



## Harnessing Positive Legal Perspectives: Exploring Aceh Qanun's Role in Resolving Community Disputes in Gunung Meriah, Aceh

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### Abstract

Disputes arise from various causes, including conflicts resulting from child fights and instances of defamation by individuals. These disputes are prevalent in social settings, occurring not only within communities but also between neighboring villages. A similar scenario unfolded in Gunung Meriah, Aceh Singkil District, where instances of misunderstandings between residents were resolved based on local customs. This research employs a socio-legal methodology, incorporating both a statutory and sociological approach. The findings revealed that disputes arose due to child fights, sometimes resulting in physical harm. In accordance with prevailing customs, sanctions were imposed, such as the ritualistic slaughtering of a chicken, offering of Nakan Gersing (turmeric rice) and plain flour, as well as monetary compensation as determined during the reconciliation process. Additionally, cases of defamation emerged, leading to the defamation of individuals, causing distress to the victimized party. These cases were resolved through the intervention of the Gecik (village head). When addressing child fights, it is important to consider legal protection for both the victims and perpetrators, as stated in the Criminal Code (Law No. 23 of 2002), while ensuring that police involvement minimizes any potential trauma experienced by the child. On the other hand, according to Aceh's Qanun, such disputes are ideally resolved based on local village customs, in line with Qanun Number 9 of 2008. Similarly, cases of defamation fall under Article 310 of the Criminal Code, stipulating a prison sentence of 9 months for offenders. In contrast, the Qanun emphasizes resolving such cases within the village until a consensus is reached.



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### A. INTRODUCTION

Disputes are verbal or labor arguments because something happens that is detrimental to one of the parties. Disputes often occur in social life (Sururi et al., 2019). The conflict is in the form of child fights (Rumadan et al., 2021) and slander others (defamation) (Sutrisno & Paksa, 2019). Child fights are fights between two or more people under the age of 18. Fights sometimes ended in minor injuries and bloodshed (Khairuddin, 2021). Meanwhile, slander is an accusation of an act against someone that was not done and cannot be proven (S. Syarifuddin, 2018).

Cases of child fighting and defamation have been regulated in the Criminal Code in Article 23 of 2022 concerning child protection, when caught in a fighting case, it must be legally protected and if processed avoid traumatizing the child because the child is under 18 years of age. if you look at the rules of Qanun Aceh Number 9 of 2008 there are 18 cases including minor crimes such as fighting children handled according to custom through customary courts (Riza et al., 2022). Meanwhile, cases of defamation have been regulated in the Criminal Code article 310, for those who do so will be sanctioned with imprisonment for 9 months (Sinaga, 2020). If you look at the rules of Qanun No. 9 of 2008 that defamation cases will be resolved in the village customary court (Aguswandi, 2021).

Cases of fighting are often resolved amicably through the village head and hamlet head, as well as defamation, as happened in Gunung Meriah District, Aceh Singkil District. In Gunung Meriah Subdistrict, several cases of child fighting occurred and were handled according to local village customs, as happened in Gunung Lagan village, when children fought, the village administrator, in this case, the gecik (village head), resolved the case and both sides neither party felt aggrieved, and this case never reached the police. Likewise with cases of defamation, as happened in the village of Tanah Bara, where the "E" was accused of taking loose palm fruit by the "H". After a few days, it turned out that the one who took "H"'s loose palm fruit was not "E" but "Z". Of course, the "E" family was not happy and reported it to gecik. After entering this case into the village head's office, the village head summoned both parties and tried to resolve it but apparently, there was no common ground, family "E" submitted the case to the Tanjung Mas settlement, and after waiting 2 weeks there was no response, so the case could not be resolved, so the families "E" felt disappointed because the defamation of their children could not be resolved.

