



Sarak Opat Considerations in the Application of Parak Customary Sanctions (Exile) Against Jarimah Khalwat Perpetrators

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ABSTRACT

In Gayo society, khalwat (illicit sexual relations) is punishable by customary sanctions in the form of parak (exile). However, in practice in several villages in Central Aceh Regency, perpetrators of khalwat are often immediately subjected to severe parak sanctions without first going through a stage of counselling or written warnings. This study aims to determine the process of applying customary sanctions and the considerations of the sarak opat in imposing sanctions on perpetrators of khalwat. The novelty of this research lies in the integration between the values of Gayo customary law and the principle of restorative justice in the context of non-litigation law enforcement based on local wisdom. This type of research is empirical law using primary data obtained directly from the field and secondary data or reference data. The results indicate that the implementation of parak sanctions is carried out through a structured process, starting with complaints, mediation, customary court hearings, and then implementing the decision. The primary considerations for Sarak Opat include religious, legal, socio-cultural, and public security aspects. However, violations of customary procedures were found in the form of exile without prior warning, potentially raising substantive justice issues.

INTRODUCTION

In the Indonesian legal system, customary law is called unwritten law (*unstatuta law*) which is different from written law (*statuteta law*). The form of this unwritten law can be in the form of customary law or local wisdom whose existence is still recognized as a norm and has binding and sanctioning power.¹ Meanwhile, written laws are created in written form, which is rigid, firm, provides greater legal certainty, and is included in various state regulations.² The adat law system is based on unwritten regulations that grow and develop and are maintained with the legal consciousness of the community, and the customary law has a traditional type based on the will of the ancestors, meaning that for the legal order there is always great respect for the sacred will of the ancestors.³

¹ Erlina Sinaga, "Politik Legislasi Hukum Tidak Tertulis Dalam Pembangunan Hukum Nasional," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 8, no. 1 (2019): 1-17, <https://doi.org/10.33331/rechtsvinding.v8i1.306>.

² Achmad Surya, dan Suhartini, "Efektivitas Penyelesaian Tindak Pidana Ringan Melalui Lembaga Adat (Sarak Opat)," *Jurnal Hukum Ius Quia Iustum* 26, no. 1 (2019): 91-112, <https://doi.org/10.20885/iustum.vol26.iss1.art5>.

³ Titik Triwulan Tutik, *Pengantar Ilmu Hukum* (Jakarta: Prestasi Pustakaraya, 2006), p. 100.

The existence of customary law can still be seen today thru the presence of customary courts and customary legal instruments that are still maintained by customary law communities in Indonesia to resolve various disputes and offenses.⁴ In customary law societies, disputes that have occurred have long been resolved through deliberation and consensus through customary institutions such as village courts or so-called customary courts.⁵ Usually, the figures who act as judges in such institutions are traditional leaders and religious figures. As one of the alternative dispute resolution methods, the existence of customary courts is a positive step in achieving justice in society.⁶

In Aceh, the resolution of cases in community life is often handled thru customary courts, more commonly known as customary institutions.⁷ In certain cases, some members of Acehnese society even place the position of traditional institutions higher than that of formal courts.⁸ For the people in Central Aceh Regency, the settlement of cases/disputes that occur in the community is resolved by a customary institution called *Sarak Opat*, which consists of *Reje (king)*, *Imem (religious leader)*, *Petue (elder)*, dan *Rakyat Genap Mupakat (people)*.⁹ *Sarak Opat* plays an active role in preventing immoral acts, implementing customary law, customs, and customary sanctions (edet sanctions), and resolving edet shame (acts that are highly prohibited in Gayo customary law)¹⁰ such as: First, *Terjah* (acting arbitrarily); Second, *Empah* (using harsh, arrogant, and loud words); Third, *Keliling* (spreading rumors); Fourth, *Juge* (gossiping).¹¹

In Gayo society in Central Aceh Regency, *khalwat* (indecency) is considered a taboo act, meaning an immoral act committed by an adult woman and man who are both adults. This is an act prohibited by customary law and Islamic religion.¹² Violation of *khalwat* is an act that contravenes the religious norms and customs practiced by the people of Aceh; it is considered a precursor to infidelity. The practice of *khalwat* may result in acts of infidelity.¹³ The customary sanctions that can be imposed on the perpetrators of *sumang acts* are regulated in Article 19 paragraph (1) of the Qanun of Central Aceh Regency Number 10 of 2002 concerning the Gayo Customary Law, namely:

⁴ Rosdiana, dan Ulum Janah, "Penerapan Restorative Justice dalam Tindak Pidana Perzinaan pada Masyarakat Kutai Adat Lawas," *Jurnal Bina Mulia Hukum* 5, no. 1 (2020): 53–73, <https://doi:10.23920/jbhm.v5i1.14>.

