Matrilineal Islam: State Islamic Law and everyday practices of marriage and divorce among people of Mukomuko-Bengkulu, Sumatra, Indonesia

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4

Semendo Tradition: Marriage and Divorce among *Hulu-Hilir* People in Contemporary Mukomuko

4.1 Introduction

The previous chapter showed that Mukomuko is primarily defined geographically, rather than ethnolinguistically or culturally. Mukomuko's population comprises: (1) *hulu-hilir* people, a blend of Minangkabau descendants from the north and southern Mukomuko locals,[99] who live in the *hulu-hilir* (upstream-downstream) villages; (2) migrants, mostly from the island of Java, who are scattered throughout several enclaves that are either private plantations or state-sponsored for transmigration; and (3) urban people, a mixture of the former and latter, who reside mainly in emerging urban centres. Together, they constitute the so-called local people of contemporary Mukomuko. In arranging marriage and divorce, the *hulu-hilir* people predominantly refer to their matrilineal *adat* as being from Minangkabau, while migrants often bring various traditions from their place of origin with them. In urban centres the two groups live side by side while observing their respective traditions, but encounters between them are inevitable. Their encounters mostly occur in cross-ethnic marriages, meaning a marriage between a *hulu-hilir* inhabitant and a migrant, or a marriage between two migrants with different ethnic backgrounds. While the former is usually an Islamic marriage, since the *hulu-hilir* people are Muslims, the latter may occur between non-Muslims and is therefore not necessarily an Islamic marriage.

This background shows that, other than being diverse and adhering to a different set of norms, the local people of Mukomu-

[99] The *hulu-hilir* people are traditional villagers from the former regions of XIX Koto, V Koto, and LIX Peroatin, and they adhere to a *semendo adat*. Henceforth, the term *hulu-hilir* must not be confused with the term 'traditional villager', although the terms are used interchangeably in this chapter.

ko may intermingle with one another cross-ethnically. Their customary norms, notably the matrilineal *adat* observed by the *hulu-hilir* people, serve as living laws, which are distinguished from the state law that is intended to apply nationwide. This context means possible (structural) conflicts may arise from the diverging norms or laws. With regard to marriage and divorce among the *hulu-hilir* people, conflict revolves around how customary norms which are equivalent to the state law, i.e. *semendo adat*,[100] manifest in practice. In other words: How do the *hulu-hilir* people adjust their own norms to the presence of both migrants and the state? And: What are conflicts might arise from the diverging norms or laws? As we will see in this chapter, the people of Mukomuko remain partly matrilineal. Matrilineal tradition, as manifested in the *semendo adat*, continues to shape marriages and divorces among *hulu-hilir* villagers. Nonetheless, some of the traditional villagers are beginning to deviate from this tradition, particularly when they no longer live in their village of origin.

To further understand this phenomenon, this chapter delves into the experiences of traditional villagers in concluding a marriage and obtaining a divorce. In doing so, I look at two main concepts, i.e. a *semendo* marriage and a *semendo* divorce. These concepts will be linked with some important elements of matrilineal tradition, such as *antaran* and *mahar* (bride price), *harta-sepencarian* (joint-marital property), and alimony. Each concept and element will be discussed chronologically, by featuring relevant cases I encountered during my fieldwork. While the chronological overview examines continuities and changes, the cases featured provide a picture of their manifestation in everyday practice. This discussion leads to a conclusion that *semendo* marriage and divorce are living (discursive) 'traditions'[101] among the *hulu-hilir*

[100] The term *semendo adat* refers to customary norms observed by the *hulu-hilir* people of Mukomuko. Equivalent terms are *adat-pegang-pakai* (usages and customs) and matrilineal *adat*. Although other terms, (notably, matrilineal *adat*) may sound more familiar, the term *semendo adat* has often been used specifically to mean matrilineal *adat* in Mukomuko, in literature on the customary norms of Bengkulu (Adatrecthbundel VI, 1913; Bogaardt, 1958; Marsden, 1811; Moyer, 1975).

[101] Discursive tradition is a concept adapted by Talal Asad, who wrote about the anthropology of Islam. As he put it, "a tradition consists essentially of discourses that seek to instruct

people in their villages, and are 'differentiated'[102] from state law and other non-state norms. However, *semendo* marriage and divorce are now increasingly being contested. In addition to some villagers already beginning to deviate from them, the local government is trying to eliminate *semendo* elements and figures from the village administration, by imposing *Lembaga Adat* (LA, or an *Adat* Institution) at every village, which will undoubtedly reduce recognition of the *semendo adat* as a living tradition.

The following discussion begins with the institutionalisation of *Adat-Pegang-Pakai* (customs and usages) in traditional villages, and the recent invention of *Lembaga Adat* in each village. Next, the discussion deals with the functioning of *semendo* marriage and *semendo* divorce among traditional villagers. Before exploring these topics in more detail, a brief overview of the *semendo* tradition will first be presented.

4.2 *Semendo* Tradition and *Adat-Pegang-Pakai* in Traditional Villages

The earliest source I could find regarding Mukomuko *adat* is the *Undang-Undang* of *Moco*, dating back to the period 1696-1760.[103]

practitioners regarding the correct form and purpose of a given practice that, precisely because it is established, has a history. These discourses relate conceptually to a past and a future through a present."(Asad, 2009, p. 20) In this respect, *semendo* marriage and divorce can be perceived as discursive traditions, because not only can they be linked conceptually to the past through current practice among traditional villagers, but they can also be useful in anticipating the future.

[102] The term 'differentiated' is adapted from a concept within the sociology of law, i.e. differentiation, which means "the existence in a social group of secondary rules creating social roles for the performance of a particular task" (Griffiths, 2017, p. 103). By employing this concept, the *semendo* tradition is perceived as a living law, differentiated from other sources of social control of marriage and divorce, such as a state law, religious law, or other customary laws. Together, they operate in a continuum scale - from the ultimate zero point of 'less differentiated' to the infinite point of 'more differentiated'. I use this concept to avoid a binary approach, which often divides empirical laws (norms) into merely formal v. informal or legal v. non-legal, rather than treating them as a continuum scale (Abel, 2017; Griffiths, 2017; Platt, 2017).

[My] operational adaptation from this concept is available in Figure 4.3.1.1. Here, the concept of differentiation is distinguished from another concept with the same naming, i.e. 'legal differentiation', used by Bedner. He defines legal differentiation as "a process in which an official attaches different consequence to the same act or the same constellation of facts for one group of persons or an individual than for another" (Bedner 2017). While Griffith aims to conceptualise an object of empirical study in law, Bedner focusses on a process, or how to consider different forms of laws, i.e. customary and state laws, in practice.

[103] The *Undang-Undang* source is dated as having been written during the reign of Raja Pa-

This source was written in Malay, from a recitation by Singa Maharajah of Munjoto, the oldest *mantri* at the time and the only person capable of reciting the *Undang-Undang* in its entirety. This writing comprises measured prose, broken into stanzas and recited as verse. In 1822, this source was translated into English and published as *The Undang-Undang* of *Moco* (Farmers, 1822, p. 1). This *Undang-Undang* emphasises the worldly nature of a custom that evolved alongside human development under the sovereign of Minangkabau.[104] By 'custom', this *Undang-Undang* means the Minangkabau traditions of *Katumanggungan* and *Parpatih-nan-Sabatan*, and those related to *Tuanku* (*raja*) decrees (Farmers, 1822, p. 6). In the latter source, a *Tuanku* maintains the balance between an 'absolute' power and a 'propriety' ethic, when delivering a decree. This balance is best described in the following excerpts from this *Undang-Undang*:

> *"Tuanku (raja) is the key to the law. If he calls black white, it is white. On the contrary, if he calls white black, it is black." However, in exercising his 'absolute' power, a Tuanku maintains what is proper. "He is required to seek what is just and right, to lean toward the law of the 'Shuroo'." As an allegory, this source describes several of the qualities of a Tuanku. "He is skilled in the science of physiognomy and the knowledge of character, sagacious in comprehending the real object of all that is said, whether open or secret, seeing that the great are envious, and the old are malevolent." (Farmers, 1822, p. 6).*

An example of *Tuanku's* decree mentioned in this source was the collection of a yearly tribute from *peroatin* villages (*dusun*). Each village from this region had to present one bamboo of rice, one bowl of poultry, a one dollar bill, and a packet of *siri* and betel nuts to the *Tuanku* in power at the end of year

sisir (1696-1760), the son of Padusi of Indrapura, "...the mother of the present Tuanku." The content of this *Undang-Undang* shows that it was recited before a transmitter from the British East India Company during the reign of Sultan Hidayatullah (1816-1832), not long before its publication in 1882 (Farmers, 1822, p. 14; Kathirithamby-Wells, 1976, p. 79).

[104] "While the humankind's condition is from God, custom is from Adam" (Farmers, 1822, p. 1). In other sources, Minangkabau's *adat* is divided into several categories: *Adat sebenar adat*, *adat yang diadatkan*, *adat yang teradat*, and *adat istiadat*. While the first category is taken from and granted by God, the remaining categories are human-made (BMA Mukomuko 2005; Navis, 1984).

(Farmers, 1822, p. 12; Marsden, 1811, p. 353). This tribute was made mandatory as compensation for the death of the Raja of Indrapura, who had been killed at Urei, one of the *peroatin* territories. For this deed, all *peroatin* territories were collectively held responsible, which justified the collection of a tribute. If this had not been the case, the tribute would be considered arbitrary and against the very principle of their *adat*, i.e. deliberation (*bicara*), through which a decision was agreed by the *Tuanku* himself, as well as the *mantris* and *peroatins*. It was mentioned in this source that "… (the tribute) is not an innovation or new institution, but agreeable to a custom of ancient standing derived from the Darat (Minangkabau mainland)" (Farmers, 1822, p. 12). This example sheds light on the communal nature of Mukomuko *adat*. A clan bore the responsibility for the deeds of its members, while recognition for an individual subject depended on his or her membership of a clan (Navis, 1984, p. 109). Equally important to such communality was the institution of *bicara* serving as a means for decision making.

The institution of *bicara*, which literally means a 'talk', was a means of deliberation for the local elite, and it was comprised of the *tuaku*, *mantris* and *peroatins.* The *tuanku* held symbolic authority as 'the key to the law', but he did not have the power to enact laws on his own. Instead, he relied on the above-mentioned elites and *bicara* assembly (Ball, 1984, p. 144). In this manner, the institution served as a source of legitimacy for the *tuanku*, who had to collaborate with other elites to enact new laws. During the British EIC presence, the *bicara* assembly became liable to British intervention as mediator, and later it became increasingly co-opted and placed under British influence. In arranging an assembly, for example, the incumbent sultan had to ask for approval from the British chief, acting as their 'lord' at the time, but who would have been a mere mediator prior to the 1789 patrilineal revolution (Ball, 1984, p. 144; Veevers, 2013, p. 696). Despite the British increasing their control of the region, their interference was mostly concerned with economic and criminal matters, such

as the introduction of forced cultivation and the abolition of *bangon* (or blood money). This attitude allowed local elites to remain in charge on *adat* matters, such as marriage and divorce, even though (in some ways) *adat* remained subject to intervention by the company, as seen in the restriction of people's participation in royal weddings.

The company's increasing penetration posed a serious threat to the existence of *adat* assembly (*bicara*), but the nature of this institution as a bottom-up assembly allowed it to survive outside of this interference. By bottom-up, I mean that such assembly existed not only at the sultanate and supra-village levels, but also at the lower village level (*dusun*). Even though the sultanate eventually died out in 1870, *bicara* assembly managed to survive as an authoritative body among the natives. It survived at the village level via an assembly of '*orang adat*' (elite *adat* members), comprising *kaum* (clan) heads and elders, sub-village heads, and religious functionaries. Together, they became the guardians of *adat-pegang-pakai* (traditional customs and usages). Their roles are still observable to this day, among people in traditional villages. Not only do they preserve the application of customs and usages, they also adjust them to changing needs and situations. In this sense, their *adat-pegang-pakai* appears to be a lived *adat*, preserved and adapted to changing situations in their respective village. This explains the emergence of different modes of usages and customs in different villages, although most still refer to the traditional *adat-pegang-pakai*, descended from past Mukomuko. The preservation of *adat* also manifests in the application of *kerja-baik-kerja-buruk* (good and bad social events).

