Improving the Community-based Justice System: Case of Developing Informal Justice Guidelines in Aceh with Aceh Customary Council (MAA)

Aceh Justice Project

United Nations Development Programme (UNDP)
Indonesia

supported by the Government of the Federal Republic Germany
Improving the Community-based Justice System:

**Case of Developing Informal Justice Guidelines in Aceh with Aceh Customary Council (MAA)**

**UNDP Indonesia**

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# Glossary of Acronyms

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>ACE</td>
<td>Adat Capacity Enhancement</td>
</tr>
<tr>
<td>AGTP</td>
<td>Aceh Governance Transformation Project</td>
</tr>
<tr>
<td>AJMI</td>
<td>Aceh Judicial Monitoring Institute</td>
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<tr>
<td>AJP</td>
<td>Aceh Justice Project</td>
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<tr>
<td>APPS</td>
<td>Aceh Peace Process Support</td>
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<tr>
<td>BAPPENAS</td>
<td>National Planning and Development Agency (Badan Perencanaan dan Pembangunan Nasional)</td>
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<tr>
<td>BRR</td>
<td>Reconstruction and Rehabilitation Agency (Badan Rekonstruksi dan Rehabilitasi)</td>
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<tr>
<td>FGD</td>
<td>Focus Group Discussion</td>
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<td>FKPM</td>
<td>Community Police Communication Forum</td>
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<tr>
<td>IDLO</td>
<td>International Development Law Organization</td>
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<tr>
<td>JKMA</td>
<td>Aceh Adat Communications Network (Jaringan Komunikasi Masyarakat Adat Aceh)</td>
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<tr>
<td>LBH Aceh</td>
<td>Aceh Legal Aid Institute/Lembaga Bantuan Hukum Aceh</td>
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<tr>
<td>LBH-APIK</td>
<td>Legal Aid Institute – Indonesian Women's Association for Justice/Asosiasi Perempuan Indonesia untuk Keadilan</td>
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<tr>
<td>MAA</td>
<td>Aceh Customary Council (Majelis Adat Aceh)</td>
</tr>
<tr>
<td>MISPI</td>
<td>Indonesian True Friends of Women (Mitra Sejati Perempuan Indonesia)</td>
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<tr>
<td>MOU</td>
<td>Memorandum of Understanding</td>
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<tr>
<td>PMU</td>
<td>Project Management Unit</td>
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<tr>
<td>POLDA</td>
<td>District Police</td>
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<tr>
<td>ToT</td>
<td>Training of Trainers</td>
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<tr>
<td>UNDP</td>
<td>United Nations Development Programme</td>
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<tr>
<td>UNFAO</td>
<td>United Nations Food and Agricultural Organization</td>
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Glossary of Key Adat Terms

The following definitions and explanations are drawn from Aceh Provincial Regulation 7/2000 concerning the maintenance of adat life.

Hukum Adat (adat law) refers to Acehnese customary law as it exists and develops in the Acehnese community;

Adat Istiadat (customs) refers to a set of rules or actions based on Islamic Syari’at that is practiced, respected, honoured, and long-regarded as the philosophy of life;

An adat institution refers to a customary/community body established by certain adat law societies that control over a specific territory and possess their own wealth; adat institutions function as a means of guaranteeing the security, safety, harmony, and order of the community through preventive and repressive means, including: a) resolution of social-communal matters; and b) mediation (conciliation) and settlement of disputes within the community;

Gampong refers to the smallest unit of communal territory inhabited by a certain community with the right to manage its own administration;

Geuchik refers to an individual who is elected and whom the community relies upon; he is legally installed by the Kabupaten (district) or kota (municipal) governments to lead the gampong administration;

Imeum Meunasah refers to a person who leads community Islamic activities and implementation of Syari’at within a particular gampong;

Tuha Peut refers to a complementary body within a gampong or mukim whose members represent government officials, religious figures, adat leaders, and scholars of the gampong or mukim who act as advisers to the Geuchik and Imeum Mukim on governance, adat law, community customs and tradition; they also settle disputes in the gampong and mukim;

Tuha Lapan (the eight elders) refers to a complementary body of gampong and mukim organizations consisting of government officials, religious figures, adat leaders, social leaders, scholars, youth, women, and civil society organizations;

Mukim refers to an adat law society unit in the Special Autonomous Province of Aceh consisting of several gampongs (villages) with certain territorial borders and possessing its own property;

Imeum Mukim refers to the head of a Mukim and its leading adat functionary;

Keujreun Blang refers to a Geuchik’s assistant in managing rice farm irrigation;

Panglima Laot refers to an adat leader specializing in fishing customs who determines fishing areas and settles disputes;

Peutua Seneubok refers to a person who leads and regulates the use and establishment of land for farming and plantation cultivation;

Haria Peukan refers to a person who manages order, security, and environmental issues; he also collects market taxes at the gampong market;

Syahbanda refers to a person who leads and manages ship/boat docks as well as traffic at sea, lakes and rivers;

Peradilan Adat refers to Acehnese customary law as it exists and develops in the Acehnese community.
Acknowledgements

The UNDP Democratic Governance Unit would like to specially thank Julie van Dassen for the preparation of this study paper. Thanks also to Ah-Jung Lee and Faisal Fuady, who provided their support in the writing of this paper, and Alysia Lau and Karoline Kemp for editing. Much appreciation is given also to the chairman of MAA, Badruzzaman Ismail, who provided full support for this survey, the Head of the Legal Department at MAA, Abdurrachman Yunus in Banda Aceh, who provided valuable legal background and information related to Adat and to the 1st deputy of MAA, Abdurrahman Kaoy for the provision of historical background of adat in Aceh. Extended appreciation is expressed to the Adat Capacity Enhancement team of MAA- PMU Mukhlis Sya’ya, Marlian Deiry, Desiana Putri, Salya Rusdi and Munawar - who worked tirelessly to coordinate meetings with MAA officials and staff and adat leaders during the field survey. A special acknowledgement goes to Iis Joice Marpaung and Budi Triani for their wonderful administrative support during this project.

Extended gratitude goes to Head of the Directorate for Law and Human Rights at BAPPENAS, Diani Sadiawati, for her support for the AJP project and this study.
Executive Summary

The UNDP Aceh Justice Project (AJP) initiated the Adat Capacity Enhancement (ACE) project in 2008 to respond to the need in Aceh for increased access to reliable and fair justice at the community level. The ACE project partnered with the Aceh Adat Council (Majelis Adat Aceh, MAA), the custodian for adat customary law and practices in the province, to develop a standardized set of guidelines for the jurisdiction and administration of adat justice at the village level.

Due to its oral lineage, the general understanding of the foundations of adat beliefs and practices had waned over the past century. National regulations aimed at homogenizing local-level governance structures had eliminated the role of adat leaders at the village and sub-district levels, where they were strongest, and the 30-year conflict in Aceh had diminished opportunities for maintaining common adat practices across the province.