⁵ Achmad Surya, Suhartini, dan Ruslan Hakim, "Authority of *Sarak Opat* in Settlement of Environmental Pollution Cases," *Widya Yuridika* 7, no. 1 (2024): 85–92, <https://doi:10.31328/wy.v7i1.4672>.

⁶ Nur Rochaeti, dan Rahmi Dwi Sutanti, "Kontribusi Peradilan Adat Dan Keadilan Restoratif Dalam Pembaruan Hukum Pidana Di Indonesia," *Masalah-Masalah Hukum* 47, no. 3 (2018): 198–214, <https://doi:10.14710/mmh.47.3.2018.198-214>.

⁷ Tasrizal, dan Mahdi, "Tuha Peut Sebagai Lembaga Alternatif Penyelesaian Sengketa Masyarakat Aceh Utara Dan Kota Lhokseumawe," *CONSTITUO: Journal of State and Political Law Research* 3, no. 1 (2024): 1–10. <https://doi:10.47498/constituo.v3i1.2996>.

⁸ Suhartini, and Achmad Surya, "The Role of the *Sarak Opat* in Resolving Minor Crimes," *Jurnal Media Hukum* 29, no. 2 (2022): 146–159, <https://doi:10.18196/jmh.v29i2.14471>.

⁹ Syukri, "The Gayo People Philosophy: Genap-Mupakat and Social Harmonization in Central Aceh," *Islamica: Jurnal Studi Keislaman* 17, no. 2 (2023): 268–292, <https://doi:10.15642/islamica.2023.17.2.268-292>.

¹⁰ Amir Syam, "Lembaga Adat *Sarak Opat* Dalam Penyelenggaraan Pemerintahan Kampung," *RESAM Jurnal Hukum* 5, no. 2 (2019): 76–94, <https://doi.org/10.32661/resam.v5i2.32>.

¹¹ Jamhir, "Penyelesaian Kasus Jarimah Ikhtilat di Gayo Menurut Hukum Islam," *Jurnal Justisia: Jurnal Ilmu Hukum, Perundang-undangan dan Pranata Sosial* 5, no. 2 (2020): 54–71, <https://doi:10.22373/justisia.v5i2.8454>.

¹² Suhartini, and Achmad Surya, "Reconstruction of *Sumang* Customs in Gayo Community as An Effort to Prevent Underage Marriage," *Pena Justisia: Media Komunikasi dan Kajian Hukum* 23, no. 2 (2024): 1512–1526, <https://doi:10.31941/pj.v23i2.3139>.

¹³ Lisa Hayati, Husamuddin Mz, dan Sumardi Efendi, "Sanksi Adat Terhadap Jarimah *Khalwat* perspektif Fikih Jinayah: Studi di Gampong Tungkop Kecamatan Sungai Mas Kabupaten Aceh Barat," *Jimmi: Jurnal Ilmiah Mahasiswa Multidisiplin* 1, no. 2 (2024): 151–165, <https://doi:10.71153/jimmi.v1i2.107>.

advising those who violate the *sumang* orally or in writing, making a written reprimand and signing an agreement letter will not repeat the act, if the agreement is not kept, *parak* customary sanctions will be imposed (exile) or no longer recognized as a villager.

Customary violations in Gayo society are divided into two types: minor customary violations usually involve internal disputes or actions that do not cause significant harm to the wider community, such as: petty theft (including theft within the family or of domestic animals), minor assault, slander, or disputes over property or inheritance rights. While serious matters are actions that are strictly prohibited and considered to tarnish the dignity and disrupt the social order of the Gayo community, such as: marriage within the same village, acts of adultery, and incest (blood relations).

