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# *Sayam* as a Sanction Model Against Children in Conflict with the Law in Aceh

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## **Abstract**

The Acehnese people use the sayam sanction approach to conflict resolution. Sayam is an Acehnese cultural framework influenced by Islamic values, which are still being implemented and were strengthened by Aceh Qanun Number 9 in 2008. This descriptive study of sayam as a model of sanctions for children in conflict with the law aimed to describe the characteristics of an individual involved, situation, symptom, or group in society. The juridical review is used because various factors influence applicable legal rules. According to the study's findings, the resolution of cases involving children in conflict with the law in Aceh is still carried out using sayam sanctions with three methods. In the first model, the resolution of cases involving children in conflict with the law is handled by the head of the family whose child is in conflict with the law with the family whose child is the victim. The most basic form of dispute resolution is recognized as a hereditary tradition still used by the community. In the second model, the victim child's parents report the perpetrator's evil actions against their children to the keuchiek (the head of the village). In this dispute resolution model, the active role of the keuchikas customary stakeholders and village leaders is more prominent. The third model in the sanction application against children in conflict with the law involves the Police. The Police actively supervise conflict resolution until a decision is reached at the gampong (village) level. However, in this resolution model, the Police are not actively involved in making decisions.

**Keywords:** *Sayam*, Sanction Model, Children, Conflict, Law, Aceh

## **1. Introduction**

In Indonesia, social life is currently in turmoil due to various crimes, each with its characteristics. Adults are not the only ones who commit criminal acts; children, the nation's future generation, are also involved (Unayah, Unung and Muslim Sabarisman: 2016) (Siregar, Risdalina; 2017, 94). Efforts to combat child crime (children in conflict with the law) are currently being pursued through the implementation of criminal law (Muhammad Nur; 2018, 73). Either through the imposition of criminal sanctions or other action sanctions.

The application of sanctions to children must prioritize non-penal sanctions in addition to penal sanctions in the form of action and punishment. Article 71 of Law Number 12 of 2011 concerning the Juvenile Criminal Justice System states:

- (1) The primary punishment for children consists of:
  - a. Warning penalty;
  - b. Penalty with the following conditions: 1) coaching outside the institution,
- (2) community services, or
- (3) under state supervision.
  - a. work training;
  - b. Juvenile Fostering institution; and
  - c. Jail.

Protection of children's rights in conflict with this law is a form of implementing restorative justice, which is carried out through diversion efforts. The non-penal sanctions are applied to children aged twelve to fourteen years. Meanwhile, the penal sanction in the form of action is applied to children aged over twelve to fourteen years. ( Article 1 Number 7 of Law Number 12 of 2011)

According to Nashriana, the response to misbehaving children must be based on the principle of benefit to the child, taking into consideration whether the sanction benefits the child or has the potential to worsen the child's condition, such as inhibiting the child's physical, social, and primarily psychological development. (Nashriana;2010,33) As a result, sanctions against children who violate the law should be based on a criminal law policy for children that is explicitly directed to promote child welfare and protect children's rights, particularly those of delinquent children.

The philosophy of punishing children is to restore the mental state of children who have been shaken by the criminal acts they have committed. The philosophy of child punishment is to restore the mental state of children whose criminal acts have shaken. So it is not only about punishing guilty children but also about fostering and reviving children who have made mistakes or committed deviant acts. As a result, the actions of children who break the law should not be equated with adult crimes because they are distinct. Juvenile crimes must be handled differently than handling adult crimes (Muhammad Nur, et al.; 2022, 54).

Suppose children in conflict with the law are handed over to law enforcement agencies. In that case, the sentencing process requires the presence of children in the court or law enforcement agencies full of officers wearing official clothes. This condition can affect the psychology of children. Therefore we need a law enforcement system that does not bring harm to children and does not require the children to be openly present in the law enforcement institution. This resolution can be accomplished through a cultural approach called *sayam* that develops in Acehnesesociety. Some Acehnese, particularly those living in rural areas far from the public (official) judiciary, settle almost every case and legal dispute between themselves and their community members through informal means. customary law services.