Previous research examining the resolution of child fights and defamation has been carried out before, such as by: 1). Nela Ade Fahrani in 2016 focused on resolving fights between Jakarta high school students. The fight resulted in one of them dying. This case was immediately handled by the Jakarta Resort Police in two ways, namely persuasively by calling the parents of the students involved to make a statement and returning to the parents and school and applying Article 338 of the Criminal Code on murder (Fahrani, 2016); 2). Salmiwati Rumadan, Remon Supusepa, and Steven Makaruku in 2021 focusing on Criminological Studies on Fighting Between Children (Case Study of Wearinama District, Eastern Seram District). This fight is resolved through the Pre-emptive method, which is an effort or effort to prevent crime from the beginning, which is carried out by the police where the action is psychological and moral. The methods used in prevention use Preventive and Repressive methods (Rumadan et al., 2021); 3). Jusnizar Sinaga in 2020 focuses on defamation in terms of positive law. Pollution often occurs through Facebook, Twitter, Instagram, and so on. The article on defamation in the

ITE Law can be considered a "rubber article" because the delict is subjective, besides that there are also no clear parameters (Sinaga, 2020); 4). Vania Adelina and Mahfud in 2018 focused on resolving criminal defamation cases which were resolved through customary courts. Perpetrators penalized with fines for feeding orphans (Adelina & Mahfud, 2018). Based on previous research and an explanation of the background, the authors are interested in conducting research that is different from previous research. This research will focus on solving child-fighting disputes and defamation in Mount Meriah, Aceh. This study aims to find out and examine the problems, namely regarding the settlement of cases of child fighting and defamation according to the Positive Law and Aceh Qanun.

## B. RESEARCH METHOD

This research method is empirical juridical (Ashhofa, 2007; Nasution, 2010; Sugiyono, 2009). This empirical juridical research is to solve a problem that starts by taking secondary data first with the aim of solving problems in this study, after that, researching primary data in the field (Nasution, 2010). The approach used is a statutory approach and a sociological approach (empirical) (Pongtiku et al., 2016; Muhaimin, 2020). The focus of this research is on solving cases of child fights and defamation in Gunung Meriah, Aceh Singkil Regency. The research location is in Gunung Meriah District, Aceh Singkil Regency, Aceh Province. Starting from November 1, 2022, to February 26, 2023. The source of data needed is primary data sources collected from the field such as interviews from the Gunung Meriah community, interviews were conducted with 1 Village Head, 1 Hamlet Head, 1 religious leader, 4 community leaders, 2 traditional leaders, 2 child fighters and 1 defamation perpetrator and 1 defamation victim. On the other hand, the author also uses secondary data, namely data obtained in the form of documentation from the people of Aceh Singkil which is related to this study. After that, relevant sources are taken that can provide valid information from both journals and books.

## C. RESULTS AND DISCUSSIONS

### Conflict in Positive Law Perspectives and Qanun Aceh

The dispute was caused by several things, including child fights and defamation (Rumadan et al., 2021). Regarding child fighting and defamation, regulations have been regulated both in the Positive Law and in the Aceh Qanun, so that it should be resolved in the fairest way possible. Children who are minors aged 18 years and under are legally protected. Child protection is any effort made in order to be able to carry out their rights and obligations as a child, for the protection and development of children's growth both physically, socially, and mentally (Rumadan et al., 2021). Child protection is a manifestation of community justice, the small is cherished and the big one is respected (Prakoso, 2016).

The child can be made a subject of law (Candra, 2018). However, it requires several elements, both internal and external (Krisna, 2018). The elements are: 1) The internal element is that children are classified as human rights related to legislation, classified as immature people; 2) The external element, namely the child as a person who is unable to carry out legal events. Privilege rights are granted by the state arising from laws and regulations.

Indonesian children must be protected (Saraswati, 2015), then it is necessary to have legal regulations that are in line with the development of society, so that the law is not rigid (Sutedjo, 2006). Child fights according to the big dictionary Indonesian are quarrels of words or energy fights (Kemendikbud, 2019). A fight is an assault or a fight that can result in injuries to both of them and one of them.