Based on the explanation above, the perpetrators of *sumang* can be subject to customary sanctions ranging from light sanctions starting from advising, verbal and written reprimands to severe sanctions, namely in the form of *parak* sanctions, namely expulsion or not allowed to domicile/live in the village forever. However, based on research in several villages in the Central Aceh Regency Area, the perpetrators of *khalwat* acts are given severe customary sanctions by *sarak Opat* in the form of *Parak punishment*, namely to leave the village and are not allowed to domicile/reside in the village forever without prior advice as affirmed in Article 19 paragraph (1) Qanun of Central Aceh Regency Number 10 of 2002 concerning Gayo Customary Law. A similar point was made in Valentina Shanty's research, which looked at cases of customary sanctions in the form of exclusion or expulsion from certain villages, which are still common in Aceh. She stated that sometimes the reasons for and system of expulsion are not necessarily correct. This is especially true today, as many village chiefs lack experience in the field of customary law. Expulsion can be carried out if the perpetrator repeats their actions. Furthermore, they should be warned not to repeat their actions.¹⁴

Based on the issues outlined above, this research is urgently needed to ensure legal certainty, prevent abuse of authority by the *sarak opat* customary institution, protect the rights of customary law communities, and strengthen the harmonisation between customary law and the national legal system. Furthermore, there is an inconsistency in the application of customary sanctions against perpetrators of *khalwat* as regulated in Qanun Kabupaten Aceh Tengah No. 10 of 2002 concerning Gayo Customary Law, whereby perpetrators of *khalwat* are immediately subject to severe customary sanctions in the form of *Parak punishment* without first counselling or issuing a written warning to the perpetrator. This research has not been conducted by previous researchers, and its uniqueness lies in the integration of Gayo customary law values and restorative justice principles in the context of non-litigious law enforcement based on local wisdom. Therefore, this study aims to analyse and discuss: First, how is the process of applying *parak* customary sanctions against perpetrators of *khalwat* jarimah through *sarak opat*? Second, what are the considerations of *sarak opat* in applying *parak* customary sanctions against perpetrators of *khalwat* jarimah?

¹⁴ Valentina Shanty, Adwani Adwani, and Azhari Yahya, "Indigenous Sanction of Expulsion in Central Aceh District (Human Rights Perspective)," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 13, no. 2 (2018): 254–272, <https://doi:10.19105/al-lhkam.v13i2.1828>.

METHODS

This research method is empirical legal research or sociological legal research¹⁵, which initially examines primary data obtained directly from the field through interviews with the Reje (Head) of the Village in the Central Aceh Regency, the Gayo Customary Council of Central Aceh Regency and Gayo Customary Leaders. Secondary data was then collected from primary legal materials, secondary legal materials and tertiary legal materials. Thus, empirical legal research continues to rely on primary data as *das sein* and secondary data as *das solen*.¹⁶ Data processing is carried out through data analysis (*editing*), *coding*, and systematization. Furthermore, the data that has been collected from both primary and secondary data will be analyzed qualitatively, so that reality is found as a symptom of primary data that is connected to theories from secondary data. The data is presented descriptively, namely by explaining and collecting problems related to this research.¹⁷

DISCUSSION

The Process of Applying Parak Customary Sanctions (Exile) to Jarimah Khalwat Perpetrators Through *Sarak Opat* Customary Institutions

The cultural system of the Gayo people is fundamentally based on the values of Islamic law, which contains knowledge, beliefs, values, religion, norms, rules, and laws that serve as a reference for behavior in community life. Thus, Gayo customary law is a set of rules or actions based on Islamic law that is then consistently and comprehensively adhered to, revered, obeyed, and practiced by the Gayo community. In Gayo society's culture, custom and law (*edet urum ukum*) are inseparable. In Gayo society, the customary institution that serves as a dispute resolution body is called *Sarak Opat*, which consists of the Reje, Imem, Petue, and Rakyat. According to Muhammad Daud Ali, each of these elements has its own role, which is no less important than the roles of the other elements. This indicates a clear division of labor with well-defined tasks.¹⁸

According to Taqwaddin quoted by Muhammad Ihsan, the stages of resolving cases at the gampong level in Aceh begin with receiving reports/complaints, conducting investigations/clarifications, holding deliberations in the gampong, conducting trials or consensus, providing conclusions or decisions and the execution of the decision acceptance.¹⁹ Supardi as the Reje of Pedemun Village stated that the process of resolving *the khalwat jarimah* through the four by gathering the entire community of Pedemun Village, where in solving the problem was attended by several village officials consisting of Mukim, Bhabinkamtibmas, Babinsa (Village Supervisor

¹⁵ Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020), p. 80.

