process to deliver a fair outcome for disputants. In some cases, the incompetence of the *reje* is exploited by a plaintiff to extort compensation that goes beyond the physical injury the plaintiff suffered from and beyond the financial capacity of the defendant. It is a way to force the *reje* to give up the case and allow it to be transferred to the police. Such a situation also leads defendant to move his case to the state legal system. In some cases I observed, the plaintiff intentionally demanded a large compensation beyond the capacity of the defendant as a show of power asserting his status as the highest elite figure of the village.

For the adat institution, it is considered a failure if it cannot restore peace and harmony in the community. In the logic of the adat, bringing back harmony is the only aim adat has to pursue, which is achieved by leading the parties to a fair agreement to end the conflict. This means, for example, that a divorce will usually not be a solution offered by the adat, even if the wife insists, as this is not considered a harmonious outcome.

According to the law, the formalization of adat and the legal jurisdiction of the village should be respected by the police. Locals have to bring minor cases first to the adat institution, but if a plaintiff directly reports his case to the police, the police is obliged to return the case to the relevant adat institution. In practice, however, the police holds a key position in determining the type of law under

which a case will be processed, for whatever reason or interest they may have: state penal law or adat law.

Bhabinkamtibmas: The Government Approach to the Adat Institution

The significant role of adat tribunals as an alternative judicial system in Aceh was developed at the same time that the police was being transformed from a military into a more civilian organization after it was separated institutionally from the Indonesian Armed Forces in 2000. This development led to the creation of Community Police (Polmas, *Polisi Masyarakat*) in 2008. In 2015, a new structure was created under the Community Police, called Residential Police (Bhabinkamtibmas, *Bhayangkara Pembina Keamanaan dan Ketertiban Masyarakat*).

According to Badruzzaman, head of MAA, the Indonesian Police Department initiated the idea of creating the Bhabinkamtibmas in 2006. In that year, he and some colleagues from other provinces were invited by the national Police Department to visit Japan. They stayed in one village to observe Kōbans, a police officer who lives inside a community. In this way they he gets to know the local population really well and can provide security more effectively. In 2014, likely inspired by Kōbans, the national Police Department piloted the Bhabinkamtibmas unit in three provinces, including in Aceh, and expanded the pilot to the entire country one year later.

The national Police department assigned 62 thousand police officers to the task and posted them in villages across Indonesia (JPNN.com, 2015). Their basic duty is to maintain stability and prevent crime. The assignment requires social skills and creative problem solving skills. Some officers have succeeded in turning areas of high crime rates into places for teaching basic religious knowledge to adults and children. Some officers have been teaching English at elementary schools, while others have been involved in public service and have closely worked with youth (Humas Polres Sibolga, 2016; Tanjung, 2017; Tribrata, 2017).

The officers of the unit are also authorized by the Central Police Department to resolve disputes and watch how the Village Fund is used (*Dana Desa*) (Humas Polres Sibolga, 2016; Gorontalo, 2017; Kolut, 2017; Media, 2017a; Republika, 2017). Some police stations across Indonesia publish stories online of successful dispute resolution to increase their civilian image as a 'non-combat' unit of the state.

Many of these low-rank police officers in Central Aceh and Bener Meriah are Gayonese. Their understanding of the local people and territory give them an advantage in enforcing the law and providing security. It also makes them tolerant toward certain offenses, as they are influenced by social ties, kinship, and culture.

Many local police officers, in particular from the Traffic Unit, are regularly under pressure not to enforce the law to maintain their family and other social relationships. Their ethnicity and the sense of being Gayonese also drive them to favor Gayo adat law over state law. This leads them to allow adat institutions to handle crimes beyond their jurisdiction, such as *zina* and other sexual offenses. Moreover, the Bhabinkamtibmas is evaluated by the *reje*. If the *reje* is not happy with them, they will be transferred to other units or villages.