There are several reasons for fighting fights, namely 1). Overflowing the young soul, children often feel that he is the greatest, and do not want anyone to be greater than him, so often show his greatness by fighting; 2). The influence of the environment, the environment greatly affects the good or bad of a person and also depends on their environment, so an unkind environment will make children unkind, become naughty like take away the rights of others, and fight; 3). Revenge events and quarrels are not just once, but often repeated due to old grudges; and 4). Lack of parental attention, parental attention is very important to produce a good child, useful for religion and the nation, when the attention of parents is very minimal will have an impact on the child, and he will seek attention from others in his way. When a fight occurs and reaches the police, this case is still being examined and they use law number 23 of 2002 concerning child protection, minors fighting cannot be examined like adult fighting cases.

Defamation is defamation of someone's name that is not done properly either orally or in writing (Sutrisno & Paksa, 2019). Because good name is the right of every human being in the Indonesian state (Alyafanda, 2020). Defamation has been regulated in legislation, one of which is in article 310 of the Criminal Code paragraph 1, namely, whoever damages the good name of others by alleging unkind acts when not doing so and the allegations have been widespread, is sentenced to confinement for 9 months or a maximum fine of Rp.4500 (Alviolita & Arief, 2019).

Children's fights are classified as minor crimes that can be resolved through customary justice (Nurlaila, 2020). Likewise, defamation cases are resolved through customary courts in line with Qanun Aceh Number 9 of 2008 concerning customary institutions and strengthened by Qanun Number 1 of 2019 concerning the Gampong Government, which requires the resolution of problems that occur in Gampong, resolved through customary courts. The regulation was refined through Qanun Number 9 of 2008 concerning the Development of Customary Life and Customs and supported by the Joint Decree of the Governor of Aceh with the Chief of Aceh Regional Police and the Chairman of the Aceh Customary Assembly Number 189/677/2011, 1054/MAA/XII/2011, B/121/I/2012 concerning the

Implementation of Gampong and Mukim Customary Justice or Other Names in Aceh, which requires that minor crimes be resolved first through customary justice before being processed at the police level.

Customary justice is an institution that has the authority to regulate the resolution of problems that occur in society with the aim of deciding problems wisely through customary law (Hadikusuma, 2014). The settlement of criminal acts through customary justice is resolved by deliberation between 2 parties (Ulil, 2019). There are several forms in resolving problems in customary courts, namely mediation, negotiation, facilitation and arbitration. (Syam et al., 2023; Syarifuddin, 2019). The resolution of criminal problems through customary justice is basically resolved through a system of deliberations carried out on problematic parties. There are several forms of deliberation that can be carried out in resolving problems through customary courts, namely in the form of mediation, negotiation, facilitation and arbitration (Abbas, 2009).

The customary judiciary has a level, the first level of the Gampong customary court, this court is chaired by the village chief and the Gampong officials (Mansur et al., 2020). When the matter is not resolved, the second level will be continued, namely, the mukim customary court chaired by mukim and other settlement officials (Farida et al., 2020). However, this customary court can also be when the problem does not have a verdict at the Gampong level, the parties can directly apply to the court without going through the mukim customary court (Aguswandi, 2021).

In solving cases, the village heads and their entire ranks should pay attention to the principles of solving cases. The principles that are fulfilled are the principle of trust, the principle of accountability or responsibility, the principle of equality in the eyes of the law, cheapness, fast, sincerity, the principle of harmony, the principle of deliberation for consensus, the principle of openness to the public, the principle of honesty and competence, the principle respecting diversity, the principle of presumption of innocence and the principle of fairness (Amalia et al., 2018).

There are 18 cases that are authorized to villages throughout Aceh to resolve them in the fairest way, namely: 1). Domestic disputes; 2). Disputes between families relating to faraidh; 3). Disputes between citizens; 4). Khalwat/ pervert; 5). Disputes about property rights; 6) Theft in the family; 7) Disputes over sehareukat property; 8). Misdemeanor theft; 9). Theft of domesticated livestock; 10). Customary violations of livestock, agriculture, and forests; 11). Disputes at sea; 12). Disputes in the market; 13). Mild persecution; 14). Forest burning (on a small scale that harms indigenous communities); 15). Harassment, slander, incitement, and defamation; 16). Environmental pollution (mild scale), (17) Threatening (depending on the type of threat); and 18) Other disputes that violate customs and customs (Qanun Aceh, 2008).