¹⁶ Suhartini, dan Syandi Rama Sabekti, "Penyelesaian Tindak Pidana Zina Melalui Mediasi Perspektif Hukum Positif dan Hukum Islam," *Jurnal Bina Mulia Hukum* 4, no. 1 (2019): 72-87, <https://jurnal.fh.unpad.ac.id/index.php/jbmh/article/view/66>.

¹⁷ Achmad Surya, dan Hasan Basri. "Eksistensi Sanksi Adat Jeret Naru dalam Masyarakat Gayo di Kabupaten Aceh Tengah," *Masalah-Masalah Hukum* 49, no. 4 (2020): 359-368, <https://doi:10.14710/mmh.49.4.2020.359-368>.

¹⁸ Puger Abdul Khaliq, dan Laila Kholid Alfirdaus, "Pelemahan Peran *Sarak Opat* dalam Pemerintahan Kampung Kute Rayang Kecamatan Linge Kabupaten Aceh Tengah," *Journal of Politic and Government Studies* 11, no. 3 (2022): 100-110, <https://ejournal3.undip.ac.id/index.php/jpgs/article/view/34609>.

¹⁹ Muhammad Ihsan, "Dualisme Kewenangan Penyelesaian Sengketa Antara Mahkamah Syar'iyah dan Lembaga Peradilan Adat," *Tanfidziy: Jurnal Hukum Tata Negara dan Siyasah* 2, no. 1, (2023): 1-19, <https://doi.org/10.47766/tanfidziy.v2i1.1558>.

Officer), Village Reje/Chief of Village, Rakyat Genap Mupakat (RGM), Village Imam, *Petue*. The same thing was stated by Ibnu Ali, the process and stages of resolving the case of *jarimah khalwat* through *sarak opat* are guided by Qanun Number 9 of 2008 concerning the Development of Customary and Customary Life and the Governor of Aceh Regulation Number 60 of 2013 concerning the Implementation of Settlement of Disputes/Disputes of Customs and Customs.

Thus, based on the author's interview with Supardi, as the Reje of Kampung Pedemun, Lut Tawar District, Central Aceh Regency, the procedure for resolving *criminal cases of khalwat* (pervert) begins with the following steps:

1. Complaint

Anyone who sees/knows/witnesses the criminal incident or is caught, can immediately report/complain to *Reje* to immediately take security and settlement measures. Furthermore, a complaint may occur upon the direct reporting of the parties or by one of the parties to *Reje* (not procedurally bound by time and place), depending on the severity or severity of the violation. Such a reporting situation is intended so that preventive actions can be taken (so as not to quickly spread/develop victims). Supardi added, after receiving a report or complaint, the *Reje*, together with the village apparatus, immediately conducted an investigation and investigation to the parties, in various approaches, outside the formal deliberative trial. The *Reje* should already be able to find the principles of "peaceful" decision-making, such as *Petue* or other figures alongside the *Reje*, to investigate and examine according to their abilities and beliefs regarding the causes of disputes between the parties and to seek evidence of the truth from other witnesses who may know or have seen the process of the case.

2. Provide security as soon as possible by providing protection to both parties

Securing the perpetrator in a secret place. The *sarak opat* customary institution does not recognize detention centers, prisons or correctional institutions. It is usually temporarily secured in a family home or *Reje's* house, or temporarily leaves the village, going to another safe and sheltered place.

3. Summons of the Parties

As is the case with the process of summoning the parties in the state court systems, the summoning of parties by *sarak opat* is usually referred to as an invitation, which can be written or oral. This means that *sarak opat* summons the parties by inviting them. Before the trial was held, *reje, banta, Imeum, petue* approached both sides. The approach aims to find out the truth and at the same time ask their willingness to settle peacefully. At the time of this approach, the executioners of the *sarak opat* court will use various methods of mediation and negotiation, so that the case can be resolved immediately.