Being relocated to another unit means losing one of the most comfortable posts in the police department. According to Chief Brigadier (Bripka) Fahmi from the Polmas unit of Central Aceh, many police officers prefer to be in the Bhabinkamtibmas unit instead of other units, as they are given considerable freedom and are not chained to a desk. They work in a village, mingle with the community, and can do a side job such as starting a small plantation – which is common among senior officers.

In Gayo, and Aceh in general, a Bhabinkamtibmas officer can observe case proceedings held at the village office, mosque or hall. They are not authorized to be directly involved in a dispute nor to offer any resolution, except when they are requested to give legal advice. By standard, the officers and the police in general stay within the legal boundary designed by Qanun 9 and 10/2008, the joint agreement between the Aceh government and the Regional Police Department as well as the Governor's Decree of 2013. In practice Bhabinkabtimnas officers work closely with the village officials.

Although a Bhabinkamtibmas officer may not be aware that a case is directly reported to the Polsek or Polres, these police stations will contact and consult them and even return the case to the village if it is among the 18 minor cases regulated by the provincial government. Remarkably, certain cases that are officially outside the jurisdiction of the adat institutions, such as *zina*, are never taken to the police. Even Bhabinkamtibmas officers who are confronted with such cases keep them at the village level, as they share the common cultural values of the villagers and want to avoid problems with the *reje.*

The official recognition of adat law is appreciated by most Gayonese, even if its application limits their options to address a case under different legal systems. Disputants must bring minor cases to adat institutions. The police, who are crucial in bridging the divide between adat institutions and the state court, are legally obliged to defer to the adat institutions if cases fall within the latter's jurisdiction. Nonetheless, we see quite a bit of forum shopping, where different actors, particularly from local elites, try to utilize a dispute for their own interests. In this context of pluralism of penal law, the forum shopping is the privilege of legal

officials and local elites. The legal procedure of penal law seems to contribute to this situation, as the legal officials represent the state's interest against defendants, and the criminal procedure does not provide any space for private actors. This situation differs from the one in family law presented by Arskal and Shahar (Salim, 2015; Shahar, 2015), in which plaintiffs can choose between different laws that support their interest.

The idea of forum shopping was first presented and discussed in the context of Indonesia by Keebet von Benda-Beckmann. Through a case study of a dispute over a fishpond between an individual and a community in Minangkabau, Benda-Beckmann demonstrated how government and community actors were involved in shopping legal institutions, in this case the adat councils and the police station. The district head, after having received a complaint from the community, took advantage of the situation to reinforce his political influence in a village led by a political opponent. He recommended involving the police in the dispute. The head of police, who was new in the area, used the case to make a good impression on the adat leaders, showing that he was a person who respected the adat and not an authoritarian officer. He recommended the dispute to be dealt with in the "family way" and according to the local adat practices. However, the adat leader concerned was reluctant to get involved in the dispute and returned the case to the head of the neighborhood, who later was unsuccessful in ending the dispute. Such forum shopping, according to Benda-Beckmann, is the favorite pastime of many officials (Benda-Beckmann, 1981, pp. 127–134). The importance of such forum shopping as a tool for reinforcing the position of various actors has increased in Aceh following the establishment of new power constellations discussed above.

The following case study will show the re-emergence of forum shopping in the legal pluralism of penal law as promoted by state legal institutions.

Forum Shopping

Forum shopping, as presented by Beckman Benda above, is a practice that is only possible in a situation of legal pluralism where formal and informal legal agents and elites can choose between existing laws. The following case study shows how forum shopping practices are opened by state designed legal pluralism that works in favor of state legal agencies (in this case the police) and against the complainant, who is constrained by the designated legal arrangement.

Before starting the discussion I want to note first that not all cases that fail to be mediated by the adat officials and the Polsek office will be directly brought to the state court. The authority of the Polsek is limited by the authority of his

superintendents at the Polres. The Polres office will do further investigation and advance a case to the public prosecutor office who then brings the case to court.

The case went as follows. In July 2014, after the celebration of Eid Fitr, Aka (21 years old) and her brother Bensu (7 years old) visited their father, Ama, without permission from their mother, Ine, who had divorced Ama.[20] Their mother was angry with the two and slapped them in the face more than once after they came home. Aka would not accept such treatment; in anger she went to the Polsek station of Bebesen Sub-district and reported her mother for domestic violence. A police officer made a report, but advised her to reconsider whether she wanted to press charges.