The concept of *kerja-baik-kerja-buruk* has become the core of Mukomuko *adat*. It serves as a general guideline for how a community should deal with important events, such as birth, marriage and death. These events are divided into two categories: one is *kerja-baik* (good events, such as birth and marriage), and the other is *kerja-buruk* (bad events, such as death). In the first category public participation tends to be passive, while in

the second category participation is active. In celebrating a marriage ceremony, for instance, people will not participate unless invited, but people will get involved automatically in taking care of a dead person. To arrange such events properly, a host—such as a bride or groom (for a marriage), or a widow or widower (for a funeral)—should involve *kaum* (genealogical) leaders, who act on his/her behalf. Supposing that the host arranges one such event without involving the *kaums*. In that case, the public will not participate and the host (and his or her clan) will not be allowed to arrange the event according to proper village customs. Furthermore, the whole clan will be excluded from *adat* events, and their participation will be restored only if they redeem the sanctioned *adat* fines.[105] In this regard, *kerja-baik-kerja-buruk* serves as a form of social legitimacy, which is instrumental to the preservation of *adat* among traditional villagers.

The perpetuating roles of *orang adat* and people's dependency upon them in arranging *kerja-baik-kerja-buruk* have contributed to the unique practice of *adat* in contemporary Mukomuko. In light of their unique tradition, I will look in particular at how the traditional villagers conclude a marriage and how they obtain a divorce. Their experiences in this regard will be viewed from the matrilineal tradition, such as *semendo* marriage and divorce, bride-price (*mahar*), *antaran*, uxorilocal, duo-local, and *harta-sepencarian* or joint-marital property. The discussion will also consider their encounters with migrants, and the state's increasing presence. These inquiries will shed light on the ways in which traditional villagers practice their *adat* and how they adapt to the changing situation. Beforehand, we will look at an overview of one of the traditional villages, and a recent debate that occurred there concerning the 'invention' of BMA (at regency level) and LA (at village level).

[105] In the case of a death, people will participate only in the compulsory processions of a funeral, such as the burial, but will not be involved in non-compulsory processions, such as congregational prayers (*tahlilan*) and praying at the host's house (*shalat jamaah*).

4.2.1 Ethnographic evidence: a view from Talang Buai village[106]

Talang Buai is a traditional village, located upstream (*hulu*) on the Selagan river. The river has long served as a transportation route, connecting the village with downstream (*hilir*) areas, which now form the capital of Mukomuko. Lying at a distance of 45 km from the central regency of Mukomuko, nowadays the village can be reached by motorbike or car in 1.5 hours.

In the past, Talang Buai was the name of a plateau which served as farmland for people living on the lowland banks of the Selagan river, now known as Old Jerinjing village. The village was often hit by floods, and in 1983, a year after flash flooding, the inhabitants were relocated to a new place, called New Jerinjing, via state-sponsored social transmigration. Yet, New Jerinjing's position was not geographically strategic, as the villagers now had to cross the river and walk for quite a distance to reach their farms and rice fields. In 1989, this situation led half the population to migrate to the Talang Buai plateau, which was right next to their fields. A year later, this new settlement was integrated, as a sub-village, into the New Jerinjing village. Afterwards, Talang Buai sub-village developed into two sub-villages (Talang Buai I, and Talang Buai II), but it remained part of New Jerinjing. Only later, in 2007, did these sub-units separate from New Jerinjing to form an independent village called Talang Buai village, which now comprises three sub-villages with a population of 1,181.

Prior to the establishment of this village, the people had developed a unique composition of sub-village structures and institutions. Each person belongs to one of 11 extended families, called *kaum*.[107] Their membership is determined genealogically, according to a 'simplified' principle of Minangkabau matriliny, in which an individual is a member of his/her mother's family,

[106] Interviews with Maadas (the elder in Kaum Datuk Baginde), Muslim (the elder in Kaum Datuk Koto Bayan), and other elders in Talang Buai, 15 April 2017.

[107] Namely: *Kaum Koto Pinang I, Kaum Koto Pinang II, Kaum Koto Pinang III, Kaum Koto Pinang IV, Kaum Koto Pinang V, Kaum Datuk Beginde I, Kaum Datuk Beginde II, Kaum Datuk Bayan atau Kaum VI di Hulu, Kaum VI di Hilir, Kaum XIV*, and *Kaum Suko Rajo.*

called *seibu*. Above this group is a broader matrilineal grouping, called (*se*)*perut* (womb). Several *peruts* constitute a *kaum*, which is led by the *kaum* leader and guided by an *orang-tua-kaum* (a *kaum* elder). The *kaum* leader was appointed by all the members of the *kaum*, whereas the *orang-tua-kaum* position was often held by a former *kaum* leader. In this way, the *kaum* leader served as a ' cultural broker' for its members when arranging a marriage, funeral, feast, or when resolving disputes, etc. (cf. Geertz, 1960; Horikoshi, 1987). The *orang-tua-kaum,* who is usually the most respected and learned person regarding *adat*, but not necessarily the oldest person in the community, provided guidance for the incumbent head of *kaum.* At the sub-village level, the existing *kaums* appointed leaders of sub-villages and *pegawai syara* (religious functionaries); the latter position is held by each of the representatives of the 11 *kaums* in turn (*bergiliran*). The representatives are selected internally, through deliberation within each *kaum* at their respective house.[108]

As concerns the sub-village leadership posts, namely *dusun* I and *dusun* II, the representatives on duty served their terms for three years before they were replaced by the remaining representatives. With regard to religious functionary posts, there were four main functions: *Imam*, *Khatib*, *Bilal Muhsin*, and *Bilal Jum'at*.[109] These positions were arranged hierarchically. The representatives from the 11 *kaums* rotated their positions after a three-year term in each position, but the appointed representative on duty would serve these positions step-by-step, for a total of 12 years, starting with *Bilal Jum'at, Bilal Muhsin*, *Khatib*, and eventually *Imam*. At the village level, the *kaum* heads and elders, the sub-village heads, and the religious functionaries constituted a 'triangle' of *orang adat*, symbolically led by the village leader of New Jerinjing. The triangle of *orang adat* was comparable to the Minangkabau's *orang tigo*

[108] Each *kaum* has its own house, now in Talang Buai and separate from the private houses of its members. The shape of a *kaum* house resembles that of a *mushallah* in a Javanese village.

[109] Interviews with Maskur (the current *Imam*), Syska Aranto (the current *Bilal Jum'at*), Sukri (the former *Imam*), and other elders in Talang Buai, 1 May 2017.

jenis institutional actors, which were three types of people): the Penghulu, the *Imam-Khatib* (the religious dignitaries), and the *orang banyak* (the mass). This triangle, as Abdullah maintained, became increasingly assimilated after the Padri movement became widespread in the early 18th century, because the movement formalised the religious dignitaries as an integral part of the *orang tigo jenis* (Abdullah, 1966, p. 15, 2010, p. xxxii; Huda, 2013, p. 231). Yet, in Talang Buai, the religious functionaries were appointed from among the genealogical groups or *kaums*, not from a separate social entity.

Since the establishment of Talang Buai village in 2007, the elite members of *orang adat* have adapted their positions to the new administration. Now, the leader of the village is elected directly by individual voters, but the candidate who wins the election is considered a mere administrative representative. To gain legitimacy as a leader of people, especially among *orang adat*, the elected candidate must perform an *adat* sanction ceremony, by slaughtering a goat. He must also relinquish the appointment of sub-village heads to *orang adat* who will distribute these posts among *kaum* representatives. Only then does the leader of village gain political legitimacy among the people. After completing the *adat* ceremony, the village leader will deliver a speech in *khutbah tengah padang*, held a day after the celebration of Islamic Eid, symbolically representing the higher authority, just like a local *raja* (king). Meanwhile, the existing religious functionaries remain the same as in former times, appointed to serve a three-year term in each post hierarchically: *Bilal Jum'at, Bilal Muhsin*, *Khatib*, and eventually *Imam*. Together, the *kaum* heads and elders, religious functionaries, and the village and sub-village leaders constitute the highest authority in the village, with the village leader acting as *primus inter pares* between them. Together, they participate in *Badan Permusyawaratan Desa* (the BPD, or village parliament), as well as in marriage ceremonies, divorces, dispute resolution, etc. Their engagement in the fields of marriage and divorce will be addressed later.

The hybrid mode of *adat* and the village government is still observable to this day. For example, with the support of *orang adat*, the village leader might expand the application of an *adat* sanction – namely, an exclusion from *kerja-baik-kerja-buruk* - to those who have not paid off their arrears on a village-owned cash loan. In one case, an individual who had threatened the village leader was subjected to an *adat* fine, despite the fact that the individual and the village leader himself had reconciled. The individual was still subjected to the fine, because the threat was perceived as going beyond the village leader, to offend the whole village community and the dignity of its *adat*. In this sense, support for *orang adat* is instrumental to a village leader's (political) legitimacy. Conversely, elite members of *adat* gain benefit through their involvement in village administration. Both the religious functionaries and the sub-village leaders receive regular income from the state,[110] and from the *kaum* leaders involved in preparing the administration of marriages and receiving the resulting revenue. Nevertheless, such hybrid structures and institutions are now at a crossroad, because of increasing intervention from the Mukomuko regency local government. The local government intervened by imposing a single institution, *Badan Musyawarah Adat* (the BMA, or deliberative council of *adat*), across the region.

4.2.2 The invention of *Badan Musyawarah Adat* (BMA)

Every traditional village develops its own distinctive approach to reconciling its *adat* with outside influences. In this manner, *adat* as a living norm evolves within the community and develops through encounters with the changing regimes and policies from outside. Following the 2003 secession of Mukomuko, the local Mukomuko regency government transformed several *dusun* (sub-villages) into self-contained villages. This transformation led the people (notably, the *orang adat*) to adjust their position to the new village administration. The Sibak and Pondok Baru villages, for instance, developed a unique method for select-

[110] Peraturan Daerah (Bylaw) 5/2012 of Mukomuko formally allocated a monthly income for religious functionaries and sub-village leaders, but Peraturan Daerah 5/2019 later revoked this allocation.

ing village leader candidates. They rotate the candidacy among the existing *kaums*, implying that the election is a competition between candidates from the same *kaum*. Thus, members of the remaining *kaums* have to wait their turn and, for the time being, participate as voters only. By contrast, in Penarik, Bandar Ratu, and Ipuh villages (which now form market centres and the administrative capital of Mukomuko), *orang adat* are becoming less involved in the village election process. Yet, *orang adat* still have considerable daily influence on villagers, because they secure their traditional position in tandem with the village administrators.[111] Either way, i.e. integrated or separated, there are always two authoritative bodies in every traditional village. One is the *orang adat*[112], and the other is made up of village officers.

The state-*adat* unique encounter in traditional villages has strengthened the state's legitimacy for the villagers and preserved *adat* as a lived custom. Nonetheless, this situation is about to change, as the first Regent of Mukomuko, Ichwan Yunus (2005-2015) invented the BMA institution for the regency and sub-regency levels. An appeal to form *Lembaga Adat* (LA, or *Adat* Institution), for each village, followed. The formation of LA means the introduction of an alien institution, rather than accommodation of the existing institution of *adat.* In fact, as a lived institution, Mukomuko *adat* grew from the bottom up and developed as a hybrid institution, through unique cooperation between the village politicians and village administrators. By contrast, the institution of LA derives from above, imposed and projected by the local government as a separate institution from the village administration. Thus, the institutionalisation of LA poses a serious threat to the autonomy of individual villages' *adat*. In migrant villages the creation of LA is equally problematic, because the equivalent institution for *adat* is not available. Hence, the government's ap-

[111] Interview with H. Bustari at Bandar Ratu village, on 19 March 2017.

[112] Concerning the reference to *orang adat*, some traditional villages (such as Bandar Ratu and Pasar Mukomuko) retain the former terminology, i.e. *Penghulu Adat*. Unlike *orang adat* - an assemblage of *kaum* leaders and representatives – an appointed *Penghulu Adat* is the supreme *Adat* leader, who serves as a *primus inter pares* among the existing *kaum* leaders within a traditional village, or *kelurahan*.

peal to create BMA and LA, coupled with inadequate financial support,[113] is no more than lip service from politicians, and it evaporates immediately without making any significant impact.

The invention of BMA and LA demonstrates the ongoing unification of *adat* in Mukomuko. It occurs through "an imposition of 'official' *adat* on a 'living' *adat* (cf. Pirie, 2013, p. 50)."[114] Ironically, this policy was driven by inadequate understanding of the functioning of *adat* among villagers. In a deliberation I attended on 1 January 2018, at Talang Buai, there was intense debate concerning the position of *orang adat* within the village administration. The debate was triggered by the village leader's bid to appoint sub-village leaders on his own, by invoking the Village Organisation Government Law 6/2014, which requires all village functionaries to hold (minimum) a senior high school diploma. Accordingly, the village leader argued that the incumbent heads of sub-villages (who represent *adat*) should be replaced, because they did not hold a high school diploma. He added that better qualified candidates, i.e. candidates of the younger generation, who do not necessarily represent *adat*, should be prioritised. After the debate, it was decided that the existing sub-village leaders would serve until the end of their terms. Afterwards, they would be replaced by someone the village leader would choose, and *orang adat* would shift to the institution of LA. All expenses arising from LA institution would be charged to the village apparatus, implying that *orang adat* (the acting LA at the time) would no longer receive a regular income.

