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**Social History of Islamic Law from Gender Perspective in Aceh:
A Study of Marriage Traditions in South Aceh, Indonesia**

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Abstract: This study aims to examine the social history of Islamic law from a gender perspective related to marriage traditions in the Samadua community, South Aceh. This empirical legal study used a socio-historical approach to Islamic law and gender. The study collected data by means of literature review and in-depth interview. Findings showed that the couples living at the in-law's house before holding the *walimah al-'ursy* (wedding reception) was a violation of adat (custom) in the Samadua community. The customary sanctions imposed included being completely prohibited to hold *walimah al-'ursy* and *intat linto/tueng dara baroe* (escorting the groom/accepting the bride) procession. From the view of Islamic law, the customary sanctions that apply in the Samadua community are intended to avoid slander and to gain *maslāhah* (benefit). This is also in line with the principle of *sadd al-zarī'ah* and does not conflict with the concept of *sahih 'urf*. This is because *walimah al-'ursy* for women is the time when they are treated with respect and dignity, and this time prayers will also be made for as well as dowry, valuables, and other gifts, making it worth to celebrate. From the perspective of the social history of gender-based Islamic law, the application of this customary sanction also shows that the position of women in Acehnese society is respectable enough that they must be treated with dignity. Because Acehnese women in the past have experienced periods of glory, until now their position and bargaining value are still respectable in customary practices in the *Aneuk Jamee* community in South Aceh.

Keywords: Social history, Islamic law, gender, customary sanctions, marriage

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Abstrak: Penelitian ini bertujuan untuk mengkaji tentang sejarah sosial hukum Islam dari perspektif gender terkait dengan tradisi perkawinan pada masyarakat Samadua Aceh Selatan. Studi tersebut merupakan kajian hukum empiris dengan menggunakan pendekatan sejarah sosial hukum Islam dan gender. Teknik pengumpulan data dilakukan melalui studi literatur dan wawancara mendalam. Hasil penelitian menunjukkan bahwa pasangan yang tinggal di rumah mertua sebelum diadakan walimah al-'ursy merupakan suatu pelanggaran adat dalam masyarakat Samadua Aceh Selatan. Mengenai sanksi adat yang dijatuhkan adalah tidak dibolehkan mengadakan walimah al-'ursy secara mutlak dan juga tidak diperbolehkan mengadakan prosesi intat linto/tueng dara baroe. Menurut hukum Islam sanksi adat yang berlaku dalam masyarakat Samadua merupakan sebuah antisipasi timbulnya fitnah dan untuk kemaslahatan. Demikian juga sejalan dengan prinsip sadd al-zarī'ah dan tidak bertentangan dengan konsep urf shahih. Sebab walimah al-'ursy bagi perempuan merupakan kondisi ia diperlakukan secara terhormat dan bermartabat karena saat itu; dipanjkatkan do'a, diberikan mahar, barang berharga dan sejumlah hadiah untuknya, maka sangat pantas untuk dirayakan. Dari perspektif sejarah sosial hukum Islam penerapan sanksi adat ini juga menunjukkan bahwa posisi perempuan dalam masyarakat Aceh cukup terhormat sehingga ia harus diperlakukan secara bermartabat. Sebab perempuan Aceh pada masa lalu pernah mengalami masa kegemilangan sampai saat ini posisi dan nilai tawarnya tetap terhormat dalam praktik adat pada masyarakat Aneuk Jamee di Aceh Selatan.

Kata Kunci: Sejarah sosial, hukum Islam, gender, sanksi adat, pernikahan

Introduction

The history of women's power in Aceh has been a glorious episode that is yet to fully disclose. The women's power can be traced back to the times of Sultanahs of the Kingdom of Samudera Pasai, Sultanah Malikah Nur Ilahi (d. 1380) and Sultanah Nahrasiyah (1400-1428) and of the Kingdom of Aceh Darussalam, Sultanah Safiatuddin Syah (d. 1675), Sultanah Naqiatuddin (d. 1678), Sultanah Zakiatuddin Syah (d. 1688), and Sultanah Keumalat Syah (d. 1699). In addition, there were women serving as warlords, such as Admiral Keumalahayati (d. 1615), Pocut Baren (d. 1933), Teungku Fakinah (d. 1938), Cut Nyak Dien (d. 1908), and Cut Meutia (d. 1910).¹

¹ Sher Banu A. L. Khan, *Sovereign Women in a Muslim Kingdom: The Sultanahs of Aceh, 1641–1699*. Singapore: Singapore University Press, 2017. Mehmet Ozay, "Women as Rules Phenomenon in Southeast Asian Islamic Society: The Queen of Aceh," *World Journal of Islamic History and Civilization* 1, No. 3 (2011), p. 142-151. Saiful Umam, "Controversies Surrounding the Acehs Sulthanahs: Understanding Relation between Islam and Female Leadership," *Journal of Indonesian Islam* 7, No. 1 (2013), p. 1-23. Desi Fitri Ayu Lestari, et al., "Between Feminisity and Masculinity: The Leadership of Admiral Malahayati in Historical

During the leadership of Sultanah Safiatuddin, she provided a wide room for the development of Islamic law in Aceh which also influenced Islam in Indonesia and even in Southeast Asia. During the Sultanah's leadership, Acehese Islamic scholars through their roles and works were able to become the references and guides for Muslims in these regions, these scholars acted as *qadhi* or *syekh al-Islam*. Thus, Aceh at that time became the center of a network of Islamic scholars in the development of the Islamic law in Indonesia, which was connected to Mecca and Medina.²

In the years that followed, the position of women in the Acehese tradition and society had occupied a respectable place not only in the context of political leadership by being a sultanah and a warlord, but also by being a leader of educational institutions. However, from the new order era until the beginning of the reform era, women's roles tended to decline, especially in the context of the public space.³ Nevertheless, in terms of the Islamic law and socio-religious practices, Acehese women are still placed in a respectable and honorable position. They still earn a special room in a house (*seurumoh inong*), a dowry (*jeulame*), and a *peunulang* property (a special parental gift for women after marriage).⁴

Several areas in Aceh, especially in Pidie, Pidie Jaya, and parts of Greater Aceh, as well as in Minangkabau, West Sumatra, and Negeri Sembilan, Malaysia, women's dominance is quite strong in the family. Therefore, women are called *po rumoh* (house owner) because the house is usually a gift from the parents of the *peunulang* women. Hence, in the event of a divorce, it is the man who has to

Perspective," *International Journal of Education and Social Science Research* 2, No. 4 (2019), p. 43-51.