The next day, Aka returned to the police station, urging the officers to detain her mother. Head of the Polsek, IPTU Muhadi MR then reported to the Head of Polres, AKBP Artanto. Muhadi was told to return the case to the village to be solved by adat institutions. According to Muhadi, his superior was worried of being cast in the spotlight by the public. He repeated his superiors' words: "How will the community view the police if we bring the mother to the courtroom just because she slapped her daughter? It would not be fair for the mother, who was perhaps too emotional at that time. It also would be a risk for the police amidst the reform that the institution has been conducting. The case has to go to the adat institution for the sake of everyone's virtuousness." Muhadi called the *reje* of Bebesen village, Idrusmadi, to handle the case. He also ordered Rizkan, the Bhabinkamtibmas officer to observe the case closely and report any progress.

However, Aka still demanded that the police continue with the case. Muhadi said that the case became more complicated because Aka now also involved her father. She was only prepared to cancel her report if her mother and father reunited. The police then requested the adat officials to visit Aka's father and to "comfort" her brokenhearted mother.

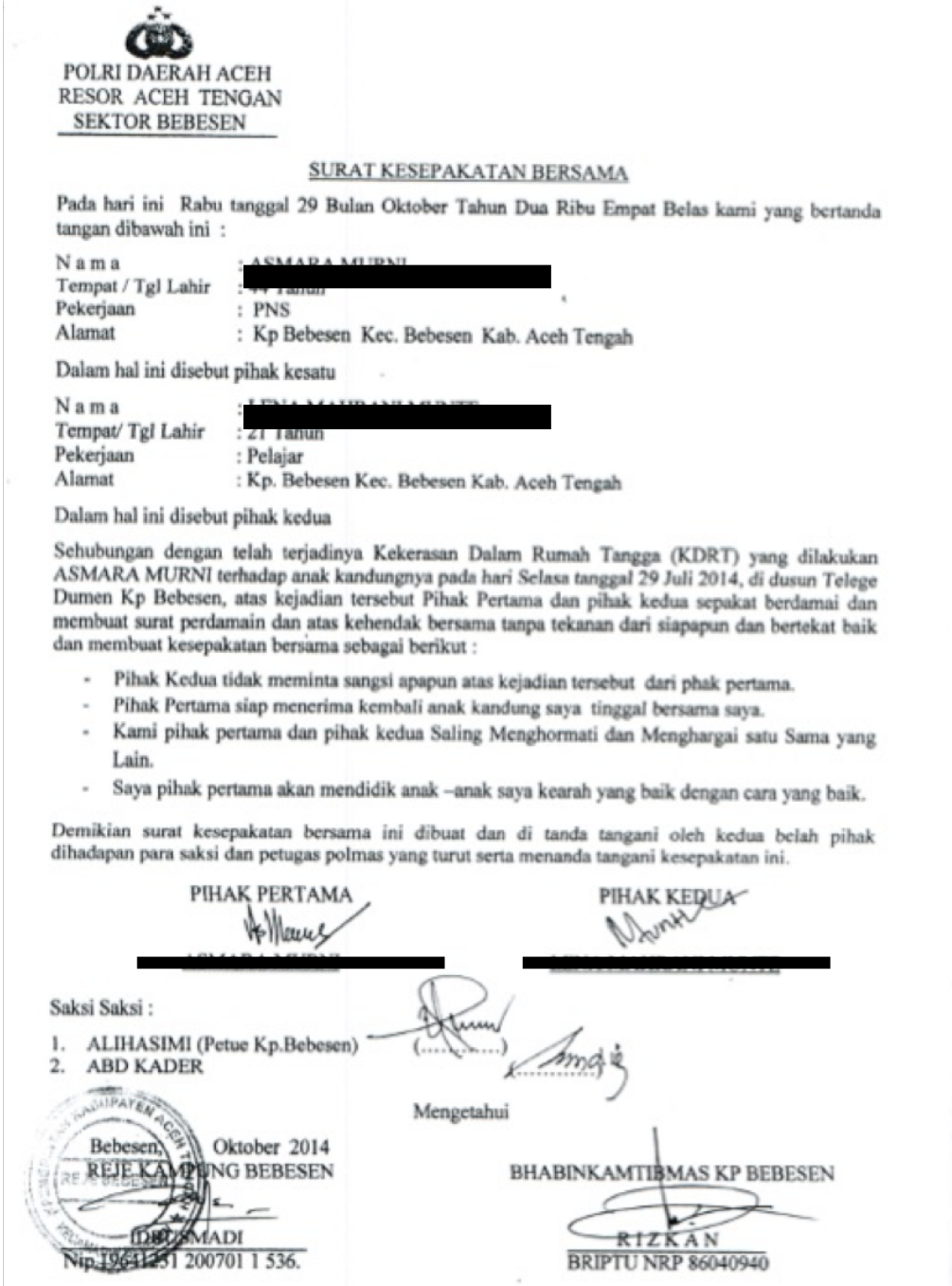
At the same time Aka was under pressure to withdraw her report, from the extended families of both her mother and her father and from village officials. However, she persisted and even managed to hire a lawyer from the local Legal Aid Organization (LBH, *Lembaga Bantuan Hukum*). The involvement of the lawyer put more pressure on the police to move the case to the public prosecutor.