The outcome of this meeting disappointed the *orang adat.* One of them told me, "*Kito ini dapat kerjonyo bae dan jangan sa-*

[113] In Article 1 point (L) of the Regent Regulation 6/2011 the BMA institution is associated with other semi-governmental organisations, such as PMI (the Indonesian Red Cross), *Pramuka* (the Scouts), Dharma Wanita, etc. This regulation stipulates (in Article 5) that the government may support these organisations financially, via *hibah* (grant), *bantuan sosial* (*bansos*, social assistance), or other mechanisms, which are deducted mainly from regional budgets (ABPD). However, the allocation is just a programme, rather than a sustained form of support, and it may change according to the wishes of the incumbent regent.

[114] In Peter Just's review article (Just, 1992, p. 379; Vincent, 1990), Joan Vincent employs two terms for the same purpose, i.e. 'customary law', and 'folk law'. While the former is equivalent to the official *adat*, the latter corresponds to the lived *adat* (see also an excellent discussion on "adat law" and "living law" in Bedner, 2021, pp. 378–380).

lah kalau besok ado yang minta tolong kito suruh ke kades" ("We just get the work. Don't blame us if someday we refuse to get involved and instead let people ask the village leader for help"). Basically, the village leader could have avoided the debate, by maintaining the established cooperation with *adat* when appointing sub-village leaders, while also introducing a required qualification. However, it was apparent from the outset that the village leader's intention was to discharge *orang adat* and to promote the institution of LA instead, as compensation. His administrative superior, the leader of Selagan Raya sub-regency, who delivered an opening speech at the meeting, said "*sekarang orang dusun sudah pintar-pintar dan bisa memisahkan urusan adat dengan desa*" ("now, people are becoming smarter and managing to separate *adat* from village affairs"). His statement associates the villagers' strong adherence to *adat* with backwardness; it is a stereotypical and degrading statement. The statement reflects the government's lack of understanding of the functioning of *adat* in traditional villages, which ultimately resulted in their inclination to create LA as a separate institution. This misunderstanding will be demonstrated in the following section, on the roles of *adat* and its elite members in arranging marriage and divorce in traditional villages.

4.3 *Semendo* Marriage

The British 1822 *Undang-Undang* of *Moco* does not explicitly mention any practical guidelines for marriage. Nevertheless, according to the Dutch 1840 description of Mukomuko by Bogaardt, the natives' inclination towards Minangkabau tradition suggested that the nature of their marriage was *semendo* and adhered to clan-exogamous, uxorilocal, and duo-local principles. Under this type of marriage: *first*, an individual might only marry heterosexually with a person from outside of his or her own clan (clan-exogamy); *second*, the groom should settle at the house of the bride's parents, after the marriage (uxorilocality); *third*, the husband remains attached to his maternal family and works in

his ancestral family in the daytime, but it is also common that he shares his labour between the two families and returns to his wife's house in the evening (duo-locality).

As an exception, there was also another mode of marriage, called *sando-gong.* In this type of marriage, "a husband took a pledge and his wife was bound to him by debt, in which case he alone had the right to sue for the divorce and the children were his. In the event of death, he could give the woman her freedom, but if he had not made this known promptly before his death, then the woman and children remained in debt to the husband's family" (Bogaardt, 1958, p. 35). In this sense, as Bogaardt put it, *"sando-gong* can be called slavery in the broadest sense of the word since under this designation the lord of the pledge has the power to do with his pledgee whatever he chooses …. then neither the family of the lord nor the judge has any recourse against the master, as he has claim to the *bangon* or the blood money" (Bogaardt, 1958, pp. 31–32). This option was often preferred by a groom, to avoid possible disagreements arising from a *semendo* marriage. As a result of this marriage, the wife would follow her husband to live in his *dusun*, and she was no longer entitled to matrilineal claims to her family. Accordingly, Article 73 of the 1862 *Undang-Undang* of Moko stipulated that a wife who lived at her husband's *dusun* belonged to him, and the children resulting from the marriage were also his alone. If the husband passed away, the wife was expected to remain in her husband's *dusun*. If the widow remarried, she had to follow her new husband, and the children would be returned to their biological father's family.

In this manner, a marriage by *semendo* appeared to the norm while a *sando-gong* marriage was the exception. This corresponds to the 1910 *Oendang-Oendang* of *Onderafdeeling Moeko-Moeko*, which clearly stipulated (in Article 7) *semendo* as the proper form of marriage.[115] Even though the 1962 *Un-*

[115] This *Oendang-Oendang* is an amendment to the 1862 *Undang-Undang*, made in 1909 on the initiative of O.I. Helfrich, an incumbent resident of Bengkulu. The reason for this amendment was to accommodate critics of the 1862 *Undang-Undang* that was considered to go against living usages and customs (Hoesin, 1985, p. 229).

dang-Undang is no longer in force for contemporary Mukomuko, elements of *semendo* marriage are still observable as a general norm, whereas marriage by *sando-gong* is perceived as a deviation from *adat*. Moreover, if a couple prefers to marry either according to the state law only, or religiously without reference to *adat* procedures, they will not be allowed to arrange the wedding publicly in their village. Their parents, notably the bride's parents, will be excluded from *kerja-baik-kerja-buruk* and only after paying an *adat* fine will their social rights be restored. However, it should be noted that the level of adherence to *adat* differs from one place to another. Still, the majority of people observe proper *adat* by considering the marriage itself not only a matter between the couple themselves, but also between their two extended families. A couple may easily avoid *adat* by concluding their marriage at an Office of Religious Affairs (*Kantor Urusan Agama,* KUA) and residing outside the bride's village after their marriage, but the bride's parents will bear both the shame and the *adat* fines.

The following sub-sections look at how *semendo* marriage manifests among the *hulu-hilir* villagers in contemporary Mukomuko, who are Muslims abiding by *semendo-adat* (which is at once matrilineal and Islamic). The first section provides an overview of *semendo* marriage, the institution of *masuk kaum* (naturalisation), and different types of *semendo* marriage. The discussion then proceeds with some important concepts, such as the position of *antaran* and *mahar* in *semendo* tradition*.* The last section discusses a case concerning the interpretation of *mahar* and *antaran.*

4.3.1 An overview of marriage in traditional villages

The previous section suggested that one of the key principles of *semendo* marriage is clan-exogamy. According to this principle, a proper marriage is between individuals of different clans, but membership of a particular clan is mandatory in order to make such marriage possible (cf. "nagari-edogamy", the term used by F. von Benda-Beckmann & von Benda-Beckmann, 2013, p. 13). Given this restriction, the *semendo* marriage is ex-

clusive to members of the existing matrilineal clans. However, a foreigner, who does not belong to any *kaum*, may be naturalised via a *masuk kaum* institution. This institution serves as a means to accommodate a foreigner - notably, a prospective groom to a daughter of one of the *hulu-hilir* people - by integrating him into *adat*.[116] After completing the *masuk kaum* processions, the foreigner's *kaum* host will bestow an *adat* title on him, which is necessary to make him eligible for an *adat* marriage. As a result, *semendo* marriage becomes both 'closed' and 'open'. By closed, I mean that clan exogamy remains the general norm. By open, I refer to the possibility of an outsider being naturalised into an *adat* community through the institution of *masuk kaum.* In this manner, the institution of *masuk kaum* keeps the very principle of clan-exogamy intact, as well as malleable in terms of possible encounters with outsiders in cross-ethnic marriages.

In theory, there are three types of *masuk kaum* (naturalisation), i.e. *ameh bertopo, lukah,* and *mencekam*.[117] *Ameh bertopo* is a ceremony of allegiance between people of different clans. The parties are to utter an oath "not persecute each other", and to slaughter a goat which is then served with *punjung kuning* (turmeric rice, topped with grilled chicken) and *punjung putih* (glutinous rice and curry). *Lukah* is a ceremony designed for an individual who is willing to become a member of a particular *kaum*. The ceremony is held by serving a banquet like that for the *ameh bertopo*, and uttering an oath of allegiance to the *orang tua* (respected elders) of the *kaum* he is about to enter. After completing the procession, he is bestowed with a customary title from the host *kaum*. *Mencekam* is an option for a person who is seeking temporary shelter. The person is required to slaughter a chicken which is then served with *punjung kuning punjung putih,* but he/she is not entitled to a customary title, unless the person already bears a matrilineal title from his/her own origin. In naturalising

[116] I observed these procedures being applied to a male migrant before his marriage to a woman of Mukomuko origin. However, there is also a trend for candidates of political parties to go through these procedures, in order to gain people's sympathy, i.e. their electoral favour.

[117] BMA Mukomuko 2005, 6.

a foreign bridegroom, *adat* offers either *masuk kaum* (by *lukah*) or *masuk kaum* (by *mencekam*). While the former is available for foreign bridegrooms, in general the latter is only for prospective grooms of Minangkabau descendants. Nowadays, people simply refer to the former as *masuk kaum* and the latter as *terang kaum*. In some cases, mainly to reduce expenses, the ceremony is simplified, and the usual banquet for *terang kaum* (*mencekam)* is considered sufficient for *masuk kaum* (*lukah)*, while the person is still eligible for a customary title.

The institutionalisation of *masuk kaum* has reduced the exclusivity of clan-exogamy in *semendo* marriages. It enables the *adat* of *semendo* to survive as a general norm, as well as accommodating cross-ethnic marriages between female clan members and outsiders. In addition, the *adat* sets out several steps for *semendo* marriage: *batanyo* (visit), *batunang* (engagement),[118] *rembuk ninik-mamak* (deliberation), *bimbang* (wedding), *balik makan* (dinner), and *doa nanggal-subang* (final prayer). The *batunang* step is optional, although it is not customarily recommended to skip this form of engagement in a first marriage. Regarding *bimbang*, the *adat* introduces three options: i.e. *bimbang kecik* (small), *bimbang menengah* (medium), and *bimbang gedang* (large),[119] and it is up to the bride's family to decide which to choose. Regardless of the types of *bimbang*, the *adat* of *semendo* requires a first marriage (namely, *cara-gadis*) to meet all the prescribed steps above. Nonetheless, the *adat* also enables a more simplified procedure for a second marriage, which is known as *cara-randa.* In this second option*,* a widow or divorced woman may remarry directly after she and her family have accepted a bridegroom's proposal, without necessarily arranging an engagement or celebrating a wedding or *bimbang*.

[118] This step, which is also known as *terang* (declaration), used to be very popular, albeit not mandatory. Accordingly, the 1862 *Undang-Undang* of Mukomuko formulated several provisions on this matter, from Articles 80 to 84 (Adatrecthbundel VI, 1913, pp. 348–349).

[119] In a small *bimbang*, the host arranges a banquet with chicken on the main menu, and the celebration is only for one day. In a medium *bimbang*, the host serves a feast for the guests, with goat as the main menu, and the celebration takes one to two days. In a large *bimbang*, the host slaughters a buffalo and serves it as the main menu, and the celebration takes one to seven days (BMA Mukomuko 2005, 3).

While *cara-randa* appears to make a second marriage easier, it is important to note that this procedure still requires the marriage to meet *semendo* principles. A bridegroom must be part of an outside *kaum* (clan-exogamy), and a divorcee bride must be properly divorced, either in court or in *adat*. Only then will the members of *orang adat* be able to proceed their marriage. In one unusual case, there was a divorced woman who had obtained neither a judicial nor an *adat* divorce. She wanted to get married for the second time, to a man from an outside village, but the man did not belong to a *kaum*. *Orang adat* refused to proceed her marriage, but she insisted on the marriage by asking for help from her relatives. Eventually, some elders from her *kaum* agreed. On the date of the marriage, which I attended, she prepared a modest banquet for the guests, and the elders were ready to solemnise the marriage, but unfortunately the bridegroom did not show up. One of the elders told me when we left her house, "If had observed *adat*, the bride's host *kaum* would have been accountable for his disappearance". However, this was not the case, since the marriage plan had been against *adat* in the first place. She was both disappointed by the bridegroom and blamed by her *kaum* for being reckless and disrespecting *adat*.