Despite impediments to the maintenance of unified adat practices and beliefs, adat leaders remained the primary providers of justice for village level disputes. However, despite sufficient knowledge of the principles guiding adat beliefs, the administration of local justice was often influenced by personal interests, mob rule and discriminatory policies. Coordination with formal justice providers, particularly during the conflict, was non-existent, resulting in a local-level justice system that was often guilty of providing "poor justice for poor people."

UNDP and MAA worked with local adat experts and academics to develop the ‘Guidelines on Adat Justice in Aceh’. The Guidelines set out the underlying principles, jurisdiction, sanctions and procedures for the execution of local-level adat justice, based on international standards for justice provision, human rights and women's rights.

The Guidelines designate 18 forms of common local level disputes that fall under adat jurisdiction. The cases under adat responsibility include misdemeanours, such as land disputes, conflicts between and within families, and petty theft, which benefit from the culturally appropriate approach adat mediation provides to resolve not only the dispute, but also the impact the dispute can have on the larger community.

The project worked with provincial-level government officials and police authorities to establish a legal foundation for the application of adat justice in villages and sub-districts, and formalized coordination between adat and state justice providers. To ensure clear communication between adat leaders and district and sub-district police concerning the execution of adat justice in the mediation of disputes arising at the village level, Geuchiks (village heads) work with community police representatives to exchange opinions, legal advice and mutual supervision of justice provision.

Once established, MAA and the ACE Project Management Unit staff developed a training module to socialize the parameters and implications of the Adat Guidelines to Geuchiks in ten districts and municipalities in Aceh. The trainings focused on the main pillars of adat justice, involving local adat experts, MAA staff and police representatives as trainers to strengthen a common understanding of adat's role as a local-level dispute mediator and expand the networks for coordination between adat leaders and with other justice providers in the province. The trainings were concluded with interactive simulations of adat hearings; examining case studies of common village disputes, deliberating with the greater adat village structures (Tuha Peut and Imeum Meunassah), and delivering appropriate sanctions. These simulations provided an opportunity for adat leaders to receive feedback on the processes and decisions taken, and discuss possible solutions for challenges to adat justice they had encountered in administering their work.
The ACE has been successful in bridging knowledge and coordination gaps which had previously hindered the delivery of fair and accountable justice to the most vulnerable and marginalized groups in Aceh. This paper was commissioned to provide an in-depth account of the history of adat in Aceh and the ACE project, as well as an overview of the specific achievements, challenges, lessons learned and recommendations concerning the development and implementation of the project, to inform development practitioners wanting to adopt this system in other regions.

**Impact and Achievements**

*Strengthened Village Leadership Capacity*

The MAA trainings provided a comprehensive means of socialising the adat governance structures outlined in the provincial laws pertaining to adat. Rural village leaders are often unaware of the content and implications of regional and national laws. Re-establishing the complete adat governance structure as a requirement for providing village justice has broadened the scope of the consensus system traditionally used at the village level, and the opportunity for different viewpoints to enter deliberations on matters of justice and governance.

*Strengthened Networks between Adat Leaders and MAA*

The trainings provided a learning experience for participants and trainers in the current and desirable methods of implementing adat justice and strengthened adat networks throughout the target areas.

*Improved Coordination between State and Adat Justice Providers*

UNDP and the ACE project were integral in linking MAA to crucial government agencies responsible for the harmonization, deliberation and passing of qanuns (provincial regulations), including the Legal Bureau of the Governor’s Office and the Legislation Board of the Provincial Parliament, as well as ensuring proper vetting systems were adhered to when developing the laws. Once formal introductions were made and the jurisdictional decisions taken, MAA and the provincial police were able to carry forward the partnership to more intensive activities with broader impacts, such as the shared sessions in both MAA and police trainings.

*Prioritization of Women’s Rights and Representation*

The inclusion of women’s rights has resulted in a shift in mentality among adat leaders, who now recognize the need for women’s representation in the larger adat structures, and particularly in justice processes. The mandatory of female representatives in adat village structures, as recipients of claims involving women and defenders of women’s needs in village planning processes, marks a significant contribution to women’s rights at the village level.

*Documentation and Filing of Case Outcomes*

During the trainings, adat leaders were given case documentation kits, which contained templates for case registration and guidelines on how to report a case and to whom. These are an excellent resource for adat justice provider to ensure appropriate information pertaining to village-level disputes is collected and documented, and communication with state justice providers and government authorities is maintained.

**Challenges and Weaknesses**

*Institutional Challenges*

At the regional level, MAA continues to encounter organizational challenges, due in large part to the limited access to sufficient financial resources to maintain proper coordination with adat leaders. Most district level MAA offices receive no funding from the government, and limited contributions from the MAA Secretariat. MAA offices that have received funding from district governments are often
required to accept government employees to process financial and administrative affairs, which has resulted in a reduction in funds available for support to adat activities, and a lack of internal capacity to manage these affairs independently.

**Coordinated Documentation**
Despite the benefits of coordinated documentation, the required submission of hard copies of case registration documents to the Camat and sub-district police has created logistical and financial challenges for adat leaders and MAA staff. As a result, many documented cases are not communicated properly with government and police officials, which could lead to problems of overlapping authority in certain cases in the future.

**Women’s Empowerment**
Because the MAA trainings on the Adat Guidelines targeted Geuchiks, very few women were eligible to participate. Though MAA and UNDP attempted to remedy this deficiency in programming participation by expanding the attendance at the trainings to include any female members of the village adat structures (most often found in Village Secretary or Tuha Peut positions), women’s representation at the MAA trainings constituted less than 1 percent of the participants.

**Securing Government Funding**
MAA offices have experienced significant difficulties in securing sufficient funding for adat activities. This is the result of institutional limitations in both the district level governments and MAA. District governments have exhibited a limited capacity to prioritise programming and allocate funds; while MAA, both at the district level and the provincial level, has exhibited difficulties in recording and compiling the data necessary to illustrate the achievements and future needs of adat in Aceh.

**Programme Coordination in Remote Areas**
MAA were unfortunately unable to organize trainings at sub-district level due to logistical challenges experienced in more remote areas, and the informal (and illegal) enforcement of localized “taxes” demanded from external organisations wanting to work in these areas.

**Positioning Local Leaders as Expert Trainers**
The inclusion of local adat academic and leaders in the trainings was intended to promote the development of sustainable support networks for village adat leaders and provide localized applications for the Adat Guidelines. However, involving local adat experts directly ultimately detracted from their perceived authority as trainers, due to their familiarity with adat leaders in the district.

**Lessons Learned**

**Secure Buy-in from Community Leadership**
Working with local adat leaders to develop a traditional council or agency that can function as the custodian of traditional customs within its region is the most effective way of strengthening the basis from which traditional practices can be incorporated into formal systems. Coordinating with provincial-level government officials, legal agencies and adat leaders is therefore integral to establishing a successful programme capable of increasing the justice and governance capacities of village adat leaders.