4. Process and Trial

The trial took place solemnly and *Reje* invited the parties or those who represented him to convey the problem which was then recorded by the *Banta* (Village Secretary). *Reje* gave the opportunity to *Petue, Imem*, to respond and convey an alternative solution.

5. Verdict (Execution)

Sarak Opat in Decision-making for the common good is different from decision-making for the benefit of individuals, because decision-making for the common good is carried out by involving many people, either directly or indirectly. Decisions are choices that a person or group takes to be implemented. Joint decisions must be wise, beneficial to all and impartial to certain groups, meaning that the public interest must take precedence over personal interests. *Sarak opat* will conclude what was discussed earlier in the deliberations. If an agreement is reached during the deliberation regarding a solution for the disputing parties, then that agreement is made in writing. If the parties disagree with the decision, they can appeal to the Mukim court. The parties' disagreement with the *Sarak Opat* decision must also be stated in the decision decree, and based on that decree, the case can be appealed to the Mukim court.

Based on the explanation above, in Gayo customary law, the crime of *khalwat*, or "sumang" in the Gayo language, is a form of customary law violation. Therefore, this type of violation will be resolved according to Gayo customary law. The process of applying the customary sanction of *parak* (exile) to the perpetrator of the *khalwat* crime thru the *sarak opat* in the *pedemun* village will begin with a complaint or report from the community, followed by providing immediate security thru protection to both parties, summoning the parties, the process and trial, the decision (execution), and the stage of implementing the decision.

Consideration of *Sarak Opat* Customary Institution in the Application of *Parak* Customary Sanctions (Expelling) Against Jarimah *Khalwat* Perpetrators

The law has a very large function and role in the life of the Gayo people. The function and role of law can be felt from the situation of order, tranquility, and the absence of meaningful tension in the Gayo society, because the law regulates, determines rights and obligations, and protects individual interests and social interests. To obtain this title, as a society that lives under the umbrella of law, both written and unwritten laws, must always carry out the applicable rules or norms.²⁰ *Sarak Opat* as a community institution can function as a control tool in the field of security, peace, harmony and public order. In the process of implementing the *sarak opat* government, *the reje* (village head) as the oldest person in the kinship system, has greater executive authority than the *imem* (*imam*), *petue*, and people's representatives. His power is recognized and obeyed as long as the thoughts, deeds, and words he puts forward are still grounded within the limits justified by customary law and Islamic law.²¹

The existence of *sarak opat* as a Customary Institution is based on the decree of the Regent of the Regional Head of Level II of Central Aceh Number: 045/12/SK/92 concerning Gayo Customary

²⁰ Maifa Fitri, "Peran dan Fungsi Kedudukan *Sarak Opat* dalam Sistem Pemerintahan di Kampung," *TANFIDZIY : Jurnal Hukum Tata Negara dan Siyasah* 2, no. 1 (2023): 20–36, <https://doi.org/https://doi.org/10.47766/tanfidziy.v2i1.1804>.

²¹ Syukri, *Sarak Opat Sistem Pemerintahan Tanah Gayo dan Relevansinya Terhadap Pelaksanaan Otonomi Daerah* (Jakarta: Hijri Pustaka Utama, 2006), p. 6.

Institutions at the Regional, Regency, and Village/Village levels".²² Then it was strengthened by the Qanun of Central Aceh Regency Number 10 of 2002 concerning Gayo Customary Law in Article 9 paragraph (2) letter b which states that "*sarak opat* has the duty to resolve disputes based on customary law". Furthermore, the settlement of cases or disputes through *the sarak opat institution* in Central Aceh Regency is strengthened by the Joint Decree of the Regent of Central Aceh Regency, the Chairman of the DPRK and the Chairman of the MAA of Central Aceh Regency Number 373 of 2008, Number 320/DPRK/2008, Police Number B/810/2008 of the Central Aceh Res and Number 110/MAA/V/2008 concerning the Agreement on the Settlement of Small Crime Cases Through the Village Customary Court.