Another aspect of *adat* marriage concerns the different fees set for the *cara-gadis* and *cara-randa* procedures. In Talang Buai village, the *orang adat* council determines a sum of 1,350,000 rupiahs for a *cara-gadis* marriage, which includes 600,000 rupiahs for a registration fee to KUA, and 1,000,000 rupiahs for *cara-randa*, excluding the registration fee. In this regard, the *adat* fee for a *cara-randa* is more expensive than the equivalent for a *cara-gadis.*[120] The village *Imam* explained that the higher fee for

[120] While the amount for each functionary differs from time to time, and from one village to another, the recipients mostly correspond to the functionaries stipulated in the 1910 *Oendang-Oendang Adat Lembaga* of *Onderaafdeeling Moeko*, in Article 34 (Hoesin, 1985, p. 219). The following allocations specify the fees for *cara-randa* marriage in the present-day Talang Buai:

The total fee for *cara-gadis* to *orang adat* is 750,000 rupiahs. It includes: (1). *Pegawai syara'*: 80,000 rupiahs for Imam, and 120,000 rupiahs for *Khatib*, *Bilal Muhsin*, *Bilal Jum'at*, and *Gharim* (30,000); (2). Village Officers: 75,000 for *Kades*, 75,000 rupiahs for three *Kadus* (IDR. 25,000), 20,000 for *Channang*; (3). *Kaum*: 120,000 rupiahs from the bride and groom to the *kaum* leaders (IDR. 60.000); 30,000 rupiahs for Imam *Kaum* (a

cara-randa is attributed to the higher risks involved, because the majority of *cara-randa* marriages are not registered. According to Articles 1 (2) and 3 (3) of Law 22/1946, only a *penghulu* (registrar) appointed by the Ministry of Religious Affairs (MoRA) may act as a registrar in a Muslim marriage, and an informal *penghulu* will face either imprisonment (of a maximum period of three months) or a legal fine of 100 rupiahs. Given the devaluation of rupiahs from the 1950s onwards, the established fine is now very low and has ceased to have a deterrent effect. Nonetheless, there was a case in Agung Jaya village (an example of a migrant village) in which a religious figure was brought before local police after he solemnised an unregistered marriage.[121] The police warned him not to repeat the action, then released him. However, since then, he has refused to act as an informal *penghulu.*

Despite the legal risk, some informal *penghulus* (notably, in traditional villages) continue to solemnise unregistered marriages (cf. Alimin & Nurlaelawati, 2013, p. 85; Rais, 2019). In 2016, the Regional Office of MoRA in Mukomuko recorded 2,031 unregistered couples for an *isbat nikah massal* (a mass retroactive validation of marriage), 67 of which originated in Talang Buai village, but unfortunately the programme was cancelled because of funding shortages.[122] Another survey I conducted in 2017 revealed that 83 couples in Talang Buai were in marriages that were not their first marriage, although none had obtained a formal divorce from the Islamic court prior to remarrying.[123] In the period 2016-2020 the court recorded only two divorce cases in this village. Both cases were filed by civil servants residing in the village, but they were no longer residents at the time of survey. The survey

female), 50,000 for a fixed *mahar*; (4). Wedding functionaries: 40,000 rupiahs for two *akad* witnesses (IDR 20,000) and 40,000 rupiahs for the village elders who were present; and, (5). 100,000 rupiahs for a donation to the village mosque.

[121] Interviews with Wahib and his father, a religious figure in Agung Jaya village, 13 April 2017.

[122] Interview with Hermaini, the leader of the Mukomuko BIMAS (*Bimbingan Masyarakat*), 09 March 2017.

[123] It is possible that some people were on their second marriage because their first spouse had died, rather than because they had got divorced. Nonetheless, my interlocutors, i.e. the *dusun* leaders, assured me that the couples had all concluded their current marriages by divorcing their previous spouse.

suggested a higher number of unregistered marriages, because there were couples who had registered their previous marriage but had divorced out-of-court and, for legal reasons, could not participate in the mass *isbat* programme. The actual number was probably even bigger, considering that some divorcees had remarried more than twice. In Talang Buai village, this account proved the role of the local *Imam* as an informal *penghulu*, given the villagers' reliance on him to solemnise an unregistered marriage according to either *adat* or *cara-randa*.

The perpetuating role of the local *Imam*, in this regard, concerns not only solemnising an unregistered marriage but also 'formalising' an out-of-court divorce. Prior to the procession of *cara-randa*, a woman (usually a neglected wife) must ask the incumbent *Imam* to terminate her previous marriage; only then may she proceed to an *adat* or *cara-randa* marriage (for more detail, see Section 4.4 of this chapter). In this case, the *Imam* argued that his role is to provide help, not to gain benefit from those who are unable to remarry formally, by law.[124] He would indeed receive a higher fee from a *cara-randa* than a *cara-gadis*, but (as he put it) the difference was not significant when it came to the actual cost. *Cara-gadis* requires much more expense at each step – notably, for the arrangement of a *bimbang* (wedding) - whereas *cara-randa* already includes all expenses. In this sense, the risk is higher than the benefit. At a societal level, the practice of *cara-randa* as an unregistered marriage is also socially acceptable. Solar, one of my interlocutors, once told me about his step-daughter, "We feel helped if there is someone willing to marry and support our divorced daughter".[125] At the time, his step daughter was on her third divorce, and he did not want to complicate matters for her, by going through all the stages of *cara-gadis*, were she to remarry in future.

From this overview, it can be inferred that a *semendo* marriage, notably *cara-randa,* provides an alternative for those who cannot afford a registered marriage, because of either legal or

[124] Interview with Maskur, the incumbent *Imam* of Talang Buai, 6 May 2017.

[125] Interview with Solar, at Talang Buai, 5 May 2017.

non-legal barriers. Concerning such legal barriers, an example is given of leeway being offered to an out-of-court divorcee who wanted to remarry, but could not access the Islamic court. It serves the same function for those who are in their first marriage, but who are constrained by restrictions prescribed by the marriage law, such as legal restrictions concerning underage marriage and informal polygamy. Concerning non-legal barriers, a *semendo* marriage becomes a shortcut for those who cannot access the proper registration procedure (i.e. the registration costs and other administrative requirements), or those who perceive registration to be unnecessary, such as people who are on their second marriage or are elderly. Either way, registered or unregistered, a *semendo* marriage proffers a social legitimacy that is not necessarily contrary to state marriage. Moreover, *semendo* marriage is distinct from a mere informal marriage. As *semendo* marriage is religiously and customarily valid, it is more 'differentiated'[126] than a mere religious marriage or informal union, in general. The following figure illustrates the status of *semendo* marriage compared with other types of marriage.

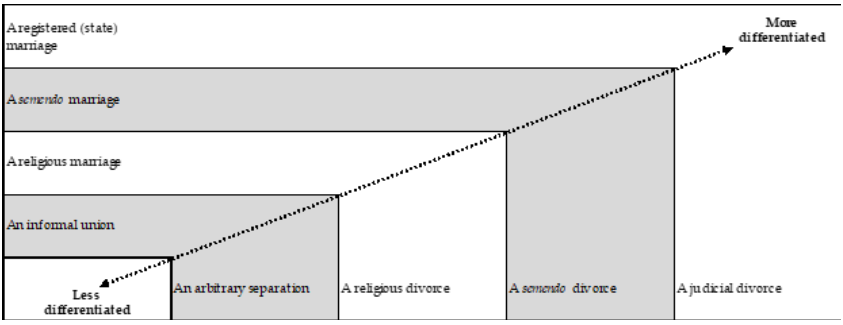

Figure 4.3.1.1: Different types of marriage and dissolution, on a continuum

This figure suggests that a registered or state marriage is different from other marriages, but that a *semendo* marriage is also different from a mere religious marriage and an informal union, and so on. Nonetheless, the distinction is not always clear.

[126] Here, the term 'differentiated' is used to mean "the existence in a social group of secondary rules creating social roles for the performance of a particular task" (Griffiths, 2017, p. 103).

Since the Islamic court has extended the application of *isbat nikah* to validate unregistered marriages retroactively, registration is not the only means via which a marriage can be recognised even though not all unregistered marriages are legible for such retroactive validation (see the limits of *isbat nikah* in Chapter 2 Section 2.2.3.2). In line with this development, the Civil Registry Office in Mukomuko will now accept a *Surat Pernyataan Tanggung Jawab Mutlak* (SPTJM, or 'letter of absolute responsibility') in exchange for a marriage certificate.[127] This policy enables the office to issue certain civil documents, such as birth certificates and family cards, without being constrained by an applicant's marriage status. Conversely, *hulu-hilir* villagers often choose *semendo* marriage as a popular alternative, for being culturally and religiously valid. Therefore, to better understand the various types of marriage in Mukomuko, they must not be reduced to a binary of formal versus informal marriages.

To avoid the binary approach, I distinguish the various types of marriage in this society according to their level of 'differentiation' (cf. Abel, 2017; Griffiths, 2017). Together, they operate on 'a continuum scale' (Platt, 2017, pp. 6–9), from the ultimate zero point of 'less differentiated' to the infinite point of 'more differentiated'. In this manner, an informal union and a registered marriage must be viewed as the least and the most differentiated marriages, respectively, whereas religious and *semendo* marriages both fall between the two extremes. It is important to note that I draw this level of differentiation based on my observations of local culture that appears in the everyday practices of marriage among members of Mukomuko's matrilineal community. Contrary to this local-based classification, a different classification would emerge supposed the various types of marriage I present in Figure 4.3.1.1 were classified according to a common and accepted part of the state legal system. For instance, a registered

[127] This policy is based on the Ministry of Home Affairs Regulation 9/2016 *jo.* Regulation 108/2019. Before this regulation was passed, the issuance of a birth certificate, family card, and other important civil documents depended on whether or not a person's marriage was registered. Now that this condition has been revoked, one can obtain these documents simply by presenting a SPTJM to the Civil Registry Office.

marriage between members of the same clan will not be culturally accepted in Mukomuko but fully recognized within the state legal system, if in accordance with Islamic norms. Likewise, a religiously unregistered marriage between members of the same clan will not be culturally accepted either even though such marriage is recognizable to the state law through a cumulative proses of *isbat nikah* at the Islamic court and registration at the KUA.

Departing from this overview of marriage in traditional villages, the following section deals specifically with *semendo* marriage among traditional villagers. It looks at some important elements of *semendo* marriage, and how these actually manifest in practice.

4.3.2 *Antaran* and *mahar* ('bride price')

One important feature of *semendo* marriage is that the position of *mahar*. Bogaardt posits the non-existence of *mahar* in *semendo* marriage. In his account, the strict application of *semendo* marriage was observed in royal marriages, in which a man would propose to the daughter of a raja. In this case, the bridegroom would have to pay nothing, and would live with his bride and her family after the wedding. However, an exception applied for a man proposing to a commoner, and he would customarily be required to provide *antaran* for his bride. He was to provide eight chickens, a fighting cock, one guilder, 10 kulaks (equivalent to 30 litres) of white rice, and ƒ4, for his future wife. Alternatively, the separate expenses could be replaced with the sum of ƒ8 (Bogaardt, 1958, p. 34). The word *antaran* derives from *antar belanjo*. While *antar* means 'carrying' or 'bearing', *belanjo* means 'expenses'. In this sense, the term could have been shortened to *belanjo* (expenses), but the term *antaran*—with an additional syllable 'an' to make it a noun in the Malay language—was perceived to be more proper, and better for maintaining a sense of politeness (Adatrecthbundel VI, 1913, pp. 290–292). This choice was likely attributed to the nature of *semendo* marriage, which does not put price 'tags' on daughters, even though, in practice,

the expenses were sometimes 'comparable' to *mahar* (a 'bride price') in non-*semendo* marriages. However, compared to the usual amount of *mahar* in a *jujur* marriage among the southern tribes,[128] the above amount of *antaran* was still nominal, or very low.

Regarding the amount of *antaran*, in 1862 the Dutch codified several rules for the people of Mukomuko, under the name of *Undang-Undang* of *Moko Moko*. Although the code retained the British moniker from the 1822 codification, its content was completely different. The Dutch colonial state modified several existing usages and customs, and stipulated some new *adat* laws.[129] Among the reforms were restrictions on the maximum amount of *antaran,* which in this source was used interchangeably with the term *mahar*.[130] The restrictions hardly make sense, since the 1840s description regarding Mukomuko revealed that the amount of *antaran* was already very nominal. However, the reason for enacting these rules becomes clear when we look at the 1807 description of the native *adat* for Bengkulu, rather than looking at Mukomuko, which at the time had its own law (Adatrecthbundel VI, 1913, p. 290). This account described three kinds of marriage in Bengkulu: *semendo*, *jujur* and *semendo-ambil-anak*.[131] In a *semendo* marriage it was customary for a man to send a sum of money to his bride, as *antaran.* The amount was determined according to the rank of the bride's family: $100 for a royal family (such as *Pangeran*, *Diong*, and *Radden*), $40 for *Datuk* families, and $20 for families of lower rank. In this regard, Dutch

[128] "The *jujur* is a certain sum of money, given by one man to another, as consideration for the person of his daughter, whose situation, in this case, differs not much from that of a slave to the man she marries, and to his family" (Marsden's History, 1811, p 257).

[129] The term *adat* law refers to the codified local usage and customs. This term was first used by C. Snouck Hurgronje, and further elaborated by Van Vollenhoven to mean "the totality of the rules of conduct for natives and foreign Orientals that have, on the one hand, sanctions (therefore: law) and, on the other, are not codified (therefore: adat)" (Adatrecthbundel VI, 1913; F. von Benda-Beckmann & von Benda-Beckmann, 2011, p. 171).