²Amirul Hadi, *Islam and State in Sumatera: A Study of Seventeenth-Century Aceh*, Leiden: Brill, 2004. Azyumardi Azra, *Jaringan Ulama Timur Tengah dan Kepulauan Nusantara Abad XVII & XVIII*, Jakarta: Prenada Media Group, 2013. Kharul Nizam bin Zainal Badri, "The Authority of the Queen of Aceh and teh Sultan of Perak in Tin Trade Negotiations witj the Duchth 1640-1670," *Historia: Jurnal Pendidik dan Peneliti Sejarah* 4, No. 2 (2021), p. 143-150. Ismail Sofyan et al. *Wanita Utama Nusantara dalam Lintasan Sejarah*, Jakarta: Jayakarta Agung, 1994, p. 42. Ali Hasjmy, *59 Tahun Aceh Merdeka di Bawah Pemerintahan Ratu*, Jakarta: Bulan Bintang, 1977. Mohammad Said, *Aceh Sepanjang Abad*, Medan: Waspada, 1981.

³ Mohd Roslan Mohd Nor and Inayatillah, "Women's Marginalization from Public Spaces: The Case of Aceh," *Asian Women* 27, No. 4 (2011), p. 55-79. Sri Roviana, et.al., "Women in Public Sphere After the Implementation of Islamic Sharia in Aceh," *Al-Albab* 20, No. 1 (2021), p. 93-114. Inayatillah, "Qiyadat al-mar'ah fi al-ma'had al-'ālī al-ḥukūmī al-rānīrī Banda Aceh: al-farṣu wa al-taḥaddiyāt," *Studia Islamika* 17, No. 3 (2010).

⁴Widia Munira, et al., "Women's Leadership and Gender Equality in Aceh: A Socio-Historical Perspective," *International Journal of Multicultural and Multireligious Understanding* 5, No. 4 (2018), p. 79-88. Khairuddin Hasballah, et al., "Patah Titi and Substitute Heirs: A Study of Legal Pluralism on the Inheritance System in Aceh Community," *Ahkam: Jurnal Ilmu Syariah* 21, No. 1 (2021), p. 244-324.

leave the house as the house is not a joint property, but rather a gift from the woman's parents, and the custodian right also belongs to the woman's family.⁵

In this context, the practice of the Islamic law that places women in an honorable and dignified position plays an important part of the social history of the Islamic law in Aceh. Therefore, the glory of Acehnese women in the context of social history in the past has factored to the fact that until today women still have a dignified position within the context of culture and custom. It becomes important to study the social history of the Islamic law as there has been an impression that women in the context of custom and culture tend to be marginalized, while it is true that women still need to be given a special attention in certain fields.

One of the characteristics of the social history of the Islamic law in Indonesia is the accommodation and strong influence of custom and culture. This can be seen from the views of Shiddieqy and Hazairin. The thoughts of the Indonesian schools of thought (*madhhab*), in addition to trying to formulate the Islamic law in accordance with the context of Indonesian society, attempt to make the results of their formulation a formal statutory rule. The Indonesian schools of thought places *'urf* (local custom) in a very important position as the main consideration in establishing the Islamic law. Methodologically, to produce the Islamic law that is in accordance with the Indonesian context, the Indonesian schools of thought view that the Qur'an and Sunnah have a dialectic with custom and culture.⁶

In relation to custom and culture, the important elements in the study of the social history of the Islamic law, the discussion of marriage traditions and customary sanctions in South Aceh becomes interesting to study since the Islamic law does not prohibit the husband and wife to stay together at the in-law's house before holding *walimah al-'ursy* (wedding reception). Therefore, this study argues that the position of women becomes stronger because the social history that has occurred has an impact on the custom and culture to this day. In the context of gender relations, the position of women is still valued and respected as evidenced in the Acehnese tradition of providing gifts to women e.g., *jeulame* and *peunulang* property. Additionally, the customary sanctions that are still carried out by the community on the grounds of *adat* also do not conflict with the Islamic law.

⁵ Eka Srimulyani, "Islam, Adat and The State: Matrilocality in Aceh Revisited," *al-Jami'ah: Journal of Islamic Studies* 48, No. 2 (2010), p. 321-341. Abdurrahman, *Hareuta Peunulang: Suatu Penelitian di Pidie*, Laporan Penelitian Pusat Penelitian Ilmu Sosial dan Budaya, Universitas Syiah Kuala, Banda Aceh, 2000. Ilyas, "Analisis Penyelesaian *Hareuta Peunulang* Menurut Hukum Adat dan Hukum Islam," *Kanun Jurnal Ilmu Hukum* 18, No. 1 (2016).

⁶ Agus Moh Najib, "Reestablishing Indonesia Madhhab: 'Urf and the Contribution of Intellectualisme," *al-Jami'ah* 58, No. 1 (2020), p. 171-208.

This present study is an empirical legal study that used a socio-historical approach to Islamic law and gender.⁷ The socio-historical approach is considered essential to examine the Aceh sultanate that was once ruled by women for more than 50 years. The study collected the data by means of literature review and in-depth interview. Respondents of the study consisted of customary figures, religious figures, and local people of South Aceh.