The adat officials then invited siblings from both Aka's mother and father. The case now no longer was about daughter vs. mother but about ex-wife vs. ex-husband. This led to a reconciliation, which was concluded after the intervention of the regent of Central Aceh, Nasruddin – also a member of the extended family

[20] The figures' names are pseudonyms, upon the request of the police and village officials involved.

from Aka's father. The reconciliation was recorded by the adat officials and the police department in a written agreement between Aka and her mother. A peace ritual attended by police officers and a limited number of people was held. As part of the resolution, Ine agreed to let her children visit their father freely. Both ex-husband and ex-wife also agreed to start establishing better communication.

This case shows how government recognition of adat leads governance actors to choose the system they think is most suitable for resolving a dispute or offense. Even if "state legally" speaking they are entitled to a particular legal avenue, complainants are forced by the interests of the actors involved to follow another one. As a new legal institution in Aceh, adat thus serves the interests of the state's legal officers. The case of Aka and Ine show us how a dispute is not only solved through the process considered most effective, but also utilized to support the police department's interests in increasing its pro-civilian image before the community – a part of the agenda of internal reform within the Indonesian Police Department.



POLRI DAERAH ACEH
RESOR ACEH TENGAH
SEKTOR BEBESEN

SURAT KESEPAKATAN BERSAMA

Pada hari ini Rabu tanggal 29 Bulan Oktober Tahun Dua Ribu Empat Belas kami yang bertanda tangan dibawah ini :

Nama : ASMARA MURNI
Tempat / Tgl Lahir : 44 Tahun
Pekerjaan : PNS
Alamat : Kp Bebesen Kec. Bebesen Kab. Aceh Tengah

Dalam hal ini disebut pihak kesatu

Nama :
Tempat/ Tgl Lahir : 21 Tahun
Pekerjaan : Pelajar
Alamat : Kp. Bebesen Kec. Bebesen Kab. Aceh Tengah

Dalam hal ini disebut pihak kedua

Sehubungan dengan telah terjadinya Kekerasan Dalam Rumah Tangga (KDRT) yang dilakukan ASMARA MURNI terhadap anak kandungnya pada hari Selasa tanggal 29 Juli 2014, di dusun Telege Dumen Kp Bebesen, atas kejadian tersebut Pihak Pertama dan pihak kedua sepakat berdamai dan membuat surat perdamain dan atas kehendak bersama tanpa tekanan dari siapapun dan bertekat baik dan membuat kesepakatan bersama sebagai berikut :

- Pihak Kedua tidak meminta sangsi apapun atas kejadian tersebut dari phak pertama.
- Pihak Pertama siap menerima kembali anak kandung saya tinggal bersama saya.
- Kami pihak pertama dan pihak kedua Saling Menghormati dan Menghargai satu Sama yang Lain.
- Saya pihak pertama akan mendidik anak –anak saya kearah yang baik dengan cara yang baik.