The customary law in the Gayo community is based on Islam, the relationship between the Gayo custom and Islam is reflected in the expression "*edetullah, hukummullah*". The function of the Gayo custom is to maintain Islamic law, this is in line with the expression "*edet memegeri hukum*", This means that customs that maintain the law. Gayo customary law must not contradict religious principles and fundamental Islamic values. If there is a conflict between customary law and Islamic teachings, Islamic principles must be the primary basis for determining the applicable law.²³

Customary law in general, and Gayo tribal customary criminal law in particular, is a living law because Gayo tribal customary criminal law is based on justice rooted in essential values of fairness and on customs and traditions that have been practiced for decades, even centuries, within the Gayo tribal community. The Gayo people cannot be separated from their own customs and culture. They live closely related to the problems of their customs. Our ancestors in their time, so they held their customs as a model, guide, and law. So to maintain, protect, carry out and enforce these cultural customs in the aspect of life, the Gayo community must have a responsible institution, namely the *sarak opat*.²⁴

Gayo customary law does not distinguish between criminal violations that must be examined by a criminal judge and civil violations that must be examined by civil judges as well. Likewise, it is not differentiated whether it is a violation of custom, religion, morality or politeness. All of them will be examined and judged by *sarak opat* as a whole of cases and considerations whose decision is comprehensive based on all factors that affect it.²⁵ The form of customary sanctions that apply to the Gayo community is in the form of²⁶:

²² Zulkarnain, Irfan Tamwafi, and Eliyyil Akbar, "Religious Moderation Education Based on Local Wisdom 'Sarak Opat' of the Gayo Tribe," *EDUKASIA: Jurnal Pendidikan dan Pembelajaran* 6, no. 1 (2025): 475–484, <https://doi.org/10.62775/edukasia.v6i1.1437>.

²³ Dedisyah Putra, "Kedudukan Hukum Adat dalam Hukum Islam tentang Pelaku Maksiat Tertentu," *Jurnal el-Qanuniy: Jurnal Ilmu-Ilmu Kesyariahan dan Pranata Sosial* 9, no. 1 (2023): 12–30, <https://doi.org/10.24952/el-qanuniy.v9i1.7776>.

²⁴ Syukri, Muhammad Aswin, and Arifinsyah, "The Sarak Opat Government System and the Relevance in the Implementation of Regional Autonomy in Central Aceh Indonesia," *Dalam Proceedings of the 1st Aceh Global Conference (AGC 2018)*, Banda Aceh, Indonesia: Atlantis Press, 2019, <https://doi:10.2991/agc-18.2019.21>.

²⁵ Arfiansyah, "The Contemporary Changes and Uses of Adat in Gayo Society, Indonesia." *Heritage of Nusantara: International Journal of Religious Literature and Heritage* 10, no. 1 (2021): 35-67, <https://doi.org/10.31291/hn.v10i1.620>.

²⁶ Rahmina, Teuku Muttaqin Mansur, dan M Adli Abdullah, "Efektivitas Penerapan Sanksi Adat Dalam Penyelesaian Sengketa Melalui Peradilan Adat Gayo di Aceh Tengah," *Jurnal Geuthèë: Penelitian Multidisiplin* 2, no. 3 (2019): 314–322, <https://doi:10.52626/jg.v2i3.65>.

1. Nasihat

Nasihat is the mildest form of dispute resolution, this form of settlement in the process only calls the parties to the dispute, then advised.

2. *Rujuk, Ma'as, Diet and Bela*

Rujuk means that one of the parties to the dispute admits his mistake, and asks for a settlement to the customary court, namely "*Sarak Opat*". *Ma'as* is when the parties admit their mistakes, and apologize to each other "*keta bersiamaafen kite*". *Diet* is a fine that must be given to the guilty party". When the wrongful party is aware of making a mistake, the party who admits the mistake has the right to give something that is worthy and worthy of acceptance. Apologizing to those we have wronged and have the right to give.

3. *Gere Genapi*

This means that the perpetrator is subject to customary sanctions in the form of exclusion from the community and is still allowed to live in the village but is not included in social activities carried out in the village.

4. *Parak*

That is, they are exiled for a maximum of 2 years leaving the village and can return to the village on the condition that they have to slaughter one buffalo.

5. *Jeret Naru*

The perpetrator is not allowed to return to the village for the rest of his life, and the perpetrator has been considered dead in a dispute that is contrary to religion. Such as the marriage of one guardian or clan/village.

