

## The Effectiveness of the Existence of Village Customary Courts in Utilizing Problem Solving By the Bireuen Community

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**History:** Received 07/09/2022 | Revised 08/10/2022 | Accepted 23/11/2022 | Published 30/11/2022

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**Abstract.** The authority of the Village customary court in Aceh qanun No. 9 of 2008 concerning fostering customs. One of them is giving the authority to resolve civil and criminal disputes which are part of the authority of formal justice, with this delegation giving the role of the Adat Courts is very important. Bireuen for this research is used for the specific objectives of this study aims to measure the extent to which the village customary justice in the district. Bireuen is used by the community. The method used is an empirical juridical method with a quantitative research methodology that used a research instrument in the form of a questionnaire. The existence of customary courts which have reached 15 years since their publication of a qanun gave legitimacy to gampong customary courts in Aceh, especially Bireuen district.

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**Keywords:** Customary Courts; Minor Crimes; Customary Settlements; CivilCode; Criminal

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### INTRODUCTION

Indonesia is categorized as one of the major countries in the world, which has various tribes, languages and customs, or what is known as pluralism so that the state's recognition of the rule of law that has grown and developed since the time of its ancestors is still applied and has been accommodated as stated in Article 18B paragraph (2) The 1945 Constitution states that as long as the customs and traditions are still alive and conform to the people and the principles of the unitary state of the Republic of Indonesia, the state shall recognize and respect this customary law unit.

Based on this legal umbrella, Aceh, through Law Number 11 of 2006 concerning the Government of Aceh, Chapter XIII concerning Customary Institutions in Article 98 paragraph (2) issues that arise in society can be resolved in a customary way, namely

through customary institutions. Customary institutions or customary justice is a term that is not commonly used by the Acehnese indigenous people but "traditional meeting" and or duek pakat "(Ary Raihan & Filkarwin Zuska: 2022) which is a process carried out as an effort to uphold material law in customary justice or any other similar name. To resolve cases of both civil and criminal violations committed in customary forums to resolve cases (Teuku Muttaqin Mansur, et.al 2018).

Which was also mentioned by Jamaludin, Customary dispute resolution is a settlement through deliberations to reach an agreement or peace in the modern sense which is often termed a mediation or non-litigation forum (Jamaludin, at.al., 2016).

Customary courts, especially in Aceh, have several types of customary courts which are autonomous in nature which have their

respective functions in terms of the form or condition in which there are village customary courts, for example the panglima laot, farmer groups have the kujurn blang institution and the cultivators have the peutua seunebok institution (Kamaruddin, et. al, 2013). Judging from the form and conditions, the designation of customary justice is determined on what problems will be resolved in the community.

The use of various terms for customary justice in Aceh is to show social phenomena that arise in Acehnese society towards a social institution (customary justice) which is very instrumental in resolving various legal problems experienced by the community.

The use of the term "customary justice" which is actually not known in the community, only the nature and functions of customary justice are the same as formal justice, which is currently recognized as having binding legal force as befits a general court or formal court. results (Abdurrahman, 2010).

The promulgation of the Aceh Qanun Number 9 of 2008 Concerning the Development of Customary Life and Customs (qanun adat) has become a momentum for the people of Aceh to preserve their customs, especially customary justice by being entrusted with it as a mechanism for handling disputes that arise in society.

The birth of qanun customs and traditions. Settlement of cases which are the authority of the customary justice institution includes 18 cases which in principle customary

justice does not distinguish between civil and criminal cases (Mahdi: 2011) which provide village legality in solving problems in society.

It has been almost 14 years since the qanun on customs and traditions, how far has the community, especially the district, utilized the use of customary justice? Bireuen which in previous research was conducted *Strengthening Access to Justice in Indonesia* SAJI-UNDP in 2012. In his research the level of community satisfaction with the Customary Courts regarding the achievement of the quality of implementation of customary justice reached 91%. Overall quality achievement The average respondent considered that the implementation of customary justice against the principles of customary justice reached 97.7% (Taqwadin Husen: 2015).

Based on this description, it is necessary to carry out further research on the use of customary justice institutions to resolve problems by the people of Bireuen. The specific objectives of this study are to measure the extent to which village customary justice in the district. The Bireuen is used by the community.

## RESEARCH METHODS

This research method used juridical-empirical research with a quantitative approach which is study whose specifications were systematic, planned, clearly structured, namely research methods that were used to examine certain populations or samples

(Sugiyono, 2018).