Demikian surat kesepakatan bersama ini dibuat dan di tanda tangani oleh kedua belah pihak dihadapan para saksi dan petugas polmas yang turut serta menanda tangani kesepakatan ini.

PIHAK PERTAMA

PIHAK KEDUA

Saksi Saksi :

1. ALIHASIMI (Petue Kp.Bebesen) (.....)
2. ABD KADER .....

Mengetahui

Bebesen, Oktober 2014
REJE KAMPUNG BEBESEN

IDRIS MADI
Nip.19641231 200701 1 536.

BHABINKAMTIBMAS KP BEBESEN

RIZKAN
BRIPTU NRP 86040940

The peace agreement between Aka and Ine.

Conclusion

From the early 19th to the 21st century, the Gayonese people have passed through wars (against the Dutch and Japanese), armed conflicts (Ulama revolt and Free Aceh Movement against the Republic of Indonesia), and natural hazards (earthquakes and a tsunami). Aside from guns, soldiers, and humanitarian assistance, these man-made and natural disasters have brought civilians and organizations from different areas, cultures, norms, values and ideologies to the Gayo lands. They have inspired local people to adapt to the new encounters and situations by changing their adat. Adat, which has been an instrument for social transformation and engineering is continuously (re)defined, (re)constructed, (re)organized by the locals to set a new standard of social life and to introduce a new way of looking at themselves and others. In its transformation, adat appears to be a contested and negotiated space for government and non-government actors as well as religious and secular actors and institutions whose goal is to drive the society in certain directions. The involvement and intervention of these actors make adat comprise many different ideologies, norms and values derived from both Islam and secular ideologies. Adat law, as F. and K. von Benda-Beckmann describe, is thus a hybrid law.

These integrated external forces have transformed the function of adat. In family law, adat is used now to maintain the continuity of kinship. This legitimates actors to ignore the standard Islamic law or the scripturalist views on Islam by creative reasoning based on alternative Islamic arguments to justify a practice. Instead of seeing themselves (or others seeing them) as deviating from Islam, they believe they apply the basic principles of Islamic teachings.

Adat law is also used as an alternative judicial system to reinforce public order. In some cases, it is used to promote the position of vulnerable groups such as women and children, but in other localities the opposite has happened. This development of adat is in line with the shift away from state legal centralism towards state legal pluralism in Indonesia in the post-Suharto era. This shift to state designed legal pluralism privileges legal agents and elites with the opportunity to engage in forum shopping. Complainants do not enjoy such privilege, as their interest is represented by the state legal agencies. With the power they possess, the state legal agencies can choose between their own interests to move a case to another legal system or the interests of those involved in a case. The first practice is forum shopping while I categorize the latter as legal differentiation, a concept I will further discuss in chapter V.

Furthermore, the government also distributes power to adat institutions that has strengthened the position of village elites in the community. This is due to the

fact that the designed legal mechanism leads plaintiffs to bring their cases first to the adat institution. Plaintiffs may find ways to proceed their case to state courts, for instance by demanding high compensation from a defendant beyond the physical injury they have suffered and beyond the financial capacity of the defendant, but this is not common.

However, adat does not only support village elites or the police, but also the district government in its efforts to implement Shari'a in the region. The notion that adat is an actualization of Islamic teachings drives the district government to distribute power to the village officials to support the implementation of Aceh Shari'a penal law dealing with *zina* (premarital and extramarital sex) and public immorality. The following chapter will show how the introduction of the state Shari'a does not challenge the authority of adat institutions in monitoring public immorality acts and tackling *zina*. Conversely, it strengthens the authority of adat law. The following chapter discusses the complementarity of Aceh Shari'a and adat law, even if conceptually they contest one another.