**Establish a Legal Basis for Alternative Community-Focused Justice Systems**
As a formally recognized legal entity, adat institutions can gain access to government funds and resources, and establish common hierarchies, responsibilities and areas of jurisdiction that will
provide uniformity to *adat* communities, and can circumvent personal rivalries and interests that may emerge when engaging individual *customary* leaders.

**Keep It Simple**
A key aspect of the success of the ACE project with MAA was the simplicity of the principles underpinning the *Adat* Guidelines. Extracting characteristics that are generally seen as supportive of the collective good has proven to supersede religious, historical and social rifts.

**Understand the Social Role of Women**
To be effective, gender mainstreaming priorities, particularly those using quotas for participation, need to understand the positioning and relevance of women with respect to the programme objectives. Working to enhance *adat*’s role as a justice provider assumes coordination with pre-existing traditional governance structures that may not include women. Programme developers need to look at where the most need lies in developing women’s role in traditional justice structures.

**Recommendations for Future Programming**

*Adopt Mobile Database to Facilitate Documentation*
The costs associated with the current hardcopy system employed by the ACE project and MAA have hindered the development of thorough documentation practices and limits the audience that can access information on *adat* justice in practice.

An Oral Wiki system could provide mobile access for *adat* leaders to a centralized database in which they could record data on traditional justice cases, and can be further developed into an interactive database, allowing *adat* justice providers to review or reference verdicts passed in other villages, or a peer rating system, which can inform future decisions and act as a mechanism for discouraging biased verdicts that deviate from *adat* principles.

*Engage Women on Their Terms*
While gender has been included in most development programmes carried out in Aceh since the tsunami, there has been a lack of intensive programmes that aim to develop the capacity of women as leaders within their own social setting. Women’s organisations and staff should be utilized to tap into existing women’s social groups and identify potential leaders to invest in and grow into strong political and social figures.

In the context of the ACE project with MAA, separate trainings should be held for women that provide basic trainings on the *Adat* Guidelines, as well as additional trainings on leadership skills, problem solving, conflict resolution, strategic planning and community-based program monitoring. Focal points in each district can receive supplementary trainings in capacity building and training skills, and work on an ongoing basis with women leaders to ensure continued development of their skills within their community context.

*Coordinate with Police on Engagement*
As the ACE project moves forward and expands to other districts of Aceh and, possibly, other regions of Indonesia, focus needs to be placed on working with police officials at the provincial and district levels to ensure the smooth execution of the trainings and follow up coordination throughout the province.
As mandated by the 1945 Constitution, the Government of Indonesia is committed to improving citizens’ access to justice as a means to fulfill their universally enshrined human rights. In this regard, the Ministry of National Development Planning (BAPPENAS) has cooperated with UNDP Indonesia in the development of the National Strategy on Access to Justice, which was launched on October 2009 in Jakarta. The development process of the National Strategy on Access to Justice has been participatory, in line with the spirit of democracy that Indonesia embraces. The process has involved consultations with more than 600 stakeholders from Indonesia’s 33 provinces. The Strategy has now been integrated into the National Medium-Term Development Plan (Rencana Pembangunan Jangka Menengah Nasional/RPJMN) 2010-2014.

In the National Strategy, the Government of Indonesia recognizes the importance of the establishment of formal and informal institutions, using community-based mechanisms as a realistic response to the vast geographic and cultural diversity of Indonesia. These mechanisms require taking into consideration the actual needs of local communities, and therefore address both formal and informal institutions as a means of addressing accessibility and resolving complaints or disputes encountered by community members. The strategy also recognizes the importance of the many stakeholders, including judges, adat (customary) leaders/custodians, religious leaders, and other members of communities for accommodating their demand to justice.

Access to justice instruments are also crucial for alleviating poverty and preventing corruption when communities, especially the poor and the marginalized, are able to access justice through formal and informal institutions. In this regard, both community and state justice mechanisms equally play important roles in ensuring justice for citizens.

The poor and the marginalized should be specifically targeted for accessing fair, effective, and accountable mechanisms in order to protect their rights from abuses and to resolve conflicts. Through legal empowerment and increased access to justice, the poor will be better able to overcome poverty and realize their basic human rights, capabilities, and aspirations in life (NSA2J 2009, p.5). The poor and the marginalized should therefore have the capacity to obtain justice through both formal and informal mechanisms, and to participate in the development of laws affecting them.

Since 2007, BAPPENAS has worked in partnership with UNDP to improve access to justice for the people of Aceh under the umbrella of the Aceh Justice Project (AJP). The finding of the assessment show that a majority of Acehnese people prefer adat (customary) justice mechanisms available.
in their communities for resolving their disputes and grievances, due to their socio-cultural and religious values as well as challenges in accessing the formal justice system. For most people in Aceh, the *adat* system is the most affordable and culturally sensitive channel for conflict mediation within communities. Therefore, BAPPENAS and UNDP partnered with Majelis Adat Aceh (MAA) and developed the Adat Capacity Enhancement (ACE) component of the Aceh Justice Project, in order to improve the quality of justice delivered through the informal system in Aceh. This project represents concrete steps towards strengthening access to justice for poor and marginalized communities in Aceh by improving the customary/community (*adat*) justice systems already existing in villages throughout the province.

I welcome this publication, which describe efforts to increase *adat* capacity through the “Aceh Justice Project”, which has successfully developed the Adat Justice Guidelines and has trained *adat* leaders from villages throughout Aceh on those guidelines. These guideline are very strategic, as they clarify the actors, procedures, and standards of fair and accountable *adat* justice in line with human rights principles.

I support and applaud the important work of UNDP and MAA on *adat* justice, and endorse this publication as a way of sharing the experiences, achievements, and lessons learned of the project with a wider audience, as a good practice, to be replicated in other parts of Indonesia as appropriate to their specific contexts.

Within the framework of partnership, I also applaud the support of donor agencies in working towards sustainable and government-owned results. Their role in complementing development programmes is important and should be encouraged through both regional and national development plans.

Once again, on behalf of the Government of Indonesia, I wish to thank UNDP Indonesia and the Government of the Federal Republic of Germany for their support, and to express my appreciation to the leadership of Majelis Adat Aceh, who has, and will continue to support the efforts to improve access to justice for the people of Aceh.

May this be beneficial for us all, Amen ya rabbal alamin.