All criminal acts that have been committed by a person must be accounted for. There are sanctions governing such criminal acts, including in customary courts (Sururi et al., 2019). There are several sanctions that can be applied in customary justice against perpetrators of criminal acts as stipulated in article 16 of Qanun Number 9 of 2008 concerning the development of customary life and customs, namely as follows (Riza et al., 2022), 1). Advice; 2). Reprimand; 3). Apologize; 4). Sayam (a form of compensation in the form of property given by the criminal offender to the victim or the victim's heirs) (Abbas, 2009); 5). Di'iet (Arabic: diyat) ; 6). Fines; 7). Indemnification; 8). Excommunicated by gampong people or other names; 9). Expelled from the gampong society or other names; 10). Revocation of customary titles; and 11). Other forms of sanctions in accordance with local customs (Aguswandi, 2021).

### **Resolving the Dispute in Gunung Meriah, Aceh**

Disputes caused by child fights and defamation occurred several times in Gunung Meriah District, Aceh Singkil Regency, Aceh Province, and were resolved through customary law. For example, what happened in Lae Butar Village, Gunung Meriah, now the people of Lae Butar Village always carry out fighting and defamation problems through village-level peace. And the matter is all well solved. There has never been a village problem up to the mukim level (Interview with Sahadat, NST).

Regarding the fight between the children in Lae Butar village, the victim's parents were unhappy and reported it to the village head, then the village would respond immediately so as not to cause prolonged problems. Likewise, if there is defamation, this is also responded to wisely. There are several methods used in Lae Butar Village, Gunung Meriah.

First, call the perpetrator and victim and question the perpetrator and victim what the problem is. Second, listening to the answers of both parties, third, studying the problems that have been outlined by the perpetrator and the victim, fourth, sanctioning the guilty party not to repeat the act again. If the community does not accept the decision from the Lae Butar Village Government then they report it to the Police, but the Police still return the matter to the Lae Butar village government and must be able to solve it fairly. Until now, the problem of children's fights that triggered parents' quarrels in Lae Butar Village, of them was known by the Lae Butar Village government and resolved without assistance from the Police.

The majority of fighting and defamation cases do not accept the outcome of the decision from the Lae Butar Village Government, because it is likely that they are afraid of the police so they still accept the outcome of the decree. All village officials are gathered if there is a fight or defamation then they will hold a report, that's how we solve the case. So we call an incriminating witness by the person who reports that he or she has objections to someone being called and presented

the person who is reported and studied and sees the witnesses and the evidence that exists, after which, a decision is made.

While handling cases of fights between children and defamation after the decision, never issued a Decree resulting from the settlement of child fighting or defamation cases. But only make a letter of peace (Interview with Sahadat. NST). Likewise, in Tanah Bara Village, Gunung Meriah, when a child fight occurs, the victim's parents will report it to the head of the hamlet, and the head of the hamlet will confirm to the village head or better known as Gecik. A few days later the matter will be resolved at the victim's home or the village chief's office. It can be easier for children to solve fights than other criminal cases (Interview with Nanda).

When the village head is about to finish, the village head will try to get valid information so that it is known where the fight started. After there is a meeting point, Gecik will explain to both parties the sanctions for the act, if the fight bleeds, the perpetrator's family must treat them until he recovers, after recovering, then the perpetrator's family will come to the victim's house with cooked native chicken, turmeric rice and unsalted flour so that the victim is not traumatized by what happened to him (Interview with Lamlo). When they arrive at the victim's home, usually the perpetrator's family will *menepung tawari* to calm the heart of the victim's family as cool as fresh flour water. Furthermore, the victim's family will serve the food that has been given by the perpetrator to enjoy, so that there is no grudge between the perpetrator's family and the victim. Furthermore, the perpetrator will greet the victim.