Parak customary sanctions on the Gayo people as described above, are customary sanctions that originate from Islamic law and customary law, and the purpose of *parak* customary sanctions on the Gayo people is²⁷ :

1. Provides a deterrent effect to the perpetrator

The effect of *Parak's* punishment it self is that it requires the perpetrator to leave his hometown and is not allowed to return to his hometown, and the perpetrator feels ashamed during his life, including his descendants' families, to be the subject of discussion in one village. This *parak* sanction in the Gayo society is known as "*l deret ni tarak l pangan supak, l deret nuwer l pangan kule* (Outside the village, you're eaten by curses; outside the curses, you're eaten by tigers). The meaning is that it is no longer considered as a family and has disappeared forever.

2. Avoid the occurrence of one-offspring (one blood) and/or one-sided marriage (one village of origin)

In Gayo society, one "*belah*" represents the bond of community life within a single village, considered "*sudere sara ine sara ama*," meaning siblings from the same mother and father but not of the same original bloodline. Therefore, Gayo society prohibits marriage within the same village or "*belah*."

²⁷ Ihsan, "Efektivitas Parak Sebagai Sanksi Adat," *RESAM Jurnal Hukum* 5, no. 2 (2019): 95-113, <https://doi.org/10.32661/resam.v5i2.28>.

According to Abdullah HR as the Chairman of the Gayo Customary Council of Central Aceh Regency, customary law in the Gayo community does not contradict Islamic law because "*ukum orom edet lagu zet urum sifet*" means that the provisions of customary law and Islamic law cannot be separated. In addition, customary sanctions have been clearly enshrined in Qanun Aceh Number 9 of 2008 concerning the Development of Customary Life and Customs. This Qanun regulates all customs affairs and also covers the violation of customs. All customary law disputes will be resolved according to the customary laws that apply in the Aceh region. One of the customary violations contained in the Qanun regulation Number 9 of 2008, namely in Article 13, is the behavior of *Khalwat*.

Abdullah HR added that *Parak* is one of the customary sanctions on the Gayo community in the form of punishments that cannot be violated but has been given a warning before assigning *the parak* to the perpetrator. The imposition of customary punishment on couples who commit adultery (*jarimah khalwat*) is considered a serious violation of customary law because it tarnishes and shames the good name of the family, village, and community. The same thing stated by Hasbullah as the Head of the Customary Law and Customs Division of the Gayo Customary Council of Central Aceh Regency, perverted has approached the act of adultery, in the Gayo community the act is very reprehensible in the view of Gayo's religion and customs. Basically, in Gayo customary law, the act is subject to customary sanctions in the form of *dene* or fines, then both are subject to *parak customary sanctions* in the form of expulsion of the perpetrator from the village.

According to Amir Syam, a Gayo traditional figure, the *sarak opat* is authorized to resolve, investigate, and impose traditional sanctions based on law and custom for acts of *sumang* committed by an individual. The application of *parak* customary sanctions, which are resolved through *the sarak opat customary institution*, already has a strong legal basis and has been in effect since the ancestors of the Gayo people. Amir Sham added that *khalwat* is one of the unlawful acts that are prohibited by Islam and is also contrary to the customs that apply in the Gayo society, because this act can lead a person to commit adultery. Therefore, the perpetrators of *khalwat* will be given a warning sanction first not to repeat it again. If the act is repeated, the perpetrator will be subject to customary *sanctions parak* (exile).

The same thing was stated by Baharuddin as the *petue* of Kampung Pedemun, after the implementation of the deliberations, the entire community and their village apparatus agreed to impose the *punishment of parak* (exile) on the perpetrator of *Jarimah Khalwat*. Because previously the *parak* sentence had been approved and signed as a punishment for anyone in the village who committed *Jarimah Khalwat's* acts. The implementation of customary sanctions is carried out immediately after the decision is delivered by *Reje*, which is in the form of expulsion from the village (*Parak Sanction*), so the implementation is not carried out immediately after the decision is read, but the violators of the customary norms are still given sufficient time to get ready to leave Kampung Pedemun.