The cultural approach involving local wisdom and customary institutions is a strategic and practical step in resolving criminal acts because the community already has a living legal system known as customary law. The Acehnese people use the *sayam* sanction approach, an Acehnese cultural framework influenced by Islamic values for conflict resolution. Moreover, this traditional and cultural-based conflict resolution process that has long been rooted in Acehnesesociety is compensation in the form of property given by the perpetrator of the crime to the victim or the victim's heirs, specifically related to damaged or malfunctioning limbs and bleeding. This tradition is a wise and democratic conflict resolution process that does not involve bloodshed or revenge between the two parties conflicting parties, both vertically and horizontally. The sanction currently being applied in Aceh has been strengthened by the Aceh *Qanun* Number 9 of 2008. Based on the background, this research aimed to investigate *sayam* as a model for sanctions against children in conflict with the law in Aceh.

## 2. Research Method

This descriptive study aimed to analyze *Sayam* Sanction Model Against Children in Conflict with the Law in Aceh and to accurately describe the characteristics of a particular individual, condition, symptom, or group, as well as to determine the spread of a phenomenon or to determine whether there is a relationship between

symptoms in society. The juridical review is used considering that the applicable legal rules can be influenced by various factors, including the society, the developing culture, and the law and society interactions. In contrast, the empirical review is intended to see the law from reality. (Muhammad Nur, et al.; 2022, 55)

The following are the sources of research data used in this study:

#### 1. Primary data

Primary data in this study was obtained through field research in the form of interviews with respondents. This data was obtained using interview techniques (interview guide). Interviews were conducted on respondents using interview guidelines prepared in advance. This interview was conducted using either directed or undirected and in-depth interviews. The respondents consist of:

1. One investigator from the Protection of Women and Children unit at the Aceh Besar Police,
2. One investigator from the Protection of Women and Children unit at the East Aceh Police,
3. One investigator from the Protection of Women and Children unit at the North Aceh Police
4. Three *Imam Mukim* (Religious leaders of sub-district)
5. Three *Keuchiek Gampong* (Village leaders)
6. Three customary stakeholders
7. Parents of three victims
8. Parents of three perpetrators

#### 2. Secondary data

The secondary data in this study was the primary material for normative legal research from the standpoint of its binding strength, divided into primary, secondary, and tertiary legal materials.

- 1) Primary legal materials consist of the 1945 Constitution, Law Number 3 of 1997 and its amendments, Law Number 11 of 2012 on the Juvenile Criminal Justice System, and Aceh *Qanun* Number 9 of 2008 customary Institutions.
- 2) Secondary legal materials include books on the problem under study.
- 3) Tertiary legal materials, such as dictionaries and other documents.

Data analysis was carried out using qualitative methods, which entailed qualitatively interpreting respondents' opinions or responses and then explaining them completely and comprehensively on various aspects of the subject matter (Ronny Harjito Soemitro; 2005, 93).

### 3. Discussion

#### 3.1. Children in conflict with the law

Children are commonly defined in Indonesian law as people under age people who are not yet mature (*minderjaring*), people who are underage/inferior (*minderjarighaid*) or children who are under the supervision of a guardian (*minderjarigeondervoordij*) (Maghira, S; 2016,215). According to Law Number 4 of 1979 on Child Welfare, a child is defined as someone who has not reached the age of 21 and has never been married. Hence, the compilation of Islamic Law based on Presidential Instruction Number 1 of 1991 stated the age limit for children who can stand alone or as adults is 21 years, as long as the child is not physically or mentally disabled or has never been married.

According to Article 1 number 3 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, a Child in Conflict with the Law, hereinafter referred to as a Child, is a child who is 12 (twelve) years old but not yet 18 (eighteen) years old and suspected of committing a crime. Based on Law Number 35 of 2014, a child is defined as anyone under 18 (eighteen), including children still in the womb.

Children in conflict with the law need to be handled seriously, even though they are still in the form of child delinquency (Mumtahanah, N. 2015). Delinquency is based on actions or behaviour that violate applicable laws and violations of moral values.