[130] *Empat puluh rupiah* (ƒ 40) for the daughter of a raja (in Article 59), *dua puluh rupiah* (ƒ 20) for the daughter of a *mantri* who was proposed to by a man of lower rank (in Article 60), *lima belas rupiah* (ƒ 15) for the daughter of a *mantri* (in Article 61), and *sepuluh rupiah* (ƒ 10) for the daughter of a commoner (in Article 62).

[131] Thorough explanations of *jujur* and *semendo ambil anak* marriages can be found in Moyer's structural analysis, in *'the logic of the laws'* (Moyer, 1975).

restrictions on the maximum amount of *antaran* for Mukomuko people were likely based on a false generalisation between *semendo* marriage in Bengkulu and the equivalent in Mukomuko.

This false generalisation also blurred the distinction between the payment of *antaran* and *mahar*. The concept of *antaran* is based on the idea that all *bimbang* (wedding) expenses should be borne jointly by a bride and bridegroom. Assuming that their respective share had already been agreed in an *adat* council, they had to abide by the agreement. If such an agreement was not available, it was also customary to divide wedding expenses as follows: 1/3 for a bridegroom and 2/3 for a bride. In this manner, all bridegroom expenses represented *antaran.* His portion was further classified, according to the time of payment. The payment was called *boontal kadoot* if a bridegroom paid his portion before the wedding, but it was called *charroh* if he postponed the payment (Adatrecthbundel VI, 1913, p. 293). If a marriage ended in divorce, a husband had no claim to the *antaran* he had paid, but a wife could claim payment of *charroh* (deferred *antaran*) if the separation was initiated by her husband. In this sense, the logic behind the concept of *antaran* was completely different from that of *mahar*. *Antaran* is compensation for wedding expenses, whereas *mahar* is compensation for consummating a marriage. This is why, according to the dominant view in *fikih* (Islamic law), a husband may claim half of the *mahar* if his divorce occurs before consummation of his marriage, which is never the case regarding payment of *antaran*.

By confusing the concept of *antaran* with *mahar*, the 1862 *Undang-Undang* imposed an unfamiliar rule on the natives. It is likely that the community was already familiar with the concept of *mahar*, given that the people had embraced Islam before the British arrival in the second half of the seventeenth century,[132] but little is known about to what extent they had incorporated *mahar* into their usages and customs. Later, the 1910 *Oendang-Oendang*

[132] Writing in the early 19th century, Syair Mukomuko recorded that people were already observing *sharia*, but this does not necessarily suggest that *mahar* had replaced *antaran* (Kathirithamby-Wells & Hashim, 1985).

of *Onderaafdeeling Moeko Moeko* did stipulate the amount of *mahar (emas kawin)*, i.e. f10 for a non-royal daughter, and f40 for a royal daughter, as distinct from *antaran* (Articles 1-6 and 32 in Hoesin, 1985, p. 219).

In the 2005 BMA decision, *mahar* is an example of *adat-yang-diadatkan,* or a custom which was incorporated into *adat* through an agreement among the *orang adat*. This means that *mahar*, which is not compulsory in Islam, has been institutionalised through a deliberation that involves penghulu *adat*, *ninik-mamak*, the *kaum* leaders and their elders, and learned scholars. In Talang Buai village, the village council sets a minimum threshold for *mahar*, i.e. 50,000 rupiah (equal to 3 euros).[133] The amount is very low, reflecting the 1991 compilation of Islamic law that maintains the 'trivial' nature of *mahar*, which is neither compulsory nor a determinant of the validity of a marriage.[134] In this sense, the institutionalisation of *mahar* does not necessarily mean that it replaces *antaran,* which is still agreed consensually between the respective families of the bride and groom (cf. an "equivalent" concept of 'ampa co'i ndai' for antaran among Bimanese in Wardatun, 2018). The following case provides ethnographic evidence of how *mahar* and *antaran* are perceived in contemporary Mukomuko.

4.3.3 Abbas v. Dini: negotiating *mahar* and *antaran*

In 2015, Abbas (24) met Dini (15) during his visit to a friend who happened to be Dini's brother. Following this first meeting, Abbas, who immediately fell in love with Dini, started to pay more visits to get to know her and her family. After two years, he obtained the blessing of Dini's family, and they agreed to arrange a marriage immediately after Dini had celebrated her 17th birthday. Dini, who had actually been dating another man from a neighbouring village, initially refused but eventually, after several

[133] Interviews with Pak Maadas and Pak Muslim on 14 April 2017.

[134] The compilation of Islamic law—serving as the substantive law for Indonesian Muslims—determines neither the maximum nor the minimum amount of *mahar*. Article 31 of the compilation stipulates that the amount of *mahar* shall be based on simplicity (*kesederhanaan*) and convenience (*kemudahan*), as suggested in Islam.

efforts to persuade her, gave her consent. Following her approval, Abbas and Dini's family started to prepare the marriage according to the proper procedure of *bujang-gadis* marriage, involving the nuclear families from both sides, and the *orang adat* (the elite *adat* members*)*, the latter comprising the *dusun* (sub-village) leaders, *pegawai syara'* (religious functionaries), *adat* officials, and the *kaum* leaders*.* They also registered their marriage at the state penghulu via the Office of Religious Affairs.

Abbas, who came from an outside village, began the *terang kaum* process, to find a local guardian (*induk semang*) who would act on his behalf in proposing to the prospective bride. He had to pay expenses for this process, which was arranged according to the *lukah* ceremony, considering his origin as a Mukomuko descendant. He also paid the host *kaum* - a compulsory donation of 500,000 rupiahs (around 30 euros), which was set and agreed within this particular *kaum*. Then, the *kaum* leader in Koto Pinang I arranged a formal proposal and an engagement with the *kaum* leader from the bride's side. The *kaum* leaders, after listening to the request from both the bride's and the groom's families, agreed to arrange the marriage on 29 March 2017. Afterwards, the *kaum* leader from the bride's family organised the wedding preparation and ceremony (including the paperwork) at the village government and the Office of Religious Affairs (*Kantor Urusan Agama,* KUA), in order to register the marriage. His duties ended when he returned the bride's family's mandate to arrange the wedding on the last day of community service, after the wedding feast.

After the wedding, the newlywed couple lived at the bride's mother's house, but they still slept in different rooms. It turned out that Dini kept avoiding her husband and refused to consummate the marriage. This situation lasted for more than two weeks, until Abbas discovered, in Dini's smartphone, pictures showing that his wife was having an affair with her ex-lover. Equipped with the evidence, he excused himself from the house and stopped by at the house of his local guardian, to complain about the problem. Before

leaving for his home village, he left a message with his local guardian for the attention of the *kaum* leader in Koto Pinang I (who would act on his behalf), stating that he was willing to terminate the marriage amicably, on the condition that the bride's family compensated him for what he had spent on the wedding. Otherwise, he would bring charges of adultery to the local police.[135] Dini's brother tried to intervene, by bringing his sister to the house of Abbas' parents, but they were told to leave since Abbas himself was not willing to reconcile. To solve the problem, the *kaum* leaders from both sides agreed to arrange a meeting.

On 27 April 2017, representatives from both sides held the first meeting, with *Kaum* Koto Bayan representing Dini, and *Kaum* Koto Pinang I representing Abbas. The representatives of *Kaum* Koto Pinang I delivered the accusation and evidence and (on behalf of Abbas) demanded reimbursement for the expenses Abbas had incurred from the time of engagement up to and including the wedding, which turned out to be around 21,930,000 rupiahs (or 1,279 euros).[136] In response, *Kaum* Koto Bayan's representatives doubted the validity of the evidence and argued that it was possible that the smartphone pictures had been taken before the marriage. The debate continued, and the meeting ended when *Kaum* Koto Bayan requested a three-day recess to discuss the claim with Dini's parents.

The second meeting was held on 1 May 2017, without Abbas. Deliberation revealed that the evidence was valid, when Dini admitted that she had taken the pictures during their marriage. "*Bulih suamiku menceraikan Aku* (… so that my husband would divorce me)", said Dini. From an *adat* point of view, her strategy was quite clever, considering that a man cannot reclaim his

[135] According to Article 284 of the Indonesian Criminal Codes, adultery committed by a married man or woman is a criminal offence (*delik*), carrying a maximum charge of nine months in prison. This charge is a *delik aduan* (a petitioned offence), which is contingent on a complaint having been filed by the betrayed partner.

[136] This cost comprises 1,600,000 rupiahs for the *bujang-gadis* marriage fixed fees, 4,000,000 rupiahs for furnishing the wedding room, 2,000,000 rupiahs for purchasing a mobile phone for the bride, 450,000 rupiahs for purchasing cosmetics for the bride, and the remaining 13,880,000 rupiahs for jewellery (a gold necklace and ring) and wedding expenses at both the bride's and the groom's house.

expenses in a *semendo* marriage, neither *antaran* nor *mahar*, especially if the husband is the one divorcing his wife. According to *adat*, a divorced wife is entitled to the payment of *charroh*, if the divorce was initiated by the husband. The meeting ended without result, because Dini's parents refused to compensate Abbas' expenses.

In the third meeting on 3 May 2017, Abbas repeated his demand and again threatened to report Dini to the police if she and her family kept refusing to pay him compensation. In response, Dini's parents said they did not mind if Abbas wanted to take all the remaining goods. However, they still objected to financial compensation, stating that "*jangankan 21 juta, 1 juta saja kita tidak mampu* (we could not afford 1 million, let alone 21 million)". Abbas refused the offer and demanded financial compensation. Dini's parents gave up and let Abbas decide if he wanted to report their daughter to the police. The meeting ended without the parties reaching an agreement. Up until the last day of my stay the case remained unresolved, but later, during my second visit the following year, I heard that Dini was already married (unregistered) to another man, and that Abbas never filed a report with the local police.

This case reveals several aspects. Among them are the distinction between *antaran* and *mahar*, the role (and limits) of *kaum* leaders as intermediaries, and the invocation of state institutions (i.e. the local police) to assist with the conflict. Concerning *antaran* and *mahar,* Abbas' claim for reimbursement of the expenses he had incurred was problematic. The claim was too general, because it included the wedding expenses at the bride's house, the wedding expenses in his home village, the gifts to the bride, the furniture for the bride's house, and the marriage fees, which included 50,000 rupiahs for a fixed *mahar*. From an *adat* point of view, none of his claim was recognisable, except the wedding costs at the bride's house, which could be classified as *antaran*. Nonetheless, his claim to *antaran* was customarily inapplicable, because such a claim is exclusive to a wife who may

claim unpaid *antaran* or *charroh* if her husband was the one initiating divorce. As a result, Abbas' claim was customarily invalid. His claim may be partly valid according to Islamic law. In Islam, a husband may reclaim half of *mahar*, if he did not consummate the marriage. In his case, such a claim was only applicable for half of the fixed *mahar,* namely 25,000 rupiahs, which was a very small amount of money.

The *kaum* leaders from both sides intervened as intermediaries, when they were invited by the couple and their families. Initially, they tried to reconcile the couple and when this failed they suggested that the husband repudiate his wife. However, none of these options were agreed to. The intermediaries did not manage to reconcile the couple, since the marriage was already 'broken', and neither the husband nor the wife were willing to accept each other. It was also difficult to terminate the marriage, since the husband had asked for compensation which the bride could not afford. Guntur, a former *kaum* leader in Koto Bayan, told me that it would have been easier to solve this problem if the lover had come from the same village. He added: *"If I was the head of kaum, I would catch the lover, impose customary fines on them, and use the fines to compensate the husband".* Guntur, and other *kaum* elders, told me that similar cases had occurred in the past, where they had caught the adulterer red-handed and imposed *adat* fines upon both perpetrators. The perpetrators had to obey the sanctions, or face exclusion from *kerja-baik-kerja-buruk* for both themselves and their family.[137] However, this was not the case, since the lover was not from this village and Dini's affair was proven only by digital photos. In this sense, the territorial nature of contemporary *adat*, which is only effective among traditional villagers settling in the same village, becomes the limit of *adat* jurisdiction. The *kaum* leaders could not extend their authority beyond their own village.

[137] Any affair with a married woman is punished with a severe fine, called an *utang terbang* fine, which is determined through *adat* deliberation - interviews with Guntur and Jareh, 8 May 2017. The 1862 *Undang-Undang* of Mukomuko stipulated several types of punishment (Articles 87-92) concerning 'inappropriate' actions toward either married or unmarried women (Adatrecthbundel VI, 1913, pp. 350–351).