Jakarta, November 2011

Armida S. Alisjahbana
Foreword

Leumoh hukom diatoe lee pangkat
Leumoh adat jahee raja
Lemoh gonun tinggai bak kalam
Leumoh reusam godoh budaya

Weak enforcement of law creates corrupt high officials
Weak enforcement of custom creates tyrant
Weak enforcement of Canon enjoys no power, but only the words
Weak courtesy and dignity lead to the loss of culture

Cooperation between the Aceh Adat Council (MAA) and the National Development Planning Board (BAPPENAS) under the support by the United Nation Development Program (UNDP) and the European Union (EU) since 2007 has resulted in significant contribution. The cooperation has helped MAA map the urgent needs for the Adat functionary capacity building and then proceeded to the making of concrete action plan for them.

One of interesting results coming out of the cooperation is the publication of the “Pedoman Peradilan Adat di Aceh” (Guidelines On Adat Justice in Aceh). The finishing process of the guideline had involved the participation of the representatives of Adat Leaders throughout Aceh, the academics, civil society representatives and the related officials of the government. The guidelines have widely been disseminated into Aceh community through capacity building trainings for the Adat leaders of village and mukim (village cluster) levels conducted in several districts and municipalities across Aceh, intended to raise their participation in exploring and laying down the pillars for effective, accountable, reliable and fair adat justice.

We the MAA warmly welcome the publication of the result of this jointly-made research, depicting the experiences during the process of this Joint Project - between MAA and BAPPENAS - supported by the UNDP especially in the formulation of the Informal Justice Guide Training and Adat Leaders Training. This research has suggested constructive presentation and inputs including some ideas of sound breakthroughs on the urgency for sustainable capacity building over Adat Leaders including strong encouragement for the female adat leader. We hope that the experiences that have been picked up in Aceh can be better expanded in Aceh and replicated in other regions throughout Indonesia - and overseas if necessary. The peaceful approach through adat values is hopefully able to respond to the need of the community to access the justice in this beloved land - in practical, affordable and dignified manners.

Banda Aceh, 4 February 2011

Badruzzaman Ismail, SH, M.Hum
Chairperson of the Aceh Adat Council
Nanggroe Aceh Darussalam
MESSAGE FROM THE UNDP REPRESENTATIVE

Access to justice is increasingly recognized as a necessary condition for peace and development, especially in poor and post-conflict settings. By ‘access to justice’, UNDP means “the ability of people, particularly from poor and disadvantaged groups, to seek and obtain a remedy through formal and informal justice systems, in accordance with human rights principles and standards.” Access to justice supports the consolidation of peace and the reduction of poverty by creating the conditions necessary to allow people to resolve legitimate grievances, which might otherwise lead to social conflict, and by facilitating people to access the protection and services guaranteed to them in an effective and expedient manner based on legal certainty. Access to justice is a vital part of the UNDP mandate to reduce poverty and strengthen peace and democratic governance.

In the Province of Aceh, citizens experienced both a 30-year-long conflict and the 2004 tsunami, which together killed more than 200,000 people and devastated the lives of another million people. In this context, UNDP Indonesia with the National Planning and Development Agency (Badan Perencanaan dan Pembangunan Nasional/BAPPENAS) conducted a comprehensive Access to Justice Assessment in Aceh in 2006 - 2007, and found a range of challenges that constrain the ability of formal and informal justice providers to handle grievances effectively. According to the assessment, a majority of Acehnese preferred the adat (customary/informal) justice mechanisms available in their communities for resolving disputes, in part due to the lack of human resources, capacity, and corruption in the formal justice system. At the same time, the adat justice system had various challenges, including lack of knowledge and capacity of customary (adat) justice leaders, absence of guidelines and common standards, discrimination against women and other vulnerable groups, ambiguity of jurisdiction divisions with the formal system, poor record keeping of the decisions, and insufficient accountability safeguards. Therefore, the assessment recommended a programme to engage with the adat justice system in Aceh, so as to improve the quality of justice delivered to people.

Out of these findings, UNDP, and the Government of Indonesia implemented the “Adat Justice Enhancement Component” as a part of the Aceh Justice Project (2007 - 2011) in partnership with the Aceh Customary Council (MAA). The project developed and distributed Informal Justice Guidelines, and trained thousands of informal justice practitioners across the province on these guidelines and case management. The guidelines and trainings have clarified the jurisdiction, processes, and actors of the adat justice system, and fostered respect for human rights principles in culturally sensitive ways. For UNDP Indonesia, working to improve the informal justice systems does not diminish the importance of formal justice systems, but is based on the recognition that informal justice plays a critical role for the lives of Acehnese people, particularly for the poor, and as such, strengthening access to justice cannot take place without creative engagement with this important aspect.

This study has been commissioned to document the processes, achievements and impact of this important project, and to draw lessons learned and recommendations for future programming and knowledge-sharing for access to justice projects in Indonesia and beyond. This endeavour is the first of its kind in Indonesia, and therefore represents not only a significant achievement, but also great potential for replication throughout the country. On behalf of UNDP, I thank the Government of Indonesia for the strong partnership on access to justice issues, and also thank the Government of the Federal Republic Germany for funding this important study.

El-Mostafa Benlamih
Resident Representative
Chapter 1: Introduction
1. Background on Adat Justice in Aceh

What is “adat”?

In Indonesia, *adat* is a term used to describe any form of customary rule, tradition, principle, history or practice. *Adat* can be based in fact or a developed notion of history, and generally draws upon social and natural wisdom to provide guidance to (largely rural) Indonesians in the structure and practice of their personal and community lives. The term *adat* is applied broadly to all concepts of tradition and history across the archipelago; however, the way in which *adat* has developed and is manifested varies greatly from island to island.

Throughout Indonesian history, *adat* has provided the basic structures and codes of governance from the village level to sultanates. At the local level, village elders assume positions of leaders, advisors and experts of a trade. Traditionally, these leaders were informally elected or appointed, and were responsible for ensuring peace and prosperity in the communities they represented through establishing and maintaining good relationships with neighbouring villages, providing spiritual guidance, determining planting and harvest seasons, and mediating disruptions to community life.

*Adat* history extends beyond the presence of modern religions in Indonesia. Animism, which is still followed in certain areas of the country, bears the greatest resemblance to *adat* in its original form. However, over the centuries, traders coming to the region have brought with them the teachings of almost all major religions, which have significantly influenced and altered the characteristics of *adat* customs. *Adat* as it is practiced now is an intricate mixture of the religious, socio-cultural, and traditional beliefs, which guard the parameters of social cohesion within communities.

‘Adat’ in the Context of Aceh

In Aceh, *Adat Istiadat* (customs) refers to a set of rules or actions based on Islamic Syariat, practiced, respected, honoured, and long-regarded as the philosophy of life. An *adat* institution, on the other hand, refers to a customary/community body established by certain *adat* law societies having control over a certain territory and possessing their own wealth. *Adat* institutions function as a means to guarantee the security, safety, harmony, and order of the community through preventive and repressive means, including: a) resolution of social-communal matters, and b) mediation (conciliation) and settlement of disputes within the community.