The perpetrator will usually give the money according to his economic ability, as a sign of apology for his son's mistakes that have left the victim injured (Interview with Inang). According to Asrel Nas the secretary of Mukim Tanjung Mas The number of cases of child fights in Lae Butar Village there is one case that we solve at the mukim level and we go down to Lae Butar village to solve it and not in Tanjung Mas settlement. And we resolved the matter by deliberation. Once we received a community report to the Police but we withdrew the case because they stepped directly into the realm of the police not through the Village first because the case was insufficient to be followed up with the police and the case returned to the village realm (Interview with Asrel Nas).

The procedure for resolving if there is a child fight or defamation case, forming a team as the judge is the Village Head, and some of his members understand it. Furthermore, the existing problems will be resolved wisely. So far, all matters at the Lae Butar village level if the problem cannot be resolved at the village level, it is recommended to write to the head of the mukim so that it is resolved traditionally at the residential level. If there is a village decision not accepted by the community, it is recommended to the community who object to reporting the matter or appeal to the residential level. If there is a dispute between

2 villages, then the 2 village heads will try to resolve the matter, if the village does not want to, it can be directly handled by the Tanjung Mas settlement.

The implementation of peace in Lae Butar village is not processed according to Qanun Aceh Number 9 of 2008 and Pergub No. 60 of 2013, they only carry it out and how the peace process is and how much is the customary sanction and it is carried out like that. The personnel are complete, there is a presiding judge, there is a secretary, there is a *teuhapet*, there is a mosque imam, a scholar, and 1 female figure. The role of religious leaders and their scholars acts as member judges and the clerk is the village secretary they play the role of solving problems at the village level and solving the customs that exist in the village, for example, there are fights and thefts. If anyone does not accept the decision of the customary court it is a stage and those who are in dispute report to the village there is a master book of the case and once it is reported they are given 3 days of processing and if it has been processed then there is time there for nine days in resolving the case (Interview with Alimuddin).

If at the village level, it cannot be resolved, the matter is continued to the mukim level first. Once a decision is made and one does not accept then the mukim issues a proclamation that they have been processed as per Qanun No. 9 of 2008 and Pergub No. 60 of 2013 unable to find the end of the settlement and signed by all parties can then proceed to the realm of police law. If there is a problem with one of the communities and they immediately report it to the police then it cannot be followed up because it is still the realm of the village chief and the police call the village head to inform the community that they are reporting to the police.

The customary judiciary at the village and mukim level is final and binding and cannot be processed in any court and at any time in the matter. For example, there are fights and they have already made peace efforts in the village. Furthermore, some are dissatisfied and report to the police, and that is no longer valid with a note there is a handle on us such as a decree or a letter of peace that the police cannot process. Then we are obliged to complete the administration of the dispute (Interview with Salman).

Hamid said that there were several people fighting children in Lae Butar village, Gunung Meriah District. So far, every time there is a problem of a fight between residents, it is discussed first at the village head's office and if the problem is not accepted, they can complain to the Tanjung Mas mukim. My role as the Imam of the Mosque when there are children's fights between residents is as a religious figure. Likewise, with the defamation case, there is 1 case of this defamation, but when it is resolved by deliberation at the village chief's office, the two parties reconcile, by giving money to the slandered person intended to buy food and drinks whose banquets are held in the defamed house, then the defaming party apologizes to the person who was defamed. (Wawancara dengan Hamid). Karyanto added that when there was a fight between children in Gunung Lagan village, it was



resolved at the village level, and the two sides did not violate each other (Interview with Karyanto).