Another aspect of this case was Abbas' threat to file a report with local police on the grounds of adultery, if his demand was not fulfilled. This turned out to be a false threat, since he did not file the accusation within a period of six months after the presumed affair. In this respect, his accusation, which is categorised as a *delik aduan* (a petitioned offence), had passed the expiration period set by the Indonesian Criminal Codes.[138] Yet, Dini is still liable for similar accusations, considering her current unregistered marriage. The fact that she remarried before obtaining a formal divorce is theoretically a valid ground for Abbas to file another accusation. In practice however, filing such a report is rare, as an officer from the local police station told me, "an out-of-court divorced woman is usually the one who was abandoned. Thus, she might marry another man without fear of having her ex-husband enlist the help of the police. If the husband was the one who remarried before obtaining a formal divorce, his second marriage would not be considered adultery, but instead an informal polygamy" (cf. the state official's ambivalence toward the status of unregistered polygamy in Wirastri & van Huis, 2021, p. 19).[139] This also corresponds to the high percentage of unregistered marriages and out-of-court divorces (see statistical data in Section 4.4.1). Thus, traditional villagers can easily divorce and remarry according to *adat*, without involving the relevant state institutions and officers. Besides, the validity of *adat* is rarely questioned in either a *semendo* marriage or a *semendo* divorce.

In fact, an unusual case had occurred in a neighbouring village several years ago, when Herman (a pseudonym) was detained for committing an informal polygamy. He was a member of a traditional village, which adhered to the same *adat-pegang-pakai*, and was serving as a member of Mukomuko's *Dewan Perwakilan Rakyat Daerah* (DPRD, or Regional House of Representatives). His first wife reported him to the local police, accusing him

[138] Article 74 of the Indonesian Criminal Codes sets six months as an expiration period (*daluwarsa*) for filing an adultery complaint with local police. The expiration period may be extended to nine months, if the betrayed husband or wife lives abroad.

[139] Interview with Bripka Siska, an officer from the *Pelayanan Perempuan dan Anak* (PPA, Child and Woman Services) unit at Mukomuko police station, on 3 March 2018.

of adultery. In his defence, Herman claimed that he had divorced the accuser out-of-court and remarried afterwards according to *adat*. Herman's case was not common. He and his first wife were socially and economically above average. This background provided her better opportunity to bring action against her husband. However, this was not the case in *Dini v. Abbas*, who both came from modest families. For them, involving police would not have been advantageous for either party. Dini was not afraid of being imprisoned and Abbas would never reclaim his claimed expenses by doing so. Besides, the two cases are also different in nature. While Herman's case concerned mostly an informal polygamy,[140] *Dini v. Abbas* concerned a refusal to consummate the marriage and eventual withdrawal from it.

This case analysis demonstrates how *semendo* marriage serves as a general norm in traditional villages. A *semendo* marriage operates either complementarily or alternatively to state marriage. In doing so, it maintains some key elements of matrilineal tradition, such as clan-exogamy and a trivial amount of *mahar*, which distinguishes this type of marriage from a mere religious marriage or informal union. The following section will address another question regarding how traditional villagers, observing *semendo* marriage, obtain a divorce. The question then seeks, using a relevant case, to understand some key elements of *semendo* divorce, and how these elements manifest in practice.

4.4 *Semendo* Divorce

According to the *adat-pegang-pakai* (traditional customs and usages) of Mukomuko, *semendo* divorce is less well established than *semendo* marriage. While *semendo* marriage is an important part of *kerja-baik,* the institution of *semendo* divorce is neither *kerja-baik,* which requires 'passive' participation from the public, nor *kerja-buruk*, which requires 'active' participation (see Section 4.2, in this chapter). This ambiguity can be attributed to the private nature of this institution, as opposed to the

[140] A further discussion on judicial developments in treating informal polygamy as a felony is available in Chapter 2, Section 2.2.3.2 (see also van Huis & Wirastri, 2012, p. 12).

communality of *semendo* marriage. Given this difference, the community will avoid getting involved in a divorce, and both the husband and wife are advised to reconcile their marital strife internally, within their nuclear family. However, if they fail to reconcile, the wife may complain to her close relatives, who then invite *kaum* (extended family) representatives from both sides to intervene. The *kaum* representatives may also invite *orang adat* as a third party, but this rarely happens, since involving more strangers will bring shame upon their respective *kaum.* At a glance, the institution of *semendo* divorce seems to be a mere internal affair within the two nuclear families and *kaum,* but it does not necessarily imply that this institution is beyond the reach of *adat.* As we will see in this section, a *semendo* divorce is integral to the institution of *semendo* marriage, and together they constitute a distinctive and differentiated institution compared to other divorce options, such as judicial divorce, Islamic divorce, or arbitrary separation.

When a marriage is already irretrievably broken, a married couple may terminate their marriage consensually or the husband may simply leave his wife by uttering *talak*. If the husband has left without pronouncing *talak*, the wife may request divorce validation from a local *Imam* in her village. This procedure, locally known as *minta-sah*, is designated for an abandoned wife, either to formalise or to validate her divorce. It formalises a divorce if her husband has uttered *talak* before leaving, but it can also be used to grant a valid divorce for an abandoned wife, if her husband left without pronouncing *talak*. In either case *minta-sah* is compulsory, unless the wife has already obtained a formal divorce from the Islamic court. In this case she can immediately remarry, according to *semendo* marriage. In the *minta-sah* procedure, an abandoned wife - usually before she marries with another man - presents the local *imam* with a symbolic offering of *siri-secerano (serrano*, or *cerano)*,[141] while uttering: "*Aku naik ber-*

[141] A brass bowl with feet, in which *sirih* (betel leaves) and other confectioneries are presented (Description in the 1862 Undang-Undang Mukomuko in Adatrecthbundel VI, 1913, p. 334). It is used symbolically for several occasions, such as *persembahan* (offerings), *pen-*

suami dan turun tidak bersuami lagi (I ascended with a husband and I am descending without one)". Afterwards, she lays down the offering and leaves the *imam's* house, before he can answer her. Only then is the *imam* willing to be involved in solemnising her new marriage.

At first glance, this procedure seems to be one-sided. However, Maskur, the incumbent *imam* of Talang Buai,[142] told me that such impression is not completely true, because normally a woman who comes to him has already met all the 'required conditions' of *minta-sah* without necessarily expressing them. Otherwise, Maskur added, he would not open his door to her and would refuse to solemnise her marriage in future. Indeed, she could still remarry informally if she insisted on it, but the marriage would not be customarily accepted. If something went wrong, the *imam* and *orang adat*, which includes village officers, would refuse to help her. For a villager, their help means many things. If a woman needs a letter explaining her marital status, such as *Surat Pernyataan Tanggung Jawab Mutlak* (SPTJM, a letter of absolute responsibility) for a civil registration and other purposes, the village leader will gladly issue the letter to her (see the last paragraph of Section 4.3.1). However, he will be reluctant to do so if her marriage is against *adat*. In an example presented earlier (see the fourth paragraph of Section 4.3.1), a divorced woman was condemned by her relatives for arranging an informal marriage. The condemnation escalated when the bridegroom did not show up as none to take responsibility and to blame but herself. This is why, even to this day, traditional villagers (notably, female villagers) will avoid marrying to contradict *adat*.

Concerning the conditions required for *minta-sah*, an abandoned wife must ensure that her request for *minta-sah* does not violate any provisions prescribed by Islam. *First*, her husband

yambutan (welcoming), and *penyelesain syara'* (religious settlement) (BMA Mukomuko, 2005).

[142] Interview with Maskur on 6 May 2017, and with several divorced women in Talang Buai village, in 2017.

must have pronounced *talak* before leaving,[143] there must have been competent witnesses (at least two male adults) to the *talak* pronouncement, unless it was already known by the public, and the wife must have properly observed her waiting period (*idah*). *Second*, if the husband abandoned her without uttering *talak*, the wife must convince the local *Imam* that her husband neglected his duty to provide obligatory support (*nafkah*), for a period of at least three months. This condition corresponds to the second point in the official formulation (*sighat*) of *taklik talak* (conditional divorce) by the Ministry of Religious Affairs (MoRA), which serves as a conditional ground for a judicial divorce.[144] The difference is that, among the traditional villagers, this condition is made applicable out-of-court, regardless of whether or not the marriage has been registered at KUA or was only concluded according to *semendo*. Moreover, the *taklik talak* agreement applies to every marriage, irrespective of whether a husband has pronounced it or not. Thus, the Mukomuko *adat* has not only adopted the Indonesian *taklik talak*, it has also adjusted it to its own needs, i.e. by making it a customarily valid ground for a *semendo* divorce. In this sense, the institution of *taklik talak* becomes mandatory among the Mukomuko.

Basically, incorporation of *taklik talak* into the Mukomuko *adat* is not new. The 1862 *Undang-Undang* of Mukomuko stipulated (in Article 93) that a bridegroom shall make an agreement with his bride prior to their marriage, which reads as follows: "*Jika laki-laki berjalan meninggalkan istrinya semusim lamanya tidak menanggung makan dan pakaiannya, perempuan itu meminta 'pasakh' [saraq] dengan lakinya, maka nyata kebenaran perempuan itu hendak 'pakti'* (if a husband leaves his wife for a minimum period of one season, without providing her with any

[143] The pronouncement of *talak* does not have to be in the form of direct speech. It may also be delivered in a conditional or figurative sentence, such as, "*jatuh talakku saat matahari terbenam* (you are divorced at sunset)", instead of saying "I repudiate you".

[144] The official formulation of *taklik talak* mentions (in point two) that his wife may file a divorce "if her husband did not provide the obligatory support (*nafkah*) for three months". The pronouncement of *taklik talak* is basically not mandatory, and is applicable only as a valid ground for divorce by a wife (*Cerai Gugat*).

food or clothing, his wife is customarily entitled to a divorce if she asks for it" (Adatrecthbundel VI, 1913, p. 351). This formulation is almost identical to the second point of the official *taklik talak* by MoRA. The only difference between the two is the duration. While the contemporary *taklik talak* clearly sets a minimum period of 'three months', the 1862 version mentions 'one season', which might generate different interpretations, such as three months, four months, or even six months. However, in an agricultural society such as this one, one season normally means four months. In this respect, the difference is trivial, but for the easier and shorter period of negligence. However, it should be remembered that the remaining three conditions of *taklik talak*, formulated by MoRa, are not popular grounds for a *semendo* divorce.[145]

Another aspect of *semendo* divorce concerns the central position of *antaran* and *mahar* in a *semendo* marriage. According to Bogaardt's account of Mukomuko in 1840, a husband who wilfully repudiated his wife, without giving any reason for it, had to compensate her with *charroh*, or unpaid *antaran.* The compensation was ƒ400 for the daughter of a raja, and ƒ58 for a daughter of local origin. In contrast, the husband would not have to pay anything if his wife was the one who initiated the divorce, or if she was the daughter of a foreigner and did not belong to any *kaum*. Nevertheless, as Bogaardt put it, the *charroh* form of compensation rarely happened, since husbands who were unable to make the payment usually preferred to leave their wife (Bogaardt, 1958, p. 34). This account suggests that a *semendo* divorce is inseparable from the general norm in a *semendo* marriage. Normatively, a wife may employ the institution of *charroh* as a bargaining tool, to protect her from arbitrary divorce by her husband. However (as already indicated in the past), to this day, a husband who wants a divorce usually prefers to abandon his wife until she initiates a divorce herself, by requesting validation

[145] According to the latest official formulation from MoRA, there are four conditions for *taklik talak*: (1) The husband left his wife two consecutive years ago; (2) The husband did not provide the obligatory support for his wife (*nafkah*) for three months; (3) The husband subjected his wife to physical maltreatment; (4) The husband neglected his wife for six consecutive months.

(*minta-sah*) from the local *Imam* at some point over the course of her life. Hence, in practice, *semendo* divorce is identical to divorce initiated by a wife.

Last but not least, it should be noted that in the past a *semendo* divorce did not solely depend on the will of the husband and wife. Brothers, nephews, uncles, and other male relatives of the wife, up to the third degree of consanguinity, might get involved in initiating a divorce (Bogaardt, 1958). Although this is no longer relevant in contemporary *semendo* divorce, the predominant tradition of uxorilocality, which requires a bridegroom to reside with the bride's family, nevertheless enables her close relatives and *ninik-mamak* to interfere with her household. Thus, as Bargain et al. suggest, the strong presence of the wife's relatives allows the wife to benefit from greater intra-household decision making power, including the decision to divorce, compared to wives in patrilocal ethnic groups (Bargain et al., 2022). It can therefore be inferred that *semendo* divorce and some important elements from the tradition have provided traditional villagers, notably female members, with a 'differentiated' institution of divorce (Griffiths, 2017, p. 103). It serves as a popular option that can be distinguished from both judicial divorce and informal divorce (as an illustration, please see Figure 4.3.1.1).

The following sub-sections begin with divorce statistics, then proceed to a discussion of the position of *harta-sepencarian* (or the properties acquired during marriage) in a *semendo* divorce. The last part will present a relevant *harta-sepencarian* case that I encountered at the Islamic court during my fieldwork.