Social History as an Approach in the Study of Islamic Law

The socio-historical approach in Islamic studies, more specifically in the Islamic law, can be referred to several names such as M. Atho Mudzhar, Akh. Minhaji, Azyumardi Azra, and Kuntowijoyo. Atho Mudzhar explains that the formation of the Islamic law is inseparable from the interaction of culture and the variables of history, socio-culture, social changes, social structure, and social politics. These can be seen from the products of the Islamic law such as *fiqh* (Islamic jurisprudence), court decisions, laws, and regulations issued by Islamic countries and *fatwas* (legal rulings) of Islamic scholars or religious organizations.⁸

In a similar vein, Akh Minhaji states that social history can be understood in four ways: (1) the history related to social problems e.g., poverty, ignorance, psychology, and disease. Historians, among others, pay attention to these problems, especially to social institutions concerning social problems; (2) the history of daily life at home, at work, and also in communities; (3) the history of ordinary people; and (4) the history of workers or laborers which usually involves economic and social conditions.⁹

Azra provides an understanding of social history from the word “social” itself, in which it can be divided into several aspects. First, social history can also be referred to as structural history and total history. Everyday events, if they are repeated, will create structures that affect the mentality of human material culture. Second, social history is referred to as the history of the “protest movement”, the history of social movements that manifest themselves in the form of protest movements, which have been seen as being outside the mainstream of history. Third, social history, in a more narrow and limited sense than the previous categories, limits the notion of “social” to some aspects that are considered the most important in human history without having to go into further details about

⁷Kuntowijoyo, *Metodologi Sejarah*, Yogyakarta: Tiara Wacana, 2003, p. 39-58.

⁸M. Atho' Mudzhar, “Social History Approach to Islamic Law,” *al-Jami'ah* 6, (1998), p. 76-88. M. Atho' Mudzhar, Pendekatan Sosiologi dalam Studi Hukum Islam, in M. Amin Abdullah (Ed.), *Mencari Islam: Studi Islam dengan Berbagai Pendekatan*, Yogyakarta: Tiara Wacana, 2000. M. Rasyid Ridla, “Sosiologi Hukum Islam (Analisis terhadap Pemikiran M. Atho' Mudzhar),” *al-Ihkam: Jurnal Hukum dan Pranata Sosial* 7, No. 2 (2012), p. 293-304.

⁹Akh. Minhaji, *Sejarah Sosial dalam Studi Islam: Teori, Metodologi dan Implementasi*, Yogyakarta: Suka Press, 2013, p. 48.

the history of “daily life”.¹⁰

Furthermore, Akh Minhaji explains that the social history of the Islamic law is a critique of the science of *tarikh tasyri*’ (history of the application of Islamic law) which becomes one of the main themes in the colleges for Islamic studies. However, it should be noted that these historical studies are not supported by adequate historical knowledge. History which is supposed to be scientific tends to be taught doctrinally and then turns into a dogma.¹¹

The objects of the socio-historical studies of the Islamic law generally include figures, thoughts, theories, rules, and practices related to the Islamic law in the past. As the detailed arguments for *fiqh* include the Sunnah of the Prophet, the Prophet himself is not referred to as a *fiqh* expert due to him being the source of law in his time, now, and in the future.¹² All speeches, behaviors, and actions, as well as the provisions of the Prophet that contain law are the sources of law that are agreed upon by the Islamic scholars.

In addition, according to Kuntowijoyo, the objects of the socio-historical studies consist of society, social facts, social classes, social events, and social institutions, e.g., the history of poverty, violence, crime, piety, chivalry, migration, population growth, and urbanization.¹³ Therefore, nearly all nations will have their own histories such as the Middle East, Europe, America, Asia, or ethnic groups such as the Arabs, Chinese, Indians, Japanese, Indians, Aborigines and Malays who inhabit the Indonesian archipelago.

The Concept of Marriage in Islamic and Customary Laws

The term *walimah al-’ursy* is derived from the word *walmun*, which means an association due to the gathering of the bride and groom. *Walimah al-’ursy* is also described as foods provided at a wedding or any type of foods prepared for all invited guests in ceremonies, such as circumcision, returning from a long trip, and other ceremonies. The legal basis for *walimah* is the hadith of the Prophet originating from Anas: Rasulullah PBUH saw on ‘Abdur-Rahman ibn ‘Awf traces of za’farān oil. Then the Prophet said: What is this? Then he said: O Messenger of Allah, I have married a woman. He said: How much dowry did you pay her? He said: I paid gold equal to the weight of a date-stone. He said: Celebrate (hold *walimah*) even with (only) one sheep. (Narrated by Abu Dāwud)

¹⁰ Azyumardi Azra, *Historiografi Islam Kontemporer*, Jakarta: Gramedia, 2002, p. 163.

¹¹ Akh Minhaji, *Hukum Islam antara Sakralitas dan Profanitas (Perspektif Sejarah Sosial), Pidato Pengukuhan Guru Besar Sejarah Sosial Hukum Islam UIN Sunan Kalijaga, Yogyakarta, 25 September 2004*, p. 42-43.

¹² Arif Maftuhin, *Historiografi Hukum Islam: Studi Atas Literatur Man āqib, Tabaqat dan Tarikh at-Tasyri*, Yogyakarta: Magnum Pustaka Utama, 2016, p. 1-4.

¹³ Kuntowijoyo, *Metodologi Sejarah*, p. 39-41.

In regards with this hadith, the Shafi'i scholars consider that the law of *walimah al-'ursy* is a *sunnah mu'akkadah* (confirmed sunnah). Among the wisdoms of holding *walimah al-'ursy* are being a form of gratitude of what has been given by Allah SWT and growing a sense of love for others by sending the invitation to relatives, friends, and even residents of a village. The Hanafi school believes that *walimah al-'ursy* is *sunnah*. Furthermore, the Hanafi school considers that when a man proposes to a woman, he should invite his relatives, neighbors, and friends, and provide foods for them or slaughter an animal for them. The Maliki scholars view that it is *mandub* (recommended), while the Hanabi school views that as *sunnah*. Ibn Qudamah states that there is no difference of opinion among Islamic scholars in judging the necessity of someone holding a *walimah al-'ursy* for someone who is married.