### 3.2. Settlement of Criminal Cases According to Aceh's Customary Law

Customary and Islamic laws for the indigenous people of Aceh are like two sides of a coin. Acehnese people describe it as *hukom ngoen adat lagee zat ngoen sifeuet* (law and custom, such as the relationship between substance and its nature). A substance and its characteristics are distinct, distinguishable, but inseparable. According to Teuku Djuned, to solve crime problems. In Acehnese tradition, the philosophy '*uleubeu mate, rantengbekpatah*' (the snake must die and the branch must not be broken). The essence of this proverb is that there should be no more problems after the peace. According to Soepomo, quoting Soekanto, one of the elements forming the foundation of the customary law system is the substantial nature of togetherness that encompasses the entire field of customary law. (Ali Abubakar; 2011,17) Settlement of disputes or criminal acts committed by Aceh's indigenous peoples can be pursued in two ways under Aceh's customary law. First-level settlement is through the *gampong*(village) customary court. If the *gampong* customary court's decision is unacceptable, it can be submitted to the customary court at the *mukim* (subdistrict) level.

The criminal case resolution through customary law always prioritizes the nature of kinship and the principle of peace even though there are sanctions. AbidinNurdin emphasized that *sayam* is one of the patterns of conflict resolution found in the lives of the Acehnese. This pattern has been practised for a long time and even longer than in '*iet* or *suloh*. *Sayamis* a type of compensation in the form of assets given to the victim or the victim's heirs by the criminal, specifically related to damaged or malfunctioning limbs (Abidin Nurdin; 2013,17).

Where the *sayam* procession is held after the *keuchik* and *teungkumeunasah* (religion leaders) have contacted the disputing or conflicting parties. If both parties agree, the *sayam* procession will occur at the victim's home or the *meunasah* (worship place). According to Manfarisyah, *sayam* is one of the Acehnese people's disputes/conflict resolution patterns. *Sayam is explicitly* designed for disputes resulting in damaged or malfunctioning limbs due to the perpetrators' actions and also a form of restitution for blood loss caused by persecution. For a long time, the Acehnese people have followed this pattern. (Manfarisyah; 2016,175)

According to Nanda Amalia et al., two dispute resolution models are commonly used by the community in Aceh villages today: the first is a simple dispute resolution model with the involvement of *Keuchik*, who is very active in resolving disputes between communities, and the second is the involvement of community elements called *Tuha Peut Gampong*. *TuhaPeut Gampong* as a whole is used to settle disputes. The settlement pattern follows a model resembling a formal trial and refers to the customary court guidelines issued by the Aceh Customary Council. (Nanda Amalia, et al. 2018;178)

Several cases can be resolved through customary courts at the *gampong* customary court and customary courts at the *mukim* level, according to *Qanun* Number 9 of 2008 on Customs and Customary Development. The use of customary law to resolve community cases is always practiced in the lives of the Acehnese indigenous people. The process is quick and painless, does not create resentment between opposing parties, and can help restore balance in society as a whole. The use of customary law is the legal basis for resolving community cases because customary law does not contradict community will and will increase the number of brothers and their noble position in Islam. Islam promotes peace, which the Prophet Muhammad brought to humanity.

### 3.3. Sayam's Sanction

Local wisdom has long been used as norms and values in society and interacting with God, humans, and nature. Local wisdom can be defined as all life views or teachings, advice, proverbs, and traditional values that are lived, respected and practised by the community, both those with and without customary sanctions. (Nurdin, A; 2013,135) This tradition is believed to be a powerful means of fostering brotherhood and solidarity among citizens, and it has been institutionalized and crystallized in the social and cultural order.

A cultural approach involving local wisdom and customary institutions is a strategic and effective step in resolving criminal acts because the community already has a living legal system known as customary law. Rasjidi stated that the cultural approach to achieving this security and order is consistent with the flow of

sociological jurisprudence law, which states that good law is the law that is appropriate and lives in society (Marco Manarisip; 2012, 25). Cultural values that have taken root are typically profane and sacred in nature, allowing their implementation to be more quickly and easily accepted by the community. It is hoped that by applying this approach to local culture and customs, conflict resolution can be quickly realized and accepted by all groups, resulting in no hidden, latent conflict in society (Astri, H; 2011,151). *Sayam*, according to Abidin, is a form of recompense that aims to protect and respect God's creation in the form of the human body (Abidin Nurdin; 2013,147).