4.4.1 An overview of divorce statistics in traditional villages

The poor reliability of basic statistics on demography and important events, such as marriage and divorce, has long been seen as a barrier in Indonesia. The barrier revolves around the lack of any integrated and reliable source for the actual number of divorces. Divorce statistics are scattered throughout

different sources, ranging from *Badan Pusat Statistik* (BPS, the Central Bureau of Statistics), *Badan Kependudukan dan Keluarga Berencana Nasional* (BKKBN, or the National Family Planning Coordinating Agency), *Kependudukan dan Pencatatan Sipil* (*Dukcapil*, the Civil Registry Office Service), to the yearly divorce records in Islamic courts and general courts. Despite the number of sources available, they do not provide reliable data regarding the number of divorces occurring over time in Indonesian society, because of their different scopes and timespans.

First, the 2010 BPS decennial census provided the total number of divorcees (*cerai hidup*) in every village, but unfortunately this number is no longer accurate, and the latest decennial census (2020) is not yet accessible to the public. In addition, the existing BPS statistics I could access did not mention their religion of the divorcees, which became a barrier for my research as it focusses only on Muslims. More importantly, the statistics were limited to the number of divorcees that year, and were hardly relevant to the situation ten years later.

Second, the BKKBN statistics basically provide a more up to date account, through the 'single-headed' family (a nuclear family with only one parent) monthly survey. The survey is conducted by BKKBN cadres in every village, mostly by the wives of sub-village leaders, coordinated by the wife of the village leader for a fee of 50,000 rupiah (around 3 euros), per individual, in each survey. Yet, as is often complained about, the lack of financial support causes the survey quality to be poor. This barrier, coupled with classification which does not distinguish a divorcee from a widower (*cerai mati*), also makes the survey rather useless.

Third, fortunately the *Dukcapil* records, i.e. *kartu keluarga* (KK, or 'family cards'), provide a more comprehensive account, by specifying the marital status and religion of all the members of each household. In spite of this, the records require deep reading and further analysis. By looking at KK from my research sites, i.e. the Talang Buai, Agung Jaya, Penarik, and Sibak villages, I was able to identify not only the number of Muslim divorcees (male

and female divorcees) for these villages, but also the divorcees who had remarried, by looking at their children's biological parents. The following table portrays the number of divorcees or single-headed families from the above-mentioned sources.

RESEARCH FIELD	BPS 2010			BKKBN 2017			DUKCAPIL 2017		
	Individual Divorcees	Total Population	%	Single-Headed Families	Total Household	%	Divorced Families	Total Muslim Household	%
Talang Buai Village	13	946	1,4	34	303	11	39	419	9,3
Agung Jaya Village	8	1281	0,6	46	431	11	55	690	8,0
Penarik Village	47	3828	1,2	94	1.012	9	158	1572	10,1
Sibak Village	59	3517	1,7	69	736	9	97	1108	8,8
MUKOMUKO REGENCY	2052	137627	1,5	4494	43384	10			

Figure 4.4.1. 1: The number of divorcees, according to different sources

Figure 4.1.1.1 shows that the number of Muslim divorcees in the *Dukcapil* record, which excludes widowers and widows, is more than the single-headed family total in the BKKBN data for the same year. The gap is even bigger when existing records are cross-checked by a mini survey which questions the marital history of each family. The survey looks at whether each couple's current marriage is their first (*bujang-gadis*) or second (*janda-duda*), so as to establish the minimum number of divorces that have occurred in a village. The mini survey, which was held in Talang Buai village only (see figure 4.4.1.2, below), discovered that 96 out of 419 Muslim households were in their second marriage, either for the husband or wife only, or for both. The remaining 323 families consisted of 289 couples who were in their first marriage and 43 couples whose status was either unmarried or unidentified. This account suggests that the occurrence of divorce in this village was almost twice the that given by the in-depth reading on KK, even before considering the number of remarriages that might have occurred more than once. The following chart shows the gap between the in-depth reading on *Dukcapil* records and the marital history survey.

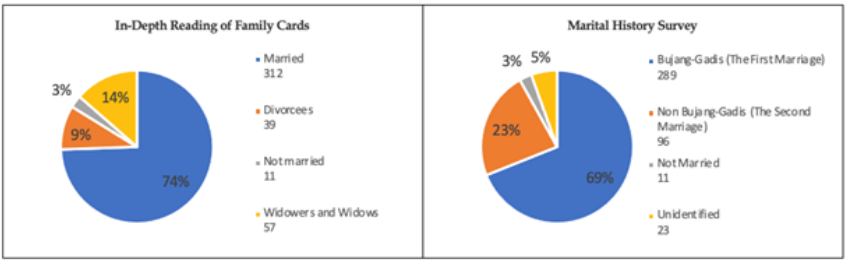

Figure 4.4.1. 2: The number of divorcees from Talang Buai

This chart shows that the ratio of second marriages to first marriages is one to three. Compared to the Islamic court records in the last five years, this ratio suggests a wide gap between in-court and out-of-court divorces. For a period from 2016 to 2020, the Islamic court only recorded two cases from this village, both of which were filed by civil servants who, according to the law (namely Government Regulation 10/1983), were bound by a stricter divorce rule. In the remaining three villages, i.e. Agung Jaya, Penarik and Sibak, the number of in-court divorces were equally low (see the comparison in figure 4.4.1.3, below). However, it was basically not possible to compare the *Dukcapil* records with the Islamic court registry. The *Dukcapil* records contain information about all the divorces that have occurred either in-court or out-of-court, whereas the Islamic court registry only records judicial divorces for each year. In spite of these differences, we can still assert that out-of-court divorces have outnumbered in-court divorces over the last five years (2016-2020).

Another worthwhile finding from the KK analysis concerns where children reside after their parents separate, either by divorce or death. In the four villages, there were 60 families (86%) where the children lived with their mother and followed her when she remarried, and only ten families (14%) where the children lived with their father. This account corresponds to a customary norm of *semendo* divorce, where children with divorced parents are considered to belong to their mother's

family. According to this tradition, the children are supposed to live with their mother or mother's family, even after she has remarried. Hence, the remaining 14% serves as an exception, and most likely, as I encountered during my fieldwork, these children have deceased mothers. Indeed, the children were customarily supposed to live with their deceased mother's family, but there were situations (notably poverty) where siblings of the deceased mother preferred not to nurture their sister's children. Thus, the only feasible option for the children was to live with their biological father.

Research Sites	Total Muslim Households (KK)	Out-of-court Divorces				In-court Divorces					
		DUKCAPIL 2017		Mini Survey		The Last Five Years (Until June 2020)					
		Divorcees (Males and Females	%	Widowers and Widows	%	2016	2017	2018	2019	2020	Total
Talang Buai Village	419	39	9.3	96	22.9	2	0	2	0	0	2
Agung Jaya Village	690	55	8.0			0	1	1	7	3	14
Penarik Village	1572	158	10.1			8	4	12	7	3	25
Sibak Village	1108	97	8.8			4	3	7	4	3	17
MUKOMUKO REGENCY						171	203	177	257	240	1045

Figure 4.4.1. 3: Out-of-court and in-court divorces

This overview shows the staggering number of out-of-court divorces in Mukomuko, compared to in-court divorces. This gap corresponds to the popularity of *semendo* marriage among traditional villagers, as well as to the lack of adequate access to the Islamic court. It should be noted here that the Mukomuko regency established its own Islamic Court at the end of 2018. Further discussion on the establishment of this court will be addressed in Chapter 5, but we now turn to another important concept in divorce: namely, *harta-sepencarian*.

4.4.2 *Harta-sepencarian* (Joint-marital property)

The previous discussion in section three suggested that the institution of *semendo* divorce distinguishes divorce according to who initiates it. A divorce by the husband is non-consensual, but it is contingent on who caused the divorce. A husband may divorce his wife freely, if she was at fault. Otherwise, the husband has to settle *charroh* (a deferred *antaran*) before pronouncing his *talak*. Nonetheless, a husband rarely initiates such a divorce

and usually prefers to leave his wife in limbo. She is still formally his wife, although he is no longer present as her husband, providing support for her and for their children. Ultimately, the wife always has to be the party proposing divorce. Conversely, divorce by a wife is supposed to be consensual. She may get a divorce if her husband has agreed to it. However, if the husband has refused his consent, she can still get a divorce via *adat*, provided that her husband has violated one of the conditions in *taklik talak*. Either way (i.e. either a consensual or a *taklik talak* divorce), the wife must relinquish her rights to *charroh*. In this respect, the institution of *charroh* merely serves as compensation for a wife undergoing an arbitrary divorce initiated by her husband, while *semendo* divorce still privileges the husband by retaining a unilateral divorce for him alone.

This general *semendo* divorce norm can be linked to an aspect of Islam (i.e. the prescribed provision of *talak* as a husband's prerogative right) that has been incorporated into *adat*. Yet, the privilege reverses when it comes to two post-divorce rights: one concerns child custody, and the other concerns *harta-sepencarian*.

First, concerning custody, all children belong to their mother and their mother's family, regardless of their age (Bogaardt, 1958). As already mentioned in the previous section, an exception applies only if separation is caused by the wife's death, and the family of the deceased wife is not capable of nurturing her children (for the number of such exceptions, see the 5th paragraph of Section 4.4.1). *Second*, concerning *harta-pencharian,* Ali Kasan,[146] a former member of Mukomuko BMA in 2005-2019, explained that all the property acquired during a marriage is divided in two (50:50). He further added that one half belongs to the wife, and the other half belongs to the husband, unless there is one child or more from the marriage. In that case, half the husband's share is allocated for the child(ren). As a result, the actual share for a divorced husband who has a descendant will be no more than a quarter of the *harta-sepencarian.*

[146] Interview with Ali Kasan, on 9 March 2017.

This division shows a greater share for the wife and children via *harta-sepencarian*. A husband will receive an equal share only if there is no child from their marriage. In fact, this norm still applies, even if the separation was caused by the wife's death. In this respect, the deceased wife's share belongs to her children, or her share returns to her maternal family (if she has not had children). A husband may get a greater share, if he has arranged a so-called *perjanjian harta-sepencarian* (a joint-property agreement) with his wife during her lifetime. The 1862 *Undang-Undang* of Mukomuko did mention that a couple may arrange an agreement to distribute an equal share via *harta-sepencarian*.[147] If the wife passes away, this agreement enables her husband to gain half of their property, and the remaining half belongs either to their children or to the deceased wife's relatives. Unfortunately, I did not encounter a single case of this agreement being used during my stay in Mukomuko. Ali Kasan, who had been serving as *kepala kaum* in Mukomuko for more than 20 years, also confirmed my observation. In practice, the division of property is much simpler when a divorced husband leaves his wife carrying only some moveable goods, such as a motorbike, clothes, etc. If a conflict about improper division then arises, the institution of *harta-sepencarian* prevails as the general norm.

From this overview, the institution of *harta-sepencarian* appears to be consistent with some important elements in *semendo* tradition; notably, uxorilocal and duo-local principles. These principles require a husband to constantly balance opposing responsibilities within a household. He is to reside with his wife's parents, but he is like a guest under the shadow of his wife's male relatives. In addition, he is meant to become father to his biological child(ren) and breadwinner for his nuclear family, while also playing the role of *mamak* (maternal uncle) to his sister's children. Abdullah, in his account on Minangkabau, described this situation precisely by writing, "How can a man possibly fulfil his dual marital responsibilities when he has no authority in

[147] Articles 70, 71, and 72 of the *Undang-Undang* of Mukomuko (Adatrecthbundel VI, 1913, pp. 345–346).

his wife's house and is no more than a 'manager' in his sister's home?" (Abdullah, 1966, p. 8) This is the dilemma experienced by husbands in *semendo* marriages. If the dilemma is no longer bearable, the husband can escape the marriage, either by uttering unilateral *talak* or simply by leaving the household. Either way, he must leave all his children behind and abide by the general norm of *harta-sepencarian.*

In summary, it can be inferred that the institution of *harta-sepencarian* has been arranged in favour of the wife and children, by allocating a greater share to them. As a general norm, such allocation continues to shape the distribution of *harta-sepencarian* among traditional villagers. However, this institution is now being challenged. A number of husbands who feel uneasy being caught between conflicting responsibilities within the *semendo* tradition, have begun to question this norm. They are challenging the institution by deviating from the general norm, either by keeping property for themselves or by filing a lawsuit at the Islamic court. This shift is connected with (among other things) a rise in 'liberalisation' in favour of the husband, which introduces different modes of earning and, in turn, strengthens the husband's position within his nuclear family. Further discussion on this shift, and the role of the state (notably, the Islamic court) throughout the process, is presented in Chapter 5. However, as background on how the shift is taking place, I present an atypical case below, concerning a husband who challenged the established institution of *harta-sepencarian* in the *adat*, by filing a lawsuit at the Islamic court.