However, in terms of the timing of the *walimah al-'ursy*, the Islamic scholars have different opinions. The Maliki and Hanafi scholars view that the time of holding *walimah al-'ursy* is before or after copulation. Some Maliki scholars recommend that it be held before copulation with the objective of announcing to the public about the marriage while other Maliki scholars view that it should be carried out afterward. Additionally, the Maliki scholars consider that it can be carried out repeatedly if the hosts have many invitations. The Hanabi school, on the other hand, considers the time of *walimah al-'ursy* to be very long, starting from the beginning of the marriage to its end without any stipulations and no prohibitions according to existing customs. The Shafi'i scholars also view that *walimah al-'ursy* takes a longer time as it can be held when the *nikah* (marriage contract) is carried out or after the bride and groom have conjugal relations. However, the Shafi'i school considers that it is more important to carry out after husband and wife have copulation.¹⁴

The Islamic law recommends that couples who are getting married to hold *walimah al-'ursy*, but does not set any minimum or maximum requirement of the *walimah al-'ursy*. This suggests that *walimah al-'ursy* may be organized according to the ability of those who marry with a note that there is no excessiveness, waste, nor filled with arrogance and pride.¹⁵

Here, it is clear that *walimah al-'ursy* is intended to give a blessing so that the bride and groom gather in harmony. Another intention is to provide information and announcement that there has been a marriage so as not to cause any slander in the future. Furthermore, it can be said that within the reception in today's society, including in Aceh, occur cultural integration and acculturation,

¹⁴ Haerul Akmal, "Konsep Walimah al-'ursy Dalam Pandangan Empat Imam Mazhab, *Jurnal Tarjih dan Pengembangan Pemikiran Islam* 16, No. 1 (2019), p. 24-25.

¹⁵ Lia Laquna Jamali, et. al., "Hikmah Walimah al-'ursy (Pesta Pernikahan) Dengan Kehormatan Perempuan Perspektif Hadits," *Diya al-Afkar* 4, No. (2016), p. 168.

in which the Islamic law refers to as *'urf* or *adat* (custom). To note, *'urf* can be used as a basis in the Islamic law.

The *walimah al-'ursy* is also one of the evidence which shows that the customs of the Arab community pre-Islam period has continued to exist until the time when the Prophet Muhammad PBUH came to bring the message of Islam. There are three points that reflect this notion: firstly, what was practiced at the time of the Prophet PBUH related to the Hajj and Umrah is also performed today by Muslims, and both are a continuation of what was practiced by the Arab community before Islam which also included various Arabic rituals e.g., *talbiyah*, *ihram*, *wuquf* and others. However, several Hajj rituals carried out naked during the Jahiliyah era had been abolished when Islam came. Secondly, after the Prophet died, the companions had also based existing Islamic laws with the *'urf* of the surrounding community. This can be seen when the caliph Umar ibn Khattab adopted the postal service system which became the tradition of the Sasanid and Byzantine empires. Thirdly, the generation of *tabi'in* who lived after the time of the companions also included *'urf* in the sources of the Islamic law.¹⁶

At the time of the Imams of the *Madhhabs*, Imam Hanafi had also used *'urf* in *hujjah* (completion of proof) if there was no law in the texts of the Qur'an and Hadith, *ijma'* (consensus), *qiyas* (analogy) and *istihsan* (juristic discretion). Imam Malik's followers leave out *qiyas* if it is contrary to *'urf*, makes specification (*takhsis*) of something general, or makes requirements (*taqyid*) of something absolute. The Shafi'i school accepts *'urf* if it does not contradict with *nash* (Qur'an and Hadith). In terms of proof, the Maliki school divides *'urf* into three: 1) the *'urf* taken by all scholars as indicated by *nash*, 2) the *'urf* taken that equals to taking something prohibited by sharia or leaving something of a sharia task (this *'urf* has no value), and 3) the *'urf* which is not prohibited and not appointed to practice. Similarly, the Hanabi scholars accept *'urf* as long as it does not conflict with the texts in the Islamic law.¹⁷

In the context of Aceh, the customary law is applied in various aspects of community life and activities. In this study, one of the objects of discussion is related to marriage custom. The customary law of marriage is varied from one region to another. Thus, the processions and sanctions also differ. The customary law of marriage is quite complex as the implementation not only lies in the marriage procession, but also includes before, during, and the end of the event,

¹⁶ M. Noor Harisudin, *'Urf* Sebagai Sumber Hukum Islam (Fiqh) Nusantara," *Jurnal al-Fikr* 20, No.1 (2016), p. 69-70.

¹⁷Sulfan Wandi, "Eksistensi 'Urf dan Adat Kebiasaan Sebagai Dalil Fiqh," *Samarah: Jurnal Hukum Keluarga Islam dan Hukum Islam* 2, No. 1 (2018), p. 181-196. Ramdan Fawzi, "Aplikasi Kaidah Fikih al-Adatu Muhakkamah Dalam Bidang Muamalah", *Awwaluna: Jurnal Ekonomi dan Keuangan Syariah* 2, No. 1 (2018), p. 149.

and even to the descendants. The customary law in marriage is also part of family law.

Wedding Traditions in South Aceh Community

1. *Walimah al-'ursy* Traditions in Samadua

South Aceh, especially in Samadua, is inhabited by the *Aneuk Jame* ethnic group. This ethnicity is influenced by the Minangkabau custom and culture of West Sumatra, between Islamic law and adat is also integrated in social life.¹⁸ Therefore, the language, custom, and traditional terms are heavily influenced by the Minangkabau custom, although in some aspects they are also mixed with the Acehnese custom. For example, the terms *duduak pakat* (*musyawarah*/deliberation), *ninik mamak* (relatives), *bakarajo* (working for reception) are of Minangkabau origin, whereas the terms *linto* (groom), *dara baro* (bride), *jeulame* (dowry) and *peusijuk* (*teprung tawar*/blessing ceremony) are of Acehnese origin.

a. *Duduak Pakat* (*musyawarah*/deliberation)

Duduak Pakat is a deliberation carried out by the groom and bride's family to find a good day of the month for the *nikah* ceremony and *walimah al-'ursy* to be held. *Duduak pakat* consists of four stages, namely *duduak pakat ninik mamak*, *duduak pakat kampung*, *duduak pakat pemuda*, and *duduak gadang*. *Duduak pakat* is usually done at night wherein only the men conduct the *duduak pakat* while the women prepare for foods and drinks for the guests who attend the *duduak pakat* event.¹⁹

Duduak pakat ninik mamak is a *ninik mamak* deliberation representing relatives from the paternal and maternal sides of the bride and groom. The purpose of *duduak pakat ninik mamak* is to inform relatives that the bride and groom plan to carry out the *nikah* and *walimah al-'ursy*, and so the parents of the bride and groom ask for opinions from the *ninik mamak*. After the *ninik mamak* agree and reach an agreement, then, a few days later the host families invite village officials including customary figures (*tuha peut*), village head (*keuchik*), hamlet heads, musala imam (*teungku meunasah*), and *ninik mamak* to sit down for deliberation. The families of the bride and groom also inform the customary figures and village officials that they wish to marry off their children and carry out *walimah al-'ursy*.