### 3.4. *Sayam as a Sanction Model Against Children in Conflict with the Law in Aceh*

In Aceh Province, particularly in the districts of Aceh Besar, North Aceh, and East Aceh, cases of children in conflict with the law are still resolved using sayam as a form of sanction. child or his family are willing to pay compensation, the sanction does not result in a prison sentence. This data is based on interviews, focused discussions, and observations of Acehnese dispute resolution practices through customary law. As a result, the author obtains three models or patterns for resolving children in conflict with the law.

The first model of resolving cases of children in conflict with the law is handled by the head of the family whose child conflicts with the head of the family whose child is the victim. This most basic form of dispute resolution is recognized as a hereditary tradition that is still used by the community. The completion of this model is carried out on conflicts that occur among residents of the same village, where the head of a family whose child is a victim goes directly to the head of the perpetrator's family in a familial way, or vice versa.

A family meeting was held to discuss their respective children's behaviour, particularly the good and bad behaviour, and implicitly acknowledge their children's shortcomings. With the child's mischievous behaviour, such as telling too many jokes and injuring the victim, the family who believes their child is guilty is responsible for their child's mistakes. Then, through deliberation between the two parties, find a solution for the victimized child.

This sayam will be given directly to the parents of children who are victims by the parents of children who conflict with the law. During the deliberations, efforts are made to provide children who have suffered from bleeding or injuries with minimal medical expenses as a form of charity. Because the case was resolved directly without involving the customary village stakeholders, it was completed with the handover of the *sayam* followed by a handshake of both parties. Their social lives returned to normal as before the dispute.

The second model, the child's parents as victims, report to the *keuchiek* the treatment received by their children due to evil actions by the perpetrator's children. In this model, *Keuchik's* role as a customary stakeholder and village leader is more prominent in dispute resolution. *Keuchiek* tries to bridge the gap between these two families so that they can constructively resolve their children's disputes and avoid acting violently against children as perpetrators of crime. As a result, *Keuchiek* will visit each party's home to gather detailed information about the existing problems. The findings of the *keuchiek* visit to both parties' homes will be communicated to the village staff or customary stakeholders to find a solution to solve the case.

Based on the customary stakeholder's discussion, both parties were invited to compromise to resolve disputes between the perpetrator's and victim's children. The meeting is usually held at *Keuchiek's* house, and both parties are served food and beverages. During deliberation, cases that can be resolved at the *keuchiek's* house are usually resolved immediately, including what and how to compensate the victim. However, the *sayam* is based on the ability of the perpetrator's family to pay the compensation amount and the sayam implementation.

Suppose the perpetrator's parents can pay for the *sayam*. In that case, the *keuchiek* will invite the victim's parents to his house to receive a simple *sayam* and *peusijeuk* followed by a handshake between the families. The case is closed with a handshake, and the lives in society return to normal without any sense of revenge.

In this second settlement model, sometimes there is no agreement between the victim's and perpetrator's families because each party insists on their own opinion. Therefore, the settlement of this case will be brought to *Meunasah* for resolution. The settlement of disputes between families in *Meunasah* involved more parties, especially the customary stakeholders, such as *Keuchiek*, village secretary, *Tuha Peut*, *Imum Gampong*, *Dusunhead*, and the parents of the perpetrator and the victim.

The settlement process, which includes customary stakeholders, still refers to efforts to settle cases peacefully with full kinship following the traditional life of the Aceh village community while still respecting both parties. This is where the customary stakeholders demonstrate their wisdom under the philosophy of resolving disputes through customary law, *uleubeu mate*, *rantengbek patah* (the snake must die, and the branch must not be broken). With this precautionary principle, it is hoped that both parties will accept the Customary stakeholders' decision.

Suppose in this trial there is still no agreement between the parents. In that case, the customary stakeholders decide to impose sanctions on the perpetrators' parents in a particular form and amount. In making this decision, customary stakeholders rely on the advice of *findatu* (ancestral): "*yang rayek ta peubit yang ubittapeugadoh*" (big problems are minimized, and minor problems are eliminated). Therefore, the customary court determines the *sayam* form and amount based on re-tightening the brotherhood between families and not incriminating the guilty party. The perpetrator's parents must obey this customary sanction imposed within a certain period.