According to Irwin, as an *imem* as an element of the *traditional institution of sarak opat* in Kampung Pedemun, the consideration of *sarak four* in the application of customary *sanctions parak* (exile) against the perpetrators of *jarimah khalwat* in Kampung Kenawat, is based:

1. Khalwat/perverted acts are contrary to the teachings of Islam
The ruling of khalwat between men and other women is absolutely haram based on the words of Allah Surah Al-Isra, which reads: "*And do not approach adultery; Indeed, adultery is an abominable act. and a bad path* (QS Al Isra': 32). The above verse prohibits two things at once: zina and all behaviors that are close to the act of adultery, including being alone between two opposite sex who are not mahrams which are called in Arabic terms with khalwat with those other than mahram.
2. Khalwat's actions are contrary to the Qanun of Islamic sharia
Khalwat/perverted is haram and everyone is prohibited from committing acts of *khalwat*, the prohibition of *khalwat acts* is affirmed in Article 24 of Qanun Aceh Number 6 of 2014 concerning the Law of Jinayat.
3. The act of khalwat is considered to defame Kampung Pedemun
Gayo customary law supports the implementation of Islamic law, because *the law mu nukum bersifet kalam, edet mu nukum bersifet wujud* which means that Islamic law establishes the law based on the word of Allah and the Sunnah of the Prophet, while custom establishes the law based on the reality that occurs. The act of Khalwat or perverted is a disgraceful and despicable act in the eyes of the people of Gayo, so the people of Kampung Pedemun agree that anyone who commits an act of khalwat in the village will be subject to *the sanction of the Parak* custom.
4. To avoid unwanted things that are anarchic in nature.
To avoid the occurrence of beatings and so on against the perpetrators of *khalwat before* it is resolved by customary institutions, due to the anger of the youth or the community towards the perpetrators, so that there are some Village Officials who are often called by the Police against this, resulting in the customary settlement process of the *khalwat* perpetrators not being completed in the Village. The decision given by *sarak opat* is binding on the parties even though it is not written, this is because the community voluntarily carries out customary decisions, but it is undeniable that from so many who can accept customary decisions, there are also parties who do not accept the decision, so that in the implementation of the decisions the parties do not do it, but for those who accept the decisions of *the Sarak Opat* customary institutions will accept the verdict happily and implement the verdict.

Amirsyam, as a Gayo Traditional Leader stated that "what has been decided in the customary court trial, must be upheld and implemented by the violator, this in the Gayo language is known as "*mujantan tegep ku bumi, mu pucuk bulet ku langit*". That is, it is firmly rooted in the earth, its shoots are high in the sky". Whoever does not make a customary court decision is the same as opposing and betraying oneself or being called a traitor". Based on the explanation above, it can be concluded that *the consideration of sarak opat* in the application of *parak* (exile) customary sanctions against the perpetrators of khalwat in Kampung Pedemun, namely: *First*, the act of khalwat/perverted is contrary to the teachings of Islam. *Second*, the actions of the Khalwat are contrary to the Qanun of Islamic sharia/Jinayat. *Third*, the act of khalwat is considered to defame Kampung Pedemun. *Fourth*, to avoid unwanted things that are anarchic.

CLOSING

The process of applying customary sanctions (exile) to perpetrators of khalwat (seclusion) thru sarak opat in Pedemun Village, is as follows: it begins with a complaint or report from the community, providing immediate security by protecting both parties, summoning the parties, the process and trial, the decision (execution), and the stage of implementing the decision. The stages of resolving the dispute thru the traditional institution of sarak opat reflect a restorative justice process rooted in the traditional values of the Gayo community. The considerations of sarak opat in applying the customary sanction of parak (exile) to the perpetrator of khalwat (indecent acts) in Kampung Pedemun are: First, the act of khalwat/indecency contradicts the teachings of Islam. Second, the act of khalwat contradicts the Islamic Sharia Law/Jinayat. Third, the act of khalwat is considered to tarnish the good name of Kampung Pedemun. Fourth, to avoid undesirable and anarchic situations. The imposition of parak sanctions on the perpetrators of khalwat (seclusion) is a violation of customary procedures (exile without prior warning to the perpetrators), which can lead to issues of justice and human rights violations if not carried out proportionally and transparently. Therefore, it is necessary to establish standard procedures for the application of customary sanctions, especially severe ones like parak, to ensure they do not conflict with the principles of justice and human rights.

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