The sampling technique used was purposive sampling, which was a sampling technique used by researchers if the researcher had certain considerations in taking the sample. (SuharsimiArikunto, 2010) Purposive sampling, namely the sampling technique used by researchers if the researcher had certain considerations in taking the sample, (SuharsimiArikunto, 2010) As for usage instrument, The research was a questionnaire (quisiner) and interviews.

As for The analytical method used to measure the level of achievement was used with simple statistical analysis, namely by accumulating the number of points for each measuring parameter, then visualizing it in a table:

Achievement Level and category

No.	Achievement Level	Category
1	< 40 %	Strongly Disagree / Strongly Dissatisfied
2	(40 – 60) %	Disagree/Dissatisfied
3	(60 – 80) %	Agree/ Satisfied
4	80 – 100) %	Strongly Agree/Very Satisfied

## DISCUSSION

The customary settlement practice is still applied in Aceh. How ever to what extent the people of Bireuen Regency take advantage means infrastructure. Therefore, Based on the Qanun Adat Customs which legitimizes customary justice in Aceh in its role which has been around for more than 15 years now, a survey was carried out on the effectiveness of

the existence of village customary justice in the utilization of problem solving by the Bireuen community. questionnaire later, among other things:

No	QUESTION
1	Do you know/agree with the Aceh Qanun Number: 9 of 2008 Concerning Fostering Customs, in resolving 18 (eighteen) cases in the community first to be resolved through the gampong customary court
2	Does the community always use village customary court facilities when problems arise in the village where you live?
3	Are you satisfied with the outcome that was decided in the village customary court on your problem?
4	Are you going to continue your case through legal channels (litigation) after mediating at the gampong customary court (non-litigation)
5	Is the dispute settlement mechanism in the gampong carried out in a balanced manner towards the parties
6	Are the gampong officials (gampong customary courts) responsive in every problem that is reported to the gampong
7	the party who mediates (gampong apparatus) issues in village customary justice is a person who understands his role as the party that will resolve the issue.
8	Do you think the existence of the gampong customary court is very helpful to the judiciary and other related parties in resolving legal issues?

1. Do you know/agree with the Qanun? aceh Number: 9 of 2008 Concerning Fostering Customs, in resolving 18 (eighteen) existing cases in society must first be resolved through the village customary court.

Existence customary law customs which has been approximately 15 (fifteen) years to date, 12 (twelve) % (percent) stated "disagree" and 88 (eighty eight) % (percent) state Knowing the existence of these customs as one of the mechanisms for settling cases in the village for more details can be seen in the table below:

Table 1: Settlement of Cases resolved through customary courts in the village of Qanun Adat Istiadat

Statement	frequency	presentat ion
A	6	12.0
SA	44	88.0
Total	50	100

From table I above, the satisfaction level of respondents is obtained from a total of 50 respondents multiplied by the ideal value/weight of 4 (four) so that the total percentage value of the respondent's level of satisfaction with the settlement of cases in the village must be resolved through mechanisms or judicial means. custom so that the level of satisfaction from this aspect is obtained with an average as in table 1.1 below:

Table 1.1 Resolving Cases resolved through the advice of the village customary court

survey score	Ideal Score	Achievement Level
194	200	97%

Based on the results of these calculations, it is obtained that the satisfaction of the people of the district. Bireuen to settle cases first resolved through customary mechanisms, reaching 97 (ninety seven) %

Percent. Where the assessment shows that the majority of the people of the district. Bireuen knows and agrees with the customary qanun and if it is categorized as an "Agree/Satisfied" statement.

This is in accordance with the results of a survey on community satisfaction with customary courts in Aceh conducted by the United Nation Development Program (UNDP). Mansour: 2016).

Respondent satisfaction in this survey is due to the people of the district. Until now, Bireuen respects traditional leaders or keuchik (to the village), and Imeum Mukim or parties as elders to resolve disputes that occur in the community. and other reasons because customary justice is a win-win solution which can strengthen harmony between disputing parties in society (Teuku Mutaqqin Mansur, 2016).

2. Do people always use means- Village customary justice infrastructure if a problem occurs in the village where you live

Settlement of cases given to villages (village) in Aceh is based on provisions as legitimacy for the Aceh region, especially Bireuen Regency in resolving 18 (eighteen) cases covering both criminal and civil matters (Yusi Hamdani: 2014).