The amount and form of *sayam* required of the perpetrator's parents are usually adjusted to the victim's condition. If the victim only suffers minor injuries, then the compensation is in the form of medical expenses. If the injuries are severe, the compensation is in the form of the slaughtered goat and payment of medical expenses as a form of responsibility for the bleeding from the victim's body. The *sayam* are delivered in *Meunasah* in a joint meal at a *kenduri* (banquet) of goat cuisine provided by the parents of children who conflict with the law. Before the feast, a *peusijuek* is performed on the victim, and then a handshake between the two parties is a sign that the dispute has been resolved and there should no longer be any grudge between the victim and the perpetrator. The last advice given to the disputing parties was, "*Nyoe kasep oh no beknadendam le, nyoe beujeut keu jalinan silaturahmi, karenanyan ajaran agama geutanyoe*" (meaning: this problem has ended here and should not be extended anymore. This handshake is expected to be the beginning of friendship because this is the teaching of our religion)

The Police are involved in the third model of applying sanctions to cases of children in conflict with the law. This model is more difficult because neither party wants to give in, and the victim does not want the case to be resolved by the *gampong* leader or a customary stakeholder so that the victim reports the case to law enforcement, particularly the Police. As a result, the Police are actively involved in cases like this.

The Police are actively investigating this case until a decision is reached at the village level. However, the Police are not actively involved in decision-making. Cases were reported to the Police because the victim lacked confidence in the village apparatus stakeholders to resolve the case. The Police, on the other hand, provide opportunities for village stakeholders to resolve cases of children in conflict with the law harmoniously. So that the Police only provide input and encouragement to the disputing parties, the perpetrator's and victim's parents, to resolve the case at the *gampong* level considering that the child's case, even though it is brought to law enforcement, will also be resolved through diversion.

This settlement model involves customary stakeholders in the *gampong*. The settlement is carried out in *Meunasah* through a trial involving the *keuchiek*, *tuhapeut*, *imum gampong*, the village secretary and the head of the *Dusun*, and the parents of the perpetrator and the parents of the victim. While the Police stood by and did not participate in the trial. After the case was resolved, the Police requested a peace deed to prove it had been appropriately handled. Therefore, if any parties report the case to the Police again, the Police can show that the case has been completed and cannot be legally processed again.

The three models of resolving children in conflict with the law, which are still in use in Acehese society, are a form of community responsibility in maintaining unity and brotherhood in Gampoeng community life. The principle of dispute resolution is *uleue beu mate, ranteng bek patah* (the snake must die, and the branch must not be broken). This proverb means that when solving social problems, great care is taken to ensure no party is harmed. Similarly, disputes must be settled through sacrifices to fellow communities within the framework of customary brotherhood so that no matter how big the problem that arises, it must be settled peacefully based on “*yang rayek ta peu ubit yang ubit tapeugadoh*” (big problems are minimized and minor problems are resolved).

Dispute resolution among the Acehese people must also be based on sincerity; what the leader has decided must be accepted gracefully as a form of respect for the leader's wisdom in protecting the community, as taught by Islam. "Oh no, defender, Nyoe Kasep has a grudge, Mrs. Beujeut wants to have a relationship because of the Geutanyoe religion's teachings." (This problem has ended here and should not be extended further; this handshake is expected to be the start of a relationship because this is our religion's teaching). This is following Acehese society's advice, *hukom ngoen adat lagee zat ngoen sifeuet* (law and custom such as the relationship between substances and their nature), law based on custom, custom based on the Book of Allah. Child or his family is willing to pay compensation, the sanction does not result in a prison sentence.

#### 4. Conclusion

The resolution of cases of children in conflict with the law in Aceh is still conducted through the use of special sanctions called sayam with three models or patterns. The first model, which involves resolving cases involving children in conflict with the law, is handled by the head of the family whose child perpetrator is with the head of the family whose child is the victim. This is the most basic form of dispute resolution, and it is recognized as a hereditary tradition still used by the Aceh community. While in the second model, the victim child's parents report to the keuchiek the treatment their children have received as a result of the perpetrator's evil actions. *Keuchik's* role as customary as customary holder and village leader is more prominent. In the third model, Police are involved in applying sanctions in cases of children in conflict with the law. The Police actively supervise this third form of settlement until a decision is made at the village level, but they are not actively involved in decision-making.

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