¹⁸Erwati Aziz, et.al., "The Acculturation of Islam and Customary Law: An Experience of Minangkabau Indonesia," *Qijis: Qudus International of Islamic Studies* 8, No. 1 (2020), p. 131-160. Syukri Iska, et.al., "Implications of the Pagang Gadai Contract on Disharmony Social Actors in Minangkabau Community," *Juris: Jurnal Ilmu Syariah* 21, No. 1 (2022), p. 27-37.

¹⁹ Interview with Fazrul Hidayat, *Keuchik* of Gampong Ladang Pantan Luas, Samadua Subdistrict, January 15, 2021.

Therefore, they ask for permission and direction from customary figures and village officials about a good time to hold the event.²⁰

At the *duduak pakat* event, it is also discussed about the amount of dowry prepared, the *hantaran* (*pambawok*, meaning a number of clothes for the bride), the form of *kerajo* (type of event i.e., large or small), the number of invitees, and the person in charge for each area such as cooking, dish preparation, and all the needs of the wedding event.²¹

When the deliberation is carried out, the host families convey the initial agreement of the *ninik mamak*. Then, the customary figures and village officials weigh and decide on a good time for the implementation of the *nikah* ceremony and *walimah al-'ursy*. After the *ninik mamak* and the village officials reach an agreement, a few nights later the *ninik mamak*, village officials, the youth and the locals are invited to attend the *duduak kampung* event. During the *duduak kampung*, the families of the bride and groom convey to the audience that they plan to marry off their children and organize *walimah al-'ursy*. At this time, the families hand over this matter to the village officials acting on behalf of the customary stakeholders to organize and provide direction so that the planned event can be carried out successfully.²²

After the village officials receive the mandate from the families, the *keuchik* as the village customary leader representing the elements of the village customary officials give a few words and then hand it over to the youths to help and cooperate for the successful implementation of the event. On the night of *duduak pakat kampung*, the families also hand over some *sekapur sirih* (foreword) paper to the youths to distribute to the invitees whose names have been written down by the families. The women also distribute *sekapur sirih* paper to the women whose names are on the invitations. The youths and women are assigned to distribute *sekapur sirih* paper to the invitees to attend the *duduak gadang* and *walimah al-'ursy* on the appointed date. On the night of the *duduak gadang*, the host families convey to the invitees about the time of the planned *nikah* and *walimah al-'ursy*. This night also holds *bainai* (henna decoration), praying, and *peusijek* events for the bride and groom by representatives of the relatives, customary, and religious figures.²³

²⁰ Interview with Azmi, *Tuha Peut* of Gampong Alur Semerah, Samadua Subdistrict, January 16, 2021.

²¹ Julianti Sahputri, *Adat Perkawinan Etnis Aneuk Jamee Tahun 1976-2005*, Medan: Thesis Ilmu Sejarah Fakultas Ilmu Budaya Universitas Sumatera Utara, 2021, p. 95.

²² Interview with Azmi, *Tuha Peut* of Gampong Alur Semerah, Samadua Subdistrict, January 16, 2021.

²³ Interview with Darwis, local of Gampong Ladang Pantan Luas, Samadua Subdistrict, February 12, 2021.

b. *Walīmah al-'Ursy*

Walīmah al-'ursy in Samadua is often referred to as *baralek*. For the people in Samadua, it has become a hereditary tradition when every time there is a feast in the village, the community helps together until the event is over. They will enthusiastically and responsibly help organize the event, not only on the day of *walīmah al-'ursy*, but also from *duduak pakat* until the event is over.

Their activities can be seen from how the young women help to install the aisle and decorate the bridal room while the young men usually help to install the terraces at the bride's house, make drinks for guests, and wash the dishes on the day of reception. Some older women will usually help cook and prepare all the ingredients for the dishes to be served to the guests. The older men and village officials on the day of *walīmah al-'ursy* will sit in front of the house along with the representatives of the host families to welcome the guests who come.

However, if the bride and groom rarely interact socially with the local community or rarely attend community celebrations, then these people will not come to the prospective couple's house, or only come briefly on the day of reception. This is a form of social sanctions from the community because the families of the bride and groom rarely hang out and attend social events in the community.²⁴

The *walīmah al-'ursy* event in Samadua is generally held based on the ability of each family. For families with financial ability, the event is quite large, but for those whose livelihoods are mediocre, the event is made very simple. There are even those who organize limited celebrations by only inviting their closest neighbors and village officials on the day of welcoming the prospective bride and groom and their families. In brief, in the Samadua custom, there is no requirement as to whether the event should be big or small; however, it is important that the customary procession is performed despite made simple.²⁵

Walīmah al-'ursy in Samadua is usually held a few days after the *nikah* ceremony. It is rare for people in Samadua to carry out *walīmah al-'ursy* a month after *nikah*. Usually, the bride's and groom's families hold *walīmah al-'ursy* two days or a week after the *nikah* ceremony. However, if there are people who organize *walīmah al-'ursy* a long time after *nikah*, it can be ascertained that there are obstacles that prevent the families to hold *walīmah al-'ursy* earlier, e.g., finance, distance, and so on. For the people of Samadua, organizing *walīmah al-'ursy* a few days after the *nikah* ceremony is considered the right time as it is easier for village officials to manage activities from the beginning of the *duduak pakat* to the end of the event, known as the youth disbandment (*bubar pemuda*)

²⁴ Interview with Ramli, youth figure of Gampong Ladang Pantan Luas, Samadua Subdistrict, February 12, 2021.