As for the resultssurveyobtained "disagree" each caseresolvedthrough the village customary court route of 8 (eight)%, while "disagree" as much as 52 (fifty two)%

(percent), while people who agree with the use of village customary court facilities in advance of 40 (forty)% ( percent) as stated in table 2 (two) below;

Table 2: Use of village customary court rules

Statement	frequency	presentation
DA	4	8.0
A	26	52.0
SA	20	40.0
Total	50	100

Presentation the sum of the results multiplied by the number of respondents' answers with the level of satisfaction from this aspect with the achievement of an ideal score of 83% (eighty three) percent, as stated in table 2.1 below:

Table 2.1 Level of Achievement Use of village customary court facilities

survey score	Ideal Score	Achievement Level
166	200	83%

From level achievement This shows the level of attainment of the use of customary justice mechanisms. First, the majority of people said "agree".

The use of customary justice facilities by the community is based on several reasons. The SKB between the Governor of Aceh, the Head Police area and the Aceh Adat Council on December 20 2011, which is spelled out by the Governor of Aceh Regulation Number 60 of 2013 concerning the Implementation of Customary and Customary Dispute Resolutions/Disputes in Article 13 paragraph (3) of the Qanun Adat Istiadat which requires

the community to first settle their case through the village customary court and a joint decree between the Governor of Aceh, the Head of the Aceh Regional Police and Assembly Adat Aceh regarding the handling of cases that can be resolved first through the customary justice mechanism, mentions that the first part of minor disputes/disputes is resolved first through the customary court and the second part states that law enforcement officials provide an opportunity for village officials to resolve these problems through the village customary court.

3. Are you satisfied with the results that were decided in the village customary court on your problem

Regarding satisfaction with the results of the assisting customary court, a survey was carried out on satisfaction with the decision of the Maka village customary court obtained from the table below:

Table 3 Decisions of the Customary Courts Gampong

Statement	frequency	percentage
SD	3	6.0
DA	12	24.0
A	15	30.0
SA	20	40.0
Total	50	100

Is known the survey results Strongly agree that the village customary court decision has satisfied the parties by 40 (forty) % (percent) followed by Agree by 30 (thirty) % percent and disagree by 24 (twenty four) % (percent) and 6 (six) percent thought that the decision was the result of the customary court



the inconsistent with the expectations of justice

So the results are obtained percentage or level categorization from the answers of the people of Bireuen regency obtained 58.5 (fifty eight point five) 5 (percent) from the score aspect survey against the ideal score in percentage, namely:

Table 3.1: Village Traditional Court Decisions

survey score	Ideal Score	Achievement Level
117	200	58.5%

The level of achievement categorized as in percentage form is "dissatisfied or notagree"to the village customary court's decision

Disagreement with the village customary court decision is of course motivated by the subjective views of each party, on the part of the reported party, for example, he would really object if the decision decided by him was not in accordance with the contrary and thisnaturallyotherwise the subjective view of the reporting party.

This subjective view of each of the disputing parties causes cases that should be resolved by the gampong to reach a stalemate because both parties are not willing to make peace.

As for the sanctions that are always given in a customary meeting about satisfaction Public in the results or decisions of customary courts which include sanctions for apologies, sayam (reconciliation for

committing customary crimes), compensation fines, punishments of excommunication, punishmentsexile/ revoked rights as villagers, revocation of customary titles (Taqwaddin Husen: 2015).

Sanctions penal law namely with an apology and other completeness in symbol peace namely serving yellow sticky rice, goat curry, beef andotheras agreed by the parties. Severe sanctions in the form of exile from the association of the village community, (Lailan Sururi, Dahlan Ali, Teuku Muttaqin Mansur: 2019).