4.4.3 *Syahril v. Yati* revisited: Contesting *harta-sepencarian*

In 1990, Syahril and Yati got married and registered their marriage at the Pancung Soal KUA – Pesisir Selatan of the West-Sumatera Province. The newly-weds initially stayed with the bride's parents for one month. They then lived on their own in a rented house in Penarik village, Mukomuko Bengkulu. In order to mingle and integrate with the locals, the couple entered different

kaums via the procedure of *terang-kaum*, which is designed to naturalise migrants of Minangkabau origin. In the meantime, they opened a grocery shop. The shop grew rapidly, and it took only two years for them to build their own house, using profits from the shop. The couple continued to expand their business, by launching a confectionary shop and investing in oil palm plantations and properties. In 2017, their assets had a net worth of 3.98 billion rupiahs, including 1.08 billion in debt (remarkable, when compared to the average person whose monthly earnings would be around 2 million). However, this success story in business was the opposite of their marital life.

In 1991, just a couple of months before the birth of their first son, Syahril was caught having an affair with a married woman. The mistress' husband filed a report to the local police, accusing him of committing adultery with his wife. In response, the police detained Syahril at the police station, but they released him after the parties agreed to reconcile and the cheated husband withdrew his accusation. After the release, Yati gave Syahril a second chance, considering her situation at the time: a pregnant wife, living in a place far from her consanguine relatives. Yati recalled this episode as being at a point in her life (in her twenties) when she urgently needed a husband figure. Unfortunately, her husband repeated his behaviour several times. Some cases were reconciled via a *kaum* deliberation, while others were left unsolved. It appeared that Syahril never learned his lesson, to the point that the *kaum* leaders gave up and refused to intervene again. In the meantime, Yati focussed on nurturing her three children and expanding their family business.

It is surprising that such an unhappy marriage survived for 23 years. With the help of the children, the family business grew rapidly, without any meaningful input from Syahril. Thus, Yati was the one who controlled both the business and other financial matters within the household. In 2013 Yati underwent a hysterectomy, and soon after her recovery she persuaded Syahril to restore their relationship by performing *Umrah* (a pilgrimage)

to Makkah. Syahril refused to go, saying that he was not ready. It is widely believed among Muslims that, during a pilgrimage, bad things may befall a person whose heart is not pure. Yati went on the pilgrimage alone and when she returned found out that, in her absence, Syahril had concluded an informal polygamy with a divorced woman. With the full support of her children, Yati expelled Syahril from the house. After taking some cash from their grocery store, Syahril left and built a new house with his new wife. From that point onwards, Syahril and Yati lived separately, but Syahril continued to ask for his share of the family business profits, so that he could provide maintenance support for his new family, including a new born baby.

This situation lasted until 2016, when Syahril registered a petition for divorce at the Arga Makmur Islamic court. The petition was accepted and the first session was held without Yati attending. Yati attended the second session, where she and Syahril received mediation led by Nurmalis. The mediation failed, and the petition proceeded with an evidentiary session. During the evidentiary session, again without Yati (as petitioned), Syahril convinced the judges that the marriage was already broken. On 13 December 2016 the judges eventually granted Syahril permission to pronounce *talak*. It later turned out that the divorce petition was a trick of his, to release himself from possible threats concerning his current informal polygamy, and (more importantly) to claim a greater share of the joint-marital property.[148] Before obtaining a formal divorce, Syahril was afraid that Yati would report his informal polygamy to the local police. Besides, in his situation, Syahril would be customarily entitled to no more than a quarter of the property.

In fact, Yati did ask Syahril to divide their property amicably, by offering eleven hectares of their palm oil plantation and one truck (equal to 1 billion rupiahs). However, he demanded all

[148] From the beginning, Syahril and his lawyer (Ali Akbar) had agreed on two lawsuits, i.e. divorce and joint-marital property (*harta-sepencarian*), with the total payment of 25 million rupiahs. Besides, Syahril was to provide accommodation for Ali Akbar throughout the process. Interview with Syahril on 1 March 2018.

the property that was registered under his name. Yati refused, because the majority of assets were registered in his name.[149] A month later, Syahril, represented by the same lawyer, registered a lawsuit at the Islamic court, suing Yati for equal division of their joint-marital property. In response, Yati hired a group of lawyers to represent her before the court. The first hearing was intense, as each party insisted on their respective demands. Syahril demanded an equal share, and Yati insisted that the majority of assets should belong to her and the children, as prescribed in *adat*. During a mediation session, Judge Mhd. Nazir, acting as mediator, suggested that the property should be divided equally, because state law says so. Otherwise, each party would endure a greater loss, from the possible court fees and other costs arising from their prolonged dispute. The mediator used this metaphor: "*lebih baik sekali putus melalui mediasi dari pada satu menjadi arang dan satu menjadi abu* (it is better to settle your dispute now, through this mediation, rather than continuing the dispute, which will turn one party into charcoal and the other into ashes)".

It was indeed quite strange for a mediator, who was supposed to be neutral, to intervene in the dispute. However, considering that the mediator was a judge himself (let alone Nazir's position as head of the Arga Makmur Islamic court, at the time), even though in this case he was not an acting judge, the intervention was inevitable, because he could foresee the possible result of their dispute.[150] Yati was unhappy with Nazir's suggestion but, after more than ten exhausting sessions that lasted almost a year, she reluctantly approved the advice. They agreed to share their property via mediation, even though Yati (who was in West-Sumatra at the time, enrolling her youngest child in school) was not present

[149] Yati told me, "even though I am the one who runs our business, I wanted to show respect to Syahril as the head of family, by registering all the property under his name". Interview with Yati at the temporary shelter, after giving up her house to Syahril as his share, on 1 March 2018.

[150] Article 5 (1) of Supreme Court Regulation 1/2016 stipulates that mediation is a 'closed session', but Article 5 (2) states that conveying a report to the judges about who is not acting in good faith and who is responsible of the failure of mediation is not a violation of the closed nature of the mediation process. In this manner, coupled with the majority of mediators in the Islamic court being judges themselves, it is hardly possible to consider mandatory mediation a neutral session, completely separate from other sessions.

and was represented only by her lawyers. After converting all the assets into rupiah, Syahril obtained 2.4 billion rupiah—including a debt of 528 million rupiah - and an obligation to pay 300 million alimony to his youngest daughter (the only underage child), which could be paid in instalments over six years. Meanwhile, Yati received a share of 1.94 billion rupiah and a debt of 550 million rupiah. Eventually, the judges issued an *akta perdamaian* (an act of peace) for them, which is legally binding and final.

When recommending an equal share, the mediator suggested a formalistic reading of Article 35 of the Marriage Law 1/1974 on the division of property acquired during marriage. He seemed unaware of the Supreme Court's more recent interpretation in Judgement 266K/Ag/2010, which allocated three-quarters of the joint-marital property to a neglected wife and the remaining one-quarter to her husband (see Chapter 2 in Section 2.3.3.2). The reasoning behind this judgement was: "… the wife was the one who obtained the property, whereas the husband left her without maintenance support (*nafkah*) for more than 11 years". In Yati's case, she was the main person behind the growth of their joint business, whereas her husband had been behaving irresponsibly for more than 23 years, plus another four years (from 2013 to 2016) when he had been living with his new wife. The Supreme Court's judgement 88/Ag/2015, in which one-third was allocated to the husband and two-thirds to the wife, considering that the disputed property included the wife's *harta-pusaka* (property inherited matrilineally), was also ignored. More ironically, some of the property that Syahril claimed, such as a car, a truck, etc., had been bought during the last four years of his absence. Indeed, there was a clear difference between the two cases: one was the result of a court judgement and the other was the result of mediation. Yet, it is clear that both the mediator and, of course, Yati herself were not well informed about the recent precedent on the possibility for a wife to gain a greater share of the marital property. If she had been properly informed, she would not have relinquished her share during mediation.

The mediator's suggestion also reveals his attitude toward the living norms in society. In this regard, the mediator, who happened to be of Minangkabau origin himself, appeared to ignore the living law in Mukomuko, which allocates a greater share for the wife and children, i.e. three-quarters of the total joint-marital property (*harta-sepencarian*). According to this living law, a wife and her children may even receive all the property, if her husband was at fault. Lamenting her situation, Yati told me while I interviewed her that, "I did not expect that he would file a lawsuit at the Islamic court, because we already have three children and he was the one who initiated and caused the divorce. In *adat*, a fault husband cannot file such a claim; he can only leave his wife, empty-handed". Indeed, a judge is not obliged to refer to a living norm, but their counterparts in the general court have started considering living norms in their judgements. In the *Sri v. Agus* case from Banyumas General Court, for instance, the judges decided to punish Agus for violating his pre-marital agreement. He was required to compensate Sri by 150 million rupiahs, because he had terminated their engagement at will, which was against the living norm in their home town. If the mediator in Yati's case had been aware of this development, as well as the Supreme Court Judgments 266K/Ag/2010 and 88/Ag/2015, his suggestion to Yati during the mediation would have been different.

By now, the couple's business had already collapsed, which had been starting to happen from the beginning of the dispute, and each party had to settle legal fees and debts from their own share. Moreover, they spent a considerable amount on accommodation throughout the process. For this reason, they had to sell a large portion of their respective shares. In addition, there was still an issue concerning execution. Syahril could not have some parts of his share, i.e. property belonging to his children (such as the car and truck), because the children insisted that the property was theirs. During my visit a year later, Yati and her children were starting a new business with her remaining share, while Syahril was about to sell his house in order to pay the alimony for

his youngest daughter, which he had not paid at all, even more than a year after their case was resolved. I will revisit this case in the next chapter which discusses court fees and costs, alimony, execution, and the role of the lawyers.

4.5 Concluding Remarks

This chapter shows how traditional villagers from *hulu-hilir* settlements still adhere to their matrilineal usages and customs. In doing so, they develop their social structure and institutions according to the matrilineal kinship system, which divides villagers into several clans, called *kaum*. Each *kaum* appoints their respective leader to play an instrumental role, notably in arranging *kerja-baik* and *kerja-buruk* among their fellow members. At village level, *kaum* leaders and *kaum* representatives form *orang adat*, which comprises three main elements: *Kaum* leaders and elders (as the genealogical elite in their respective clans), sub-village leaders (representing *kaum* in the village administration), and *pegawai syara'* (representing *kaum* in religious matters). This triangle suggests that the roles of *kaum* leaders and representatives concern not only *adat* (customary) matters, but also village affairs. This unique encounter between *adat* and the village administration, which differs from one traditional village to another, generates mutual benefit for both sides. While *orang adat* manages to gain formal recognition from the village administration, the village officers obtain legitimacy from *adat*. Together, they emerge before their fellow villagers as the most authoritative body.

The complex amalgamation of the *adat* institution and village administration constitutes the so-called Mukomuko *adat*. However, this denomination seems too general, considering that traditional villages are only some of the total number of villages in Mukomuko. This is why I prefer to link traditional village *adat* to a particular element in their tradition, such as *semendo*, when referring to their *adat* for marriage and divorce. Thus, I refer to marriages and divorce among traditional villagers as the *semendo*

tradition. It is a tradition, because the villagers observe *semendo* principles and institutionalise them at village level, with a differentiated structure and function. For example, the *kaum* leader serves as the main figure in a *semendo* marriage, and the local *Imam* is the authoritative actor in a *semendo* divorce, through the procedure of *minta-sah*. It is also a tradition, because we can link current marriages and divorces to the general norms designed for them in historical Mukomuko, and the present day manifestation of *semendo* marriage and divorce will also help us to understand possibilities for future marriage and divorce (a discursive tradition, Asad, 2009, p. 20). As a result, *semendo* marriage and divorce are a discursive tradition, differentiated from other options, such as informal, Islamic, and state marriage and divorce.

Last, but not least, it is noted that the existing *semendo* tradition is increasingly being contested. The local government is now trying to eliminate *adat* elements and figures from the village administration, by imposing an LA on every village, which will undoubtedly reduce the recognition of *orang adat* as an important implementing actor and structure. This threat occurs simultaneously with cross-ethnic marriages, and situations where a wife either has to leave her home village to follow her husband or she herself must leave the village to make a living, which is against the uxorilocal principle. In this case, the limits of *semendo* marriage are exposed: it might only ever operate effectively within a village. Another threat to the *semendo* tradition can be attributed to the increasing presence of the state (notably, the Islamic court), which enables some structural conflict with the existing tradition. Although not usual, some traditional villagers (mainly husbands) have started to challenge *semendo* divorce, by filing lawsuits at the Islamic court in order to obtain a greater share of their joint-marital property. This threat was exacerbated by the attitude of some judges, who ignored the *semendo* tradition as a living law. Such conflict is now even more likely to happen, following the recent establishment of the Mukomuko Islamic court at the end of 2018. I will address this subject further in the next chapter.