²⁵ Interview with Darwis, local of Gampong Ladang Pantan Luas, Samadua Subdistrict, February 12, 2021.

event. In Samadua, any bride and groom who have not carried out the *walimah al-'ursy* still feel lack completeness in the perspective of local custom, even though they are already legal before the religious law. Hence, in the Samadua tradition, the bride and groom who have not hold *walimah al-'ursy* are prohibited to return to the in-law's house. This is because traditionally the couple has not performed the *intat linto/tueng dara baroe* procession which is a hereditary tradition in the Acehnese society to escort the bride and groom to their respective in-law's house.²⁶

2. Customary Sanctions before *Walimah al-'Ursy*

In the Aneuk Jamee tradition in Samadua, South Aceh, married couples who have not yet hold *walimah al-'ursy* are not allowed to come or stay at the in-law's house despite being legally married according to religion and state. Traditionally, the newly married couple shall be officially escorted by the bride's or groom's family and village officials to the respective spouse's home or village. Such practices in the Acehnese customary terms are called *intat linto* (sending off the groom to the bride's house) and *tueng dara baroe* (sending off the bride to the groom's house). Usually, the *intat linto* event is held before the *tueng dara baroe* event. A few days after the *intat linto* event, it is followed by the *tueng dara baroe* event. The traditions of *intat linto* and *tueng dara baroe* are part of the custom in Samadua, which also includes the *walimah al-'ursy* event. After the bride and groom are officially sent off according to the Aneuk Jamee custom in Samadua, then they can live together at the respective in-law's house.²⁷

In contrast, the bride and groom who live at the in-law's house before *walimah al-'ursy* are considered to violate the custom deeply rooted in the Samadua community. Such is a violation of custom that can lead to negative perceptions within the Samadua community as it is a taboo and considered impolite among the people. The reason is that the bride and groom immediately go home and live at the respective in-law's house without an official handover from the families and village officials, a norm done by other couples in Samadua. Such is believed to be a bad practice, and in the eyes of society, it is as if the couple were an outcast without family and relatives. There are even those who judge such couples as people who are ostracized by society.²⁸

Hence, couples who live in the respective in-law's house prior to *walimah al-'ursy* will be subject to customary sanctions that apply in the Samadua

²⁶ Interview with Kamsalis, local of Gampong Gunung Ketek, Samadua Subdistrict, January 17, 2021.

²⁷ Interview with Delfi Afrawi, *Keuchik* of Gampong Alur Semerah, Samadua Subdistrict, January 16, 2021.

²⁸ Interview with Teungku Elfizar, *Imam Chik* of Mesjid Lasdi, Samadua Subdistrict, January 17, 2021.

community. The customary figures and village officials will summon representatives from the couple's families and they will be put on trial. The families will be questioned about the reasons for accepting their daughter/son-in-law at the in-law's house before *walimah al-'ursy* is carried out. The families shall answer questions and problems raised by customary figures and village officials. If the reasons for accepting their daughter/son-in-law before *walimah al-'ursy* involve economic issues and no plan is made to hold *walimah al-'ursy*, then the customary figures and village officials can understand the obstacles faced by the couple's families. However, if the acceptance is intentional on the part of the families and they have, in fact, a plan to hold *walimah al-'ursy*, then the customary figures and village officials will reject their plan. The customary figures and village officials will impose customary sanctions on the couple's families by prohibiting them to organize the *walimah al-'ursy* nor *intat linto/tueng dara baroe* procession.²⁹

The customary sanctions are imposed based on the traditional philosophy of the Samadua community, wherein the *intat linto/tueng dara baroe* procession is a custom considered sacred in the local community. At the time of *walimah al-'ursy*, the couple will be officially escorted or received by the in-law family and village officials, marked by the *peusujuk* procession and the delivery of *peunuwoe* from the *linto baroe* to the *dara baroe* as a traditional welcoming procession. The couple will sit next to each other on the decorated aisle which can be seen by the public and invited guests with the aim of introducing the married couple to the public. The group of the couple's families who escorts the *linto baroe* and *dara baroe* will be greeted with a traditional procession and served with a variety of foods and drinks. After *walimah al-'ursy* is over, the bride and groom are officially allowed to live at the respective in-law's house.³⁰

However, the married couple who has lived at the in-law's house before *walimah al-'ursy* is considered no longer follows the traditional procession of the local community. Due to the fact that the couple has lived at the in-law's house prior to *walimah al-'ursy*, according to the traditional philosophy of the Samadua community, the couple may no longer carry out the *walimah al-'ursy* and *intat lintoe/tueng dara baroe* events. The Samadua community believes that the couple has returned automatically to their in-law's house without being officially escorted by the families and village officials. If the bride and groom have lived and returned to their in-law's house before *walimah al-'ursy*, then according to the custom in Samadua, there is no point to hold *walimah al-'ursy* and *intat linto/tueng dara baroe* anymore since the purpose of the *intat lintoe* and *tueng*

²⁹ Interview with Delfi Afrawi, *Keuchik* of Gampong Alur Semerah, Samadua Subdistrict, January 16, 2021.

³⁰ Interview with Fazrul Hidayat, *Keuchik* of Gampong Ladang Pantan Luas, Samadua Subdistrict, January 15, 2021.

dara baroe events is to officially hand over the couple to the in-laws and the local community. Thus, traditionally, the couple who lives at the in-law's house before *walimah al-'ursy* is considered to have come directly alone without the need for a traditional procession in the form of an *intat linto/tueng dara baroe* event.³¹

In addition, such customary sanctions are applied as an anticipation within the community so that there are no unmarried couples living in the same house and also to avoid any slander. This is because there may be couples who have officially married outside the Samadua area, but have not carried out *walimah al-'ursy* and the local people are unaware that the couple is legally married. Such an occurrence will lead to slander and suspicion in society. For this reason, couples who are officially married should carry out *walimah al-'ursy* before staying at the respective in-law's house.³²

Women and Customary Sanctions in the Socio-Historical Context of Islamic Law

Holding a wedding reception is not an obligation in the context of the Islamic law and there is no sanction for those who do not carry it out. Marriage reception in the Islamic law is a *sunnah* that is highly recommended with the aim of informing the public that a husband and wife have officially married as well as to strengthen brotherhood with the relatives and the community to request for prayers from them.