In 752 AD (173H), Islam was brought to Aceh by Middle Eastern traders, and its influence was spread throughout the region through strategic marriages to members of the sultanates. Over the following seven centuries of ongoing trade with the Arab world, Islam became entrenched in the customs and culture of the Acehnese kingdom, and the Acehnese people grew to view fundamental Islamic principles as their own history and tradition. By 1460 AD (881H), almost everyone

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*Mosques are central to Acehnese social and spiritual life.*
in Aceh was Muslim. In 1507 AD (913H), Sultan Alauddin Mansur Syah commissioned Qanun (local laws) Syarak Al-Asyi, which outlined the cultural regulations of the Acehnese kingdom, and was later refined by Sultan Iskandar Muda in Qanun Meukuta Alam.

These Qanuns became the modern basis for adat in Aceh, outlining the fundamental principles and local customs Acehnese adat enshrined. The Qanuns also laid the basis for community governance structures, which centred around the local Islamic clerics. In the past, one mosque would draw its congregation from the surrounding villages. Four to 13 villages could be included within the boundaries of one mosque's territory, in an area referred to as the Mukim, and the Imeum Mukim (the Head of the Mukim) was responsible for overseeing the governance of the leaders in villages under his authority. Day-to-day affairs within the villages would be directly attended to by the village adat leaders, comprised of one village leader (Geuchik), an advisory council for the Geuchik made up of village elders (Tuha Peut), and a village secretary. For generations, these informal structures—or adat institutions—were responsible for providing community justice throughout the region, adopting wisdom from their own experience in their governance, and expanding the scope of what adat in Aceh could entail. Adat leaders carried a natural authority over communities, and were elected and appointed in villages because of their perceived ability to contribute to the overall growth and harmony of the communities they represent.

‘Adat Justice’ in Aceh

As defined by the Aceh Provincial Regulation (Qanun), 7/2000 Concerning the Maintenance of Adat Life, Hukum Adat (adat law) refers to Acehnese customary law as it exists and develops in the Acehnese community. For centuries, Acehnese people referred their disputes and grievances to their adat leaders, and their cases were handled based on adat law. As such, adat justice has been the main, if not the only, channel of accessing justice for people in Aceh.

A clear legal foundation for the basis of adat law in Aceh was transposed under Dutch colonization, which established distinct strata for delivering justice in the East Indies archipelago. “Native Courts”, responsible for handling local cases involving indigenous people, based on adat, were formally recognized by the Dutch as the village justice system. After independence in 1945, adat was informally recognized within national laws as an alternative option for mediation at the village level, although Soekarno adopted formal justice systems at the national level based on the inherited European system. As a result, adat leaders continued to provide informal mediation of community disputes according to their regional beliefs and practices.

However, adat customs and institutions within Acehnese communities have been weakened in recent decades for at least three reasons. First, under the Soeharto regime, the transmigration policies adopted to unify the nation under one identity seriously impeded the practice of localized traditions and customs. Soeharto issued a number of laws and regulations promoting the spread of Javanese culture across Indonesia, including a transmigration programme and homogenization of local systems of government to conform with the Javanese system of Kepala Desa (village leader) and Camat (subdistrict head). Local adat systems of government were replaced, and adat teachings disappeared from formal education and local ceremonies. This was accentuated by the new processes by which adat leaders were selected for village leadership positions. In 1999, when the Law on Special Autonomy in Aceh was instituted, village governance structures were already subject to the democratic processes that had been returned to Indonesia at the national and district levels. This meant that Geuchiks, as village heads and leaders of the village adat structures, no longer adopted the position based on their knowledge and embodiment of adat wisdom, but were elected as village government representatives. In most villages, this meant that the head of the adat structures had limited or no knowledge of the adat history and principles they were meant to uphold in the governance of village life, and in mediating community disputes.
Second, the conflict that ravaged Aceh from the mid-1970s had displaced the adat institutions. At its peak, the conflict completely restricted the movement of Acehnese. Village communications and social events (like the traditional gotong royong) were limited by the threat of violence both within villages and, more predominantly, in the less-inhabited routes between villages. The three main parties involved in the conflict – the police, the national military, and the Aceh Freedom Movement (Gerakan Aceh Merdeka/GAM) – were struggling for power over the territories under their control, which forced formal and adat leaders to concede to their authority and replaced adat governance with the practices adopted by the controlling party.

Lastly, the earthquake and tsunami that ravaged the northern and western coastal regions of Aceh in December 2004 further damaged the adat justice administration in Acehnese communities. Within the context of the conflict, many community-based legal issues, such as ownership of land, marriages, inheritance and divorce, had been determined through local processes, led and witnessed by adat leaders. Most did not have written documentation supporting the decisions taken, and most written documents that had existed had been destroyed or carried away by the tsunami. In addition, many of the adat and other village leaders who had borne witness to village-level decisions had been killed by the tsunami. The shortage of adat leaders, in turn, has reduced the number of adat dispute settlements. Given that the majority of Acehnese people seek and obtain justice through adat procedures, such loss of adat justice practitioners has led to lack of access to justice for many Acehnese people.

2. UNDP-BAPPENAS Aceh Justice Project

In the first years following the tsunami and peace agreement, a variety of grievances emerged in Aceh, stemming from settlement of claims related to the tsunami and conflict. Common grievances included lost or destroyed property, land claims, inheritance disputes, unequal aid distribution, lack of assistance for vulnerable and marginalized groups, gender and family violence, and conflict-related human rights violations. These claims were met by a justice system unable to accommodate the need for expedient and fair trials required to continue the reconstruction process. The courts had suffered significant losses, both in human resources and documentation, and proof of ownership for property claims secured orally was lacking. The lack of clarity concerning land boundaries and ownership resulted in delays in reconstruction of housing, basic infrastructure and commercial spaces, all of which were desperately needed in the aftermath of the tsunami.

Despite the logistical problems the emerging claims caused in the reconstruction process, the situation in Aceh created an opportunity for institutions (both national and international) to redevelop systems that could better meet the needs of the government and the people. In 2006, the National Planning and Development Agency (Badan Perencanaan dan Pembangunan Nasional/BAPPENAS) and UNDP Indonesia conducted an extensive assessment of justice needs in Aceh to identify the challenges faced by poor and marginalized populations in accessing justice, and shortcomings in the capacity of both formal and informal legal institutions to provide basic justice facilities.

The assessment found that all three legal systems in Aceh (national, religious (syariah) and adat) contained deficiencies that were obstructing access to and the administration of justice, and confirmed that the majority of Acehnese people preferred the adat justice mechanisms available in their communities to resolve their disputes over the formal justice system. These reasons varied, but included accessibility (financial, geographic, cultural, intellectual), a focus on restorative justice, the capacity for quick resolution, and overall perceived fairness and relative freedom from corruption, which often enable better access to justice for poor and marginalized groups than the formal system can provide. Adat justice was found to be the ‘system of choice’ for most Acehnese people in dealing with disputes, family matters, community problems, land and resource issues, and, usually, many other issues. The assessment also noted that adat’s fluidity was in fact one of its strengths, as
it allowed adat leaders to remain flexible in the assessment of culturally-appropriate justice needs when handling disputes in their villages.