4. Are you going to continue your case through legal channels (litigation) after mediating at the village customary court (non-litigation)

Based on tableIt is known that the people in Bireuen Regency prefer to strongly agree and agree to continue their case to the litigation court, each of which is 40 (forty) % (percent) strongly agree and agree by 30 (thirty) percent and if the total is 70 (seventy) ) % (percent) of people who have gone through the village customary justice route prefer to continue their case to court, this can be seen from the table below

Table 4 cases to legal channels (litigation) after conducting mediation at village customary courts (non-litigation)

Statement	frequency	percentage
SD	0	0
DA	14	28.0
A	16	34.0
SA	20	38.0
Total	50	100

It is based on taste dissatisfaction by the parties to decisions taken because of customary decisions that are non-punitive in nature so that Public feel that they are not wild, causing the community to prioritize the litigation court route after village settlement

So after the results of the community level percentage for the desire to continue the case reached 78 (seventy eight) % with the level of satisfaction from this aspect is the survey score on the ideal score in percentage, namely:

Table 4.1 Level of Attainment of cases to legal channels (litigation) after conducting mediation at village customary courts (non-litigation)

survey score	Ideal Score	Achievement Level
156	200	78%

From the achievement level of 78 (seventy eight) % (percent) it shows the level of achievement of the community to continue their case after completing the customary mechanism stating in category "agree". If the case continues to justice formal.

Regarding the statement of the community's desire to continue through the legal process which resulted in the expected peace in the Gampong customary court not being achieved between the two parties to the dispute.

Continuing or not continuing the case through legal channels is determined by the parties mediating in customary courts. With regard to the power of customary decisions

that are punishable by nature, of course as a rule of law that adheres to the principle of not justifying people who already have permanent legal force convicted for the second time in the same case (ne bis in idem) (Masruchin Ruba'i: 2015). In Article 76 of the Criminal Code "... People cannot be prosecuted a second time ... which has been tried and has become a permanent decision, including the autonomous and customary courts ...". This is as stated in the SKB Aceh / Pergub Aceh Number 60 of 2013 Article 18 which states that village customary decisions are final and binding.

Decision of the Supreme Court of the Republic of Indonesia Number 1644 K/Pid/1988 dated May 15, 1988, in the ratio decidendi in its decision states that a person cannot be prosecuted for the second time in the same case is no exception in customary decisions (La Sarifuddin: 2019).

5. Is the dispute settlement mechanism in the village carried out in a balanced manner towards the parties?

The concept of customary justice is to mediate, the parties will be mediated by people who are seen or people who are elders in the village which is generally carried out by the keuchik or village/village head, imum mukim, tuha peut as judges who adjudicate.

The principle of settlement in customary justice is peace which is carried out through deliberations to reach a consensus (Mulyadi Nurdin: 2019) where in the deliberations it is known that there is a neutral party or known as

a mediator who is impartial to the parties to the dispute. This customary trial process mediator the keuchik/village head will provide greater access to each disputing party to find a solution and of course fulfill a sense of justice.

Based on the above, to find out whether the problem solving is carried out in a balanced manner based on the survey conducted, it is known in table 5 (five) below

Table 5 : Completion that is carried out in a balanced manner

Statement	frequency	percentage
SD	13	26.0
DA	7	14.0
A	5	10.0
SA	25	50.0
Total	50	100

with the sum of the results multiplied by the number of respondents' answers with the level of satisfaction from this aspect is the survey score against the ideal score in percentage, namely:

Table 5.1 : Level of Achievement Balanced settlement

survey score	Ideal Score	Achievement Level
140	200	70%

From level achievement of 70 (seventy) % (percent) indicates the level of achievement in giving opportunities to the parties categorized as "agree".

The statement agrees that the settlement is carried out in a balanced manner and provides the widest possible opportunity for the parties at he keuchik as the breaker will

provide compensation proportionala sense of legal justice that can later be accepted by the parties. (Mila Rosa Apriliani & Mohd Din : 2020).

6. Are village officials (village customary courts) responsive in every problem that arises?complainedto the camping

One way for the keuchik to explore existing cases is by holding meetings with each party (caucus) (Ary Raihan & Filkarwin Zuska: 2022) withTo dovisits to each party to exploreproblemthis shows that apparatusgampongalways responsive to cases or issues that are complained to the gampong, this can be seen in table 6 of the survey below.

Table 6: Responsive to cases reported/complained

Statement	frequency	percentage
SD	1	2.0
DA	2	4.0
A	13	26.0
SA	34	68.0
Total	50	100

With the sum of the results multiplied by the number of respondents' answers with the level of satisfaction from this aspect is the survey score against the ideal score in percentage, namely:

Table 6.1 : Level of Satisfaction with: Responsive to cases reported/complained

survey score	Ideal Score	Achievement Level
177	200	88.5%

From level achievement of 88.5 (twenty eight point five) % (percent) indicates the level



of attainment of the use of the customary justice mechanism first the majority of the community stated "Strongly Agree". responsive on that matter reported to the village.