On the other hand, in the *Aneuk Jamee* Samadua custom, *walimah al-'ursy* is an essential tradition carried out by nearly the entire married couples of *Aneuk Jamee* Samadua community. It even becomes a disgrace for couples who go straight to the in-law's house before *walimah al-'ursy* is done even though the couples are officially and legally married. In fact, as *walimah al-'ursy* has become an important hereditary tradition in the Samadua community, any couples who do not organize it and choose to go straight to the in-law's house will be subject to customary sanctions.

Among the majority of the Muslim community, the imposition of customary sanctions for couples who are legally married may be questionable and inept. Most will think that those who are officially married should no longer be subject to sanctions as they are not in *khalwat* or adultery. Moreover, *walimah al-'ursy* in Islam is only a suggestion, not an obligation.

However, upon further consideration, customary sanctions on couples who live in the in-law's house before *walimah al-'ursy* is carried out are a form of preventive measures. The Samadua community is a Muslim community that

³¹ Interview with Delfi Afrawi, *Keuchik* of Gampong Alur Semerah, Samadua Subdistrict, January 16, 2021.

³² Interview with Teungku Elfizar, *Imam Chik* of Mesjid Lasdi, Samadua Subdistrict, January 17, 2021.

highly respects religious values and Eastern customs. Thus, it is a big disgrace for the people of Samadua if there are residents who are found living in the same house, but not yet married. Moreover, nowadays, newcomers are free to enter and exit an area, and so social control is deemed necessary in suppressing any act of immorality.

Preventive measures in the Islamic law are known as *sadd al-ẓarī'ah*, which means preventing everything (words and actions) that conveys something prevented or prohibited that contains damage or harm. Therefore, *sadd al-ẓarī'ah* is understood as a way of extracting the Islamic law in order to prevent, prohibit, or block the way of something that is originally allowed, but can cause harm.³³

Ash-Syatibi divides *sadd al-ẓarī'ah* into several categories: first, something that is done will result in definite harm (*mafsadah*); second, something done can lead to harm, but rarely happens; and third, something is done which in principle contains a balance between *maslāhah* and *mafsadah*, but there are strong indications that the act will lead to harm. These strong allegations upon indications in Ash-Syatibi's view shall be equated with certainty with the following reasons:

1. Strong assumptions in the laws of *amaliah* (worship) apply in certainty.
2. There is a teaching *nash* (text) to be careful and the meaning of *sadd al-ẓarī'ah* is to be careful of harm.
3. The permissibility of this kind of act means justifying and helping each other in committing sins.³⁴

In short, *sadd al-ẓarī'ah* closes the chance of something done that is strongly suspected of causing harm. This is analogous to the law that it is permissible for a woman to hit her foot on the ground, but because it can cause her hidden jewelry to be known by people and may stimulate those who see and hear it, especially men who are not her *mahram* (people with whom marriage is prohibited), this act can become slander; thus, such acts are forbidden by Allah SWT.³⁵

Regarding the custom of the *Aneuk Jamee* Samadua community, the prohibition of couples from staying at the in-law's house before *walīmah al-'ursy* is considered an action that aims to prevent harm or damage. This prohibition prevents unmarried couples from living together and also avoids slander or social

³³ Intan Arafah, "Pendekatan Sadd Adz-Dzari'ah Dalam Studi Islam," *Al-Muamalat: Jurnal Hukum dan Ekonomi Syariah* 5, No. 1 (2021), p. 70. Yahdi Dinul Haq, et.al., "Bid'ah In Concept of Masalah Mursalah And Istihsan According To Imam Asy-Syathibi," *Juris: Jurnal Ilmu Syariah* 20, No. 2 (2021), p. 225-237.

³⁴ Nur Azizah, "Tinjauan Sadd Dzariah Terhadap Problematika Hukum Menikahi Wanita Ahli Kitab dalam Hukum Positif," *Jurnal Ilmiah Al-Syir'ah* 16, No. 1, (2018), p. 27-28.

³⁵ Hifdhotul Munawaroh, "Sadd Al-Dzari'at dan Aplikasinya Pada Permasalahan Fiqh Kontemporer," *Jurnal Ijtihad* 12, No. 1, (2018), p. 68.

unrest in society due to public unawareness of the legal status of the couples who live in the in-law's house before *walimah al-'ursy*.

In the *'urf* study, the customary sanctions imposed for such couples above is included in the category of *shahih* (authentic) *'urf fi'li*, or customs justified by sharia. Such customary sanctions are categorized as *'urf al-shahih* because the conditions of *'urf al-shahih* have been fulfilled; when examined further, the customary sanctions for couples who live in the in-law's house before *walimah al-'ursy* is generally applicable to the Samadua community and do not conflict with sharia rules.

The *Aneuk Jamee* custom in Samadua does not forbid legally married couples to carry out their rights and obligations as husband and wife; however, before they live in the respective in-law's house, *walimah al-'ursy* shall be firstly carried out. This is in accordance with the purpose of *walimah al-'ursy* which is to inform the general public about their relationship and also to avoid any slander in the future. Yet, for couples who are economically incapable, there is no compulsion to hold *walimah al-'ursy*. Likewise, for couples who do not plan to organize *walimah al-'ursy*, then it is not obligatory for them and there is also no coercion to do so.

Nevertheless, couples who live at the in-law's house before *walimah al-'ursy* is carried out, then they will be subject to sanctions, such as summoning the couples' families and prohibition from holding an *intat linto/tueng dara baroe* procession.