At the same time, the assessment identified various challenges to ensuring fair and accountable justice in the adat system, including a lack of knowledge and capacity of the adat justice leaders, absence of guidelines and common standards, discrimination against women and other vulnerable groups, ambiguity of jurisdiction divisions within the formal system and insufficient accountability safeguards. In particular, it noted that “the lack of clarity regarding jurisdiction and the absence of a minimum set of procedural standards had the potential to severely compromise the rights of disputants in execution”\(^8\). As a result, the degree to which adat justice systems in Aceh contributed to better access to justice and increased realization of rights was inconsistent, and there was a risk of providing ‘poor justice for poor people’ through adat. Therefore, the assessment recommended engaging with the adat justice system in Aceh, so as to improve the quality of justice delivered to people in the communities.

In this context, the Aceh Justice Project (AJP) was launched by UNDP-BAPPENAS in 2007 to respond to the deficiencies in the justice system in Aceh that were identified in the Access to Justice Needs Assessment. The overall objectives of AJP were to: improve the normative framework of laws, procedures and government institutions; increase legal awareness and ability to access justice; and strengthen the institutional capacity of formal and informal justice systems\(^9\). The AJP adopted a broad range of access to justice initiatives in coordination with local government, CSOs, universities, and other relevant stakeholders, including capacity development for formal courts, a legal awareness raising campaign for the public, anti-corruption efforts, provision of legal aid and paralegal services, and, last but not least, capacity enhancement of adat justice systems.

The “Adat Capacity Enhancement” (ACE) component of the AJP was developed to improve the quality of justice delivered through the adat system, which constitutes a community-based justice system. For UNDP Indonesia and BAPPENAS, working to improve the adat justice was not to diminish the importance of the formal justice systems. Rather, it is based on the recognition that the adat system, derived from the local wisdom of the various ethnic groups in this vastly plural nation played a critical role in strengthening access to justice, particularly of the poor and marginalized, and thus it was impossible to increase people's access to justice without engaging with the adat justice system. As the next chapters will show, the project developed and distributed Adat Justice Guidelines, and trained thousands of adat justice practitioners on these guidelines and case management. The guidelines and trainings have helped to clarify the jurisdiction, processes, and actors of adat justice system, while fostering respect for human rights principles in culturally sensitive ways.

3. About this Study

Study Rationale

While several UNDP programmes on access to justice in the Asia Pacific region have been working with community-based (informal, non-state, or customary\(^9\)) justice institutions (e.g. Afghanistan, Indonesia, Pakistan, Timor Leste, etc.), demand still remains from policy makers and development agencies in the region to understand the practical implications of working with pluralistic legal systems and community-based justice systems to better target strategies on access to justice to the poor and disadvantaged.

In this context, UNDP Indonesia has commissioned this study to document the processes, strategies and successes of the collaboration between AJP and the Aceh Customary Council (Majelis Adat Aceh, MAA) in implementing the ACE project, as well as the impact of such support to improving community-based justice systems in the target communities. This study is not intended to serve as
an academic or theoretical contribution, but to provide a practical example of engaging with this important subject on the ground. It is also intended to draw lessons learned and recommendations for future programming and knowledge-sharing for access to justice projects. It is hoped that this project can inspire many other innovative engagements with community-based justice systems elsewhere in Indonesia and beyond.

**Methodology**

This publication has been prepared by an external consultant with the support of UNDP, MAA, and AJP staff. First, based on an extensive review of the project and the overall UNDP-BAPPENAS strategies on access to justice, the study design and background analyses were developed. The research team, consisting of one international and two national consultants, then conducted a field survey over three weeks in 35 villages from five districts in which the UNDP-supported MAA trainings had been delivered to adat leaders. Funding was provided by the Federal Republic of Germany through the Global Programme on Access to Justice administered through UNDP HQ. The team used the survey guidelines included in Annex B to inform the direction of in-depth interviews and focus group discussions carried out with representatives from MAA at the provincial and local levels, adat leaders, and UNDP staff involved in the project. The survey guidelines were developed to generate insights into the “Guiding Themes and Questions for Research and Publication” included in the Terms of Reference for this study. The research team also conducted a desk review of all internal documents pertaining to the AJP and ACE project, including the baseline and end line surveys, the original project document, mid- and final evaluations, and narrative reports from MAA, to triangulate the survey findings with quantitative data and contextualize project successes and achievements.
Chapter 2: Development of the Adat Capacity Enhancement (ACE) Project

The ACE project was established in 2007 to work directly with adat justice actors in strengthening their ability to extend fair and accountable community-based justice at the village level. In the first year of the project, ACE conducted a more focused survey on informal justice providers (as a complement to an earlier assessment on access to justice), so as to assess their capacity in handling disputes and grievance cases for their villagers; perceptions of communities toward the effectiveness of adat leaders in mediating disputes and conflicts at the village level; and the capacity of adat institutions in supporting adat justice administration across the province.

The survey found that great discrepancies existed in the adat leaders’ knowledge of mediation, conflict resolution and justice principles, despite being called on regularly to mediate disputes within their communities. At the time of the assessment, very little attention was being paid to adat as an integral structure within Acehnese communities, and few projects had been introduced to strengthen the capacity of adat representatives as community leaders.

1. Choosing the Right Partner

Based on the findings of the two needs assessments carried out between 2005 and 2008, UNDP identified the Aceh Customary Council (Majelis Adat Aceh, MAA) as the most suitable partner for developing a programme to strengthen the reach and capacity of informal justice provision in Aceh.

MAA was established in 2003 as the official custodian of adat in Aceh, growing out of the Aceh Institute for Adat and Culture (Lembaga Adat dan Kebudayaan Aceh/LAKA). LAKA was founded in 1959 by Governor Ali Hasjmy to preserve and promote Acehnese culture within Indonesia. However, at the national conference held in 2003, the LAKA executive board found that too much emphasis was being placed on Acehnese culture, which was also promoted by the Cultural Department and Tourism Board, and that adat, one of the three pillars of special autonomy granted to Aceh in 1999 by President Habibie, was being overlooked.

Within the Indonesian context, MAA is unique to Aceh. MAA has a Secretariat in Banda Aceh, with representative offices in every district capital, and is present less formally at the subdistrict and village levels. This structure was legally supported in 2004 through Local Regulation (Qanun) No. 3 on Adat Governance Structures. No other province or region in Indonesia has established a formal body to regulate adat affairs.