7. The party who mediates (village apparatus) issues at the village customary court is a person who understands his role as the party that will resolve the issue.

Absence structure standard for the structure of judges in gampong customary justice (Lailan Sururi, Dahlan Ali, Teuku Muttaqin Mansur: 2019), (Juniarti: 2013) Keuchik as a party *ex officio* is the one who because position as a chairman or leader in a settlement of customary justice is required to be able to understand the duties and functions of the keuchik as a person who will resolve cases that occur in the midst of society.

The involvement of the keuchik in exploring issues and legal considerations that must be taken, the role of the keuchik as chairman of the customary court and leader will be very prominent in every case that is reported to the gampong, one of these roles is to hold meetings to each of the litigants or visiting the other partylitigation (Ary Raihan & Filkarwin Zuska, 2022).

The survey results show that as much as 80 (eighty) percent of the community agrees that those who reconcile at the village customary court are people who understand their role in society.

Based on the survey results, the ideal

score from the average respondent's assessment of this matter reached 78 (seventyeight) % (percent), as the data table below

Table 7: Understanding of Village Officials on Their Role in the Customary Courts

Statement	frequency	percentage
SD	3	6.0
D	7	14.0
A	20	40.0
SA	20	40.0
Total	50	100

Which is converted the achievement level goes into category "agree" as stated in the table below:

Table 7.1 Gampong apparatus understanding level

survey score	Ideal Score	Achievement Level
140	200	70%

8. Do you think the existence of the village customary court is very helpful to the judiciary and other related parties in resolving legal issues?

The existence of gampong customary courts cannot be denied. This existence can be seen from the increasingly strong existence of customary courts themselves, seen from several nomenclatures of the existence of adat from the 1945 Constitution in Article 18B paragraph (2), Law Number 11 of 2006 concerning Government of Aceh, Qanun Aceh No. 5 of 2003 concerning Gampong Government. Aceh Qanun Number 9 of 2008 Fostering customary life and customs. Until

the joint decision (SKB) regarding the Implementation of Gampong and Mukim Traditional Courts.

The rule provides authority against the gampong customary court as a (non-litigation) court to seek a peaceful settlement, (Putra Aguswandi: 2021). However, not all of the gampong customary courts were successfully carried out by apparatus gampong.

Customary justice is formally juridical not one of the general courts, but its existence cannot be denied as an alternative for justice seekers by people who still uphold their customs (Rantau Isnur Eka, Dodo : 2021).

Table 8: Indigenous Courts are very helpful to the Judiciary

Statement	frequency	percentag e
SD	0	0
DA	0	0
A	4	8.0
SA	46	92.0
Total	50	100

By the number of respondent survey obtained 92 (ninety two) % of respondents stated that they strongly agreed and 8 (eight) percent said they agreed with the existence of village customary courts in assisting formal courts in resolving cases that were given the authority of village customary courts in resolving cases.

Based on the question 8 (eight) table regarding whether the existence of village customary courts is very helpful to the judiciary and other related parties in resolving legal issues can categorized as stated in the table below

Table 8.1: The Satisfaction Level of the Customary Court is very helpful to the Judiciary

survey score	Ideal Score	Achievement Level
196	200	98%

So from these data it can be categorized as 98 (ninety eight) % (percent) categorized as "Strongly Agree" Gampong customary justice is very helpful to formal justice.

### CONCLUSION

The existence of customary courts which have reached 15 years since their qanun gave legitimacy to gampong customary courts in Aceh, especially Bireuen regency , which is known as the city of Aceh's santri, with the survey, it is clear that the gampong customary court, which is a custom that has existed since the kingdom of Aceh, which has been practiced until now, is still one of the means for the people of Bireuen regency in search of justice. The survey on the existence of customary justice that is used by the community shows a fairly high level of satisfaction from several surveys that have been conducted by several institutions in Aceh. But to maintain this customary justice in the future there must be improvements to the implementation of gampong customary justice forward with one of them as recommendation from an assessment of the 8 (eight) questions to the government providing service training

and handling of case settlements to village officials in solving customary problems.

*Perkara Tindak Pidana Ringan*, Jurnal Ilmiah Mahasiswa Bidang Hukum Pidana Fakultas Hukum Universitas Syiah Kuala, Vol. 4, Mei 2020.hlm 253.

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