Philosophically, *intat lintoe/tueng dara baroe* events suggest that the families and village officials officially escort the bride and groom to the respective in-law's house, and this is also marked as a hand over process between both families and regions. However, if the couples have returned to their in-law's house and lived together, then there is no point to hold a formal event. Generally, the sanctions imposed on the couples are only the prohibition of organizing a traditional procession, and not the sanctions forbidding their rights and obligations as legal husband and wife. Therefore, such sanctions are clearly customary which relates to the customary philosophy in Samadua which do not contradict the principles of the Islamic law.

On a different note, the process of *walimah al-'ursy* is still important and should not be underestimated, as it is equated with the honor of women. Some hadiths emphasize that *walimah* is closely related to the honor of women, and honor is highly regarded in any case. At each marriage, *walimah al-'ursy* is held after the *nikah* ceremony. *Walimah al-'ursy* also prevents women from the problem of *nikah sirri* (unregistered marriage) that can lead to negative perceptions from the community, which in turn can bring down the dignity of

women³⁶ and make women the injured party. Moreover, in Aneuk Jamee and Acehese society in general, after marriage the groom usually stays at the bride's house.³⁷

In the event of *walimah al-'ursy* as well, women are given *jeulame* or dowry which has a deep meaning and symbol for the people of Aceh. Giving dowry in marriage in the Acehese society is a complement in safeguarding the main purpose of marriage, namely to produce offspring.³⁸ In addition, men also provide gifts to women in the form of money and jewelry, called *hantaran* e.g., clothes, cosmetic products, fruits, household appliances, and knick-knacks.³⁹

Thus, the *walimah al-'ursy* event is full of meanings and symbols of custom and culture. The event is a medium to inform the public about the legality of the relationship between men and women, strengthen the relationship between two families, but most importantly it is a traditional ritual to honor women by giving dowry and other valuable gifts. On the other hand, if the *walimah al-'ursy* is not carried out, slander may occur within society and *sirri* marriage which gives no respect to women may also happen. Therefore, it is only natural that couples who do not hold *walimah al-'ursy* are given sanctions by not being allowed to perform any *intat linto/tueng dara baroe* event.

Conclusion

In the *Aneuk Jamee's* marriage tradition in Samadua, South Aceh, any couple living at the in-law's house before the *walimah al-'ursy* is considered a violation of custom. The couple will be subject to customary sanctions such as being tried by customary figures and prohibited from carrying out the *intat linto/tueng dara baroe* processions. The customary sanctions are implemented by taking into account the values of the Islamic law and Aneuk Jamee's custom, with the aim to prevent unmarried couples from living together and also to avoid slander in society as people do not know that the couple is legally married. This

³⁶ Lia Laguna Jamali, et al., "Hikmah Walimah al-'Urs (Pesta Pernikahan) Dengan Kehormatan Perempuan Perspektif Hadis," *Diyaa al-Afkar* 4, No. 3 (2016).

³⁷ Moehammad Hoesin, *Adat Atjeh*, Banda Aceh: Dinas Pendidikan dan Kebudayaan Provinsi Daerah Istimewa Atjeh, 1970, p. 43-45. Muharram and Abrar Zym, *Antropologi Hukum Keluarga Suku Aneuk Jamee di Aceh Selatan* in Muhammad Shiddiq Armia (Ed.), *Wajah Antropologi dan Sosiologi Hukum Keluarga di Beberapa Daerah Indonesia*, Banda Aceh: Lembaga Kajian Konstitusi Indonesia, 2017.

³⁸ Azmi Abubakar et al., "Praktik Mahar dalam Perkawinan Masyarakat Pidie (analisis Maqāsid al-Syari'ah)," *Ahkamul Ushrah: Jurnal Hukum Keluarga dan Peradilan Islam* 1, No. 1 (2017), p. 47-64.

³⁹ Abdul Manan, "The Ritual of Marriage: An Ethnographic Study in West Labuhan Haji-South Aceh," *Jurnal Ilmiah Peuraden: International Multidisciplinary Journal* 2, No. 2 (2014), p. 17-44.

practice is in line with the *sadd al-zarī'ah* principle in Islam which seeks to prevent harm or damage. In the context of the Islamic law, this practice falls into the category of *shahih 'urf fi'li* or customs justified by sharia. Moreover, the imposition of sanctions in the context of social history shows that women is positioned with dignity and respect. Throughout the history, Aceh had reached the peak of the glory under women leadership. More importantly, it should be noted that the function of *walimah al-'ursy* is to treat women with respect because at this time women are offered prayers, given dowry, decorated henna, and given valuable clothes and gifts from families and invitations. Therefore, *walimah al-'ursy* is very appropriate to be held and a customary and social violation occurs if it is not celebrated. In addition, when *walimah al-'ursy* is carried out, women will avoid being in *sirri* marriage as it has a negative impact on themselves and their offspring and is stigmatized by custom and society. Hence, the provision of customary sanctions from the perspective of the Islamic law and gender is evidence that women is of a dignified and honorable position as well as a reflection of the balanced relationship between men and women in the *Aneuk Jame* tradition in South Aceh and in Aceh in general.

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Interviews

Interview with Teungku Elfizar, *Imam Chik* (Head Imam) of Mesjid Lasdi, Samadua Subdistrict, January 17, 2021.

Interview with Azmi, *Tuha Peut* (costumary figure) of Gampong Alur Semerah Samadua Subdistrict, January 16, 2021.

Interview with Darwis, local resident of Gampong Ladang Pantan Luas, Samadua Subdistrict, February 12, 2021.

Interview with Delfi Afrawi, *Keuchik* (village head) of Gampong Alur Semerah, Samadua Subdistrict, January 16, 2021.

Interview with Fazrul Hidayat, *Keuchik* of Gampong Ladang Pantan Luas, Samadua Subdistrict, January 15, 2021.

Interview with Kamsalis, local of Gampong Gunung Ketek, Samadua Subdistrict, January 17, 2021.

Interview with Ramli, youth figure of Gampong Ladang Pantan Luas, Samadua Subdistrict, February 12, 2021.