According to Mrs. "E" said, neighbors and society are something that hangs in the heart both about feelings, behaviors, and deeds. Once my son fought with a neighbor's child. Furthermore, because he felt unhappy, it was reported to the side of the head of Lae Butar Village. A few days later there was a call to the Village Chief's Office, mediated by the village chief and finally, we came to terms with a note of not repeating the deed. The settlement experienced by "E"'s mother was a deliberation at the Village Chief's Office. Not as Aceh's customary judiciary. Mother "I" added that children's fights are common, as happened to my son who throws with a neighbor's child stones and inflicts blood. The victim reported it to the head of Tanah Bara Hamlet, and the next night it was directly resolved by custom and neither side had any objections.

Likewise, Dedek's mother said, when someone insulted her and vilified her because of envy factors, Dedek's mother reported it to the village chief, then the village chief called the person and asked me why he could curse and insult me. After he was interrogated next the village chief called me to the office. After I arrived at the village chief's office, I was told the reason why I was being bullied and insulted. A few days later we came again to the village chief's office for mediation. Once mediated then the decision is 1). Both parties must no longer repeat their deeds; 2). The second party is subject to customary sanctions in the form of customary fines (Interview with Dedek). As for the customary fine, the number 11, 21, or 41, means that it can pay 110,000, or 1,100,000 if the application of the number 11, if the determination is 21 means 210,000 or 2,100,000 if it is set 41 means 410,000 or 4,100,000. and it can't be more than that. This determination is following the customary rules that apply in Gunung Meriah District (Interview with Anjali). Similarly, Mr. Baha' also said that from the beginning, customary sanctions, whatever the problems that existed in the village, if resolved through village customs, they would pay a certain amount of money with numbers, 11, 21 and 41 (Interview with Baha')

According to Mrs. "T" her son was once accused of taking the palm kernel belonging to Mr. "H", and Mr. "H" wanted to report to the police the offense of stealing 1 sack of palm kernels, a few days later this news spread, and made mother "T"'s child feel shy and do not dare to go to school. Then, not long after, Mr. "H" found out that the thieves with palm oil were not the child of Mrs. "T". Mrs. "T"'s family objected to the defamation, and they reported it to the head of Tanah Bara Village, Gunung Meriah. A few days later, Mr. "H" and Mrs. "T" were summoned to the village head's office to solve their problem. However, after lengthy deliberations, there was no common ground. Even up to two trials. And from the village head gave an official report that the defamation case had been discussed at the village level, and found no results.

Subsequently, this case was transferred to the mukim of Tanjung Mas settlement, and the results were not responded to. When there is a letter entering the case, Mukim must respond to it no later than 9 days. However, there was no answer from the settlement. Mrs. "T" objected that the settlement was incapable of resolving the defamation case. In fact, what is desirable, is that the perpetrator's father "H" prepared food for several people in the community and paid 2 million rupiahs to restore my son's good name. However, it is not denied by the father "H". Defamation cases are very minimally handled by Tanah Bara and Gunung Lagan villages, so the community feels disappointed because there is no decision regarding the case. Stakeholders should provide understanding to the village level regarding the resolution of 18 cases that are authorized to the village to resolve, including defamation cases.

#### D. CONCLUSION

Based on the study findings, the author draws the following compelling conclusions: The settlement of child fighting cases is regulated by Law Number 23 of 2002, which affirms the state's responsibility to protect children under the age of 18. Similarly, cases of defamation are governed by Article 310 of the law, which prescribes a prison term of 9 months. Remarkably, the Aceh Qanun regulations allow for the handling of child fighting and defamation cases at the village level, as outlined in Qanun Number 9 of 2008. Notably, in Gunung Meriah Sub-district, disputes resulting from fights were resolved through customary law, with compensatory payments ranging from 110,000/1,100,000, 210,000/2,100,000, to even 410,000/4,100,000. On the other hand, defamation cases were resolved through village customary law, involving community service as a sanction for the offense. It is evident that cases of fighting, defamation, and other matters falling within the purview of the village are resolved fairly and equitably, ensuring that the community does not feel disadvantaged. These findings shed light on the multifaceted nature of legal systems and highlight the importance of local customs in addressing community disputes.

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**COMPETING INTEREST**

None.

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