Most importantly, MAA had already demonstrated a strong commitment to executing capacity development programmes for adat leaders in Aceh. In 2005, MAA had begun holding workshops with adat leaders on adat history, customs and practices, with a vision of reviving adat wisdom in Aceh to strengthen the moral foundation of communities. Ninety-five percent of the respondents surveyed through the aforementioned UNDP informal justice providers needs assessment found the MAA sessions useful. At the same time, MAA had very little funding from the provincial government (and thus limited human resources) to undertake a large-scale programme. At the time of the needs assessment carried out by UNDP, only 2.5% of adat leaders had attended the trainings. At this rate of delivery, UNDP...
determined that it would take MAA 115 years to engage all adat leaders in Aceh. Furthermore, MAA had never partnered with a development agency before, and needed external support in terms of finances and strategic advisory services for their own institution building. While the commitment and formal mandate for promoting adat’s role in Acehnese community life was present, MAA lacked the practical skills in training development and delivery, and had limited access to best practices that could support more meaningful trainings for adat leaders in relation to the roles, parameters and jurisdiction they could assume.

The fact that this legally-recognized institution existed prior to UNDP’s engagement and UNDP was welcomed as the first partner provided the springboard from which UNDP and BAPPENAS could develop a meaningful and locally-owned programme to improve informal justice in Aceh.

The ACE project established a Project Management Unit (PMU) within the MAA secretariat offices to work directly with the MAA Executive Board and the Head of the Legal Office to develop a comprehensive programme on adat justice. Based on the needs assessment results and consultations, the programme set its objective as improving the informal justice system in Aceh by clarifying the jurisdiction, role, and process of adat justice through the following: strengthening the legal basis for adat justice and MAA; developing a detailed set of guidelines on adat justice in line with international human rights and women’s rights standards, and finally formulating and implementing interactive trainings for adat leaders in 10 districts.

2. Establishing a Clearer Legal Basis for Adat Justice

Prior to AJP’s involvement in the adat justice project, the mandate to preserve adat practices had been outlined in provincial laws (Qanuns) concerning the special autonomy of Aceh. Below is the list of the key provincial legal provisions on adat justice in Aceh:

1. National Law No. 44/1999 concerning the Special Status of Aceh Province, Art. 6 and Art. 7 grant the province of Aceh the authority to practice adat in accordance with Islamic law.
2. Local Regulation (Perda) No. 7/2000 concerning Adat Life Practices states that “adat institutions function as a means to guaranteeing the security, peace, harmony and order of society,” and outlines the duties of adat institutions to facilitate the resolution of social and community issues as acknowledged by local law enforcement (Art. 5, 6, and 10).
3. Local Regulation (Qanun) No. 4/2003 concerning Mukim Governance in Nanggroe Aceh Darussalam Province authorizes mukims (head of a Mukim) in decision-making and/or drafting laws; maintaining and developing adat; facilitating adat reconciliation; resolving and taking adat-based decisions on disputes and adat violations; granting legal endorsement to certain matters and other types of evidence according to adat; and resolving cases related to adat or tradition.
4. Local Regulation (Qanun) No. 5/2003 concerning Gampong Governance in Nanggroe Aceh Darussalam Province outlines the duties and obligations of the village administration to resolve adat disputes; protect and conserve adat and tradition; maintain peace and order; prevent immoral acts; and assist the Tuha Peut and Imeum Meunasah in effecting peaceful resolutions of disputes.
5. National Law No. 11/2006 concerning the Governance of Aceh, Chapter XIII on Adat Institutions states that the resolution of social-communal issues shall be attained through adat institutions [Art. 98, para. (2)].

However, while these regulations clearly give adat leaders the legal authority to resolve disputes at the community level, the exact jurisdiction of adat law and the parameters of recourse afforded to adat leaders through this system remained unclear.
To address this ambiguity, AJP therefore worked with MAA to develop a clear set of guidelines (called “Adat Justice Guidelines”) governing the jurisdiction, processes and recourse afforded to adat leaders. At the same time, two additional regional laws were developed with UNDP-MAA inputs to support MAA’s authority to develop and to execute clear parameters for adat justice, and to formalize the parameters outlined in the Adat Justice Guidelines.

MAA’s legal staff drafted the bills over a period of two months, adhering to the national laws on the proper development of regional regulations. The legal basis for MAA was developed from international best practices on traditional councils as well as MAA’s own institutional mandate. Once the bills were drafted, MAA hosted a series of focus group discussions (FGDs) with representatives from academia, civil society, women’s groups and government agencies before submitting the drafts to the Governor’s Office for harmonization and to the provincial parliament for deliberation.

In this process, AJP’s coordination with other UNDP initiatives in Aceh, particularly the Aceh Governance Transformation Project (AGTP), was essential to getting these laws passed. The AGTP worked with the Legal Bureau in the Governor’s Office to expedite the passage of prioritized regulations considered integral to supporting development of the Acehnese province post-conflict and tsunami. The laws drafted by MAA were considered important in establishing the clear authority and function of adat leaders, who were already working in villages as mediators, as a means to provide fair, accountable, accessible and affordable justice for the communities they represent. Thus, they were prioritized in the provincial legislation programme for immediate deliberation.

These two draft laws were promulgated as two new provincial regulations:

1. Local Regulation (Qanun) No. 9/2008 concerning Support to Adat Life Practices states that the implementation, support and development of adat life shall be executed through government regulations and community/government forums; disputes arising at village and mukim levels shall be resolved through adat; and all formal justice providers shall allow adat justice leaders to handle the resolution of relevant crimes and disputes before referring to the formal justice systems. This law laid the legal foundations for formal coordination between adat justice providers and state justice institutions.

2. Local Regulation (Qanun) No. 10/2008 concerning the Aceh Customary Council (MAA) stipulates that MAA is the custodian of adat life in Aceh, and is an autonomous and independent government partner at all levels of government extending to the village level. This regulation was integral in unifying what had previously been a loose adat structure, responsible only to the communities they represent, under the auspices of MAA’s jurisdiction.

It is important to note that these local laws formalized, rather than codified, the jurisdiction and authority of adat in Aceh. This was an intentional strategy employed by UNDP and MAA to ensure continued flexibility in the execution of adat practices at the local level, while providing legal parameters within which they could operate.

Combined, these two laws provided clarity for the administration of community justice by adat leaders, and established MAA as the legal representative for adat priorities across the province. This represented a shift in the unity of adat institutions in different regions of Aceh, which had previously been resistant to assembling under a provincial institution due to the variances in ethnicity and culture.

However, once the authority of MAA as the custodian for all adat practices in the province was formalized through this new provincial regulation, adat leaders from all ethnicities in Aceh began to recognize the benefits the institution could provide them in enhancing their political representation to the provincial government and developing their practical governance and leadership capacities. Therefore, UNDP-BAPPENAS support through AJP helped establish a legal and institutional basis to improve adat justice in Aceh. This is one of the most unique and successful factors of the programme.
Chapter 3: Adat Justice Guidelines

1. Development of the Adat Justice Guidelines

At the commencement of the ACE project with MAA in 2008, adat leaders in Aceh already held formal positions of leadership in village governments (through the Geuchik and Tuha Peut), with the task to resolve community disputes through adat law. However, as discussed in the previous section, the exact parameters and jurisdiction of adat law were neither clear nor uniform throughout the province. Therefore, with UNDP-BAPPEANS support, the ACE project worked on the development of comprehensive guidelines clarifying the actors, core principles, jurisdiction, and processes of adat justice administration, including the processes through which adat justice should interact with the formal justice system depending on the type of case.

To ensure the acceptance and ultimate success of these guidelines among adat leaders, government officials, and law enforcement agencies, ACE project staff and MAA officials identified overarching principles that represented the essence of Aceh’s adat beliefs that were compatible with modern legal principles. Leading academics in adat law and history were extensively engaged in this process through a series of discussions and interviews. Principles on standard adat governance structures employed. The involvement of these experts was important for lending credence to the validity and authority of the guidelines among authorities and village-level adat leaders.

The results of the exploratory sessions with adat experts were complemented by analysis of all relevant legislations regulating adat in Aceh as well as field research to observe the current capacity of adat justice providers in practice. International best practices on traditional justice systems were also reviewed to support the objectivity and innovation of the guidelines.

A draft of the guidelines was tested in a workshop with the Chair of MAA, adat leaders representing all target areas from the needs assessment, the Head of Nanggroe Aceh Darussalam Islamic Syariat Agency, and representatives from the Banda Aceh District Court, District Attorney, Syariah Court, Reconstruction and Rehabilitation Agency (Badan Rekonstruksi dan Rehabilitasi/BRR), United Nations Food and Agricultural Organization (FAO), Oxfam, the Aceh Judicial Monitoring Institute (AJMI), the International Development Law Organization (IDLO), academics from Universitas Syah Kuala (UNSYIAH), Aceh Adat Communications Network (Jaringan Komunikasi Masyarakat Adat Aceh/JKMA), Aceh Legal Aid Institution (Lembaga Bantuan Hukum/LBH Aceh), the Aceh Chapter of the Legal Aid Institution for Women’s Justice (Lembaga Bantuan Hukum Asosiasi Perempuan Indonesia untuk Keadilan/LBH-APIK) and Indonesian True Friends of Women (Mitra Sejati Perempuan Indonesia/MISPI).

This workshop was followed by in-depth discussions with adat justice practitioners on a number of key issues related to implementation procedures at the village and mukim levels. Furthermore,
Involving All Parties in the Resolution of Village Disputes

The village of Padang Hilir, in Southwest Aceh, offered one of the best examples of how adat can be used as a tool not only to resolve specific civil cases that arise in villages, but also to increase the level of harmony within a community.

Hasanuddin, the Geuchik in Padang Hilir, was in the middle of dealing with a dispute between two families in his village when he attended the MAA-facilitated training in Blang Pidie. In his village, what had started as a small quarrel in the market between two women had grown into a heated feud, with the rest of their families getting involved. A week prior to the training, the women had gotten into a particularly intense argument in front of their houses. Ultimately their husbands also got involved, with blows exchanged. One of the husbands went into his house, retrieved a knife from the kitchen, and came back swinging the knife at his neighbour and threatening their family.

At this point the Geuchik was called. Padang Hilir is a small village of around 100 households, and this type of problem between neighbours had the potential to split the entire community. He called both couples to his house to mediate the problem and urged both parties to find a reasonable solution. “Adat has always been involved in resolving small-scale conflicts that arise in our village,” Hasanuddin said in an interview following the training. “But it hasn’t been effective yet. I tried to mediate discussions twice with the couples, but the guy who had been threatened was too scared. He wanted to report it to the police.”

Two days prior to our meeting, the case had been formally registered with the police. “The police asked [the threatened party] to allow the adat system to resolve this. He has agreed, probably because the police now know about it,” said Hasanuddin. People still feel that their cases are more official when they are documented by the police, because repeat offences can be dealt with more harshly. Adat has traditionally relied on the memory of the community to ensure case decisions are implemented.

a second workshop was organized to give stakeholders the opportunity to provide input into the guidelines, which led to several important changes, including the use of simplified language to accommodate the needs of rural communities. Lastly, a meeting was held between several members of MAA and a small number of adat leaders and representatives to ensure that the draft was implementable, before finalizing the guidelines’ content and design.

2. The Guidelines

The finalized Adat Justice Guidelines provides adat justice practitioners with a comprehensive outline of the principles, relevant laws, village justice structures, dispute and resolution procedures, negotiation techniques, execution strategies, referral mechanisms to formal justice institutions and women’s participation in adat justice systems.

The guidelines outline basic principles for adat justice: acceptability, consensus, accountability, transparency, equality before the law and non-discrimination, competence and authority, accessibility, pluralism, voluntarism, presumption of innocence, peaceful resolution, and proportional justice; as well as standard principles and procedures for mediation. These principles for adat justice and mediation transcend localized interpretations of adat beliefs and are broadly in line with national and international justice standards. They also offer insight to adat leaders concerning the behavioural and professional attributes expected of them in their role as community leaders, and emphasize the importance of providing fair and impartial hearings to minority groups within their communities.

Official Yet Flexible Structure

Building from the legal basis at the provincial level stipulating that village and mukim institutions are responsible for the administration of adat justice throughout Aceh, the guidelines clarify the official adat justice structure that must be present in order to provide impartial and fair dispute resolution. The full adat justice structure includes the village head (Geuchik), local cleric (Imeum Meunassah), and village elders (Tuha Peut - at least one of whom must be female), who have direct access to state, adat and religious systems for conflict resolution and community governance.

This official structure, however, intentionally reflects and builds on the pluralist nature of adat structures
that make *adat* so influential at the community level. The *Tuha Peut* council in particular acts as a mechanism for representation of the variety of groups present in a community. The first point of contact specified in the guidelines for claimants is the *Geuchik*, who is responsible for calling together all parties involved in community-level disputes. However, should a claimant feel more comfortable with other members of the *adat* justice structure, a claim can enter the system through other leaders.

This flexibility affords villagers the opportunity to approach the *adat* leader or village elder who they feel best represents them, without jeopardizing the importance of their claim. Ostensibly, this flexibility was accorded in the guidelines to accommodate the special needs of women seeking female representation, particularly for claims involving domestic abuse, but can also be employed in special cases in which the claimant feels religious representation is preferable, or in which minority groups in the community are concerned.

*Clarification of Jurisdiction Between the Adat and the Formal*

Though *adat* leaders in the past may have been involved in mediating a host of crimes which transpired in their villages, including severe offences such as rape or murder, the Aceh *Adat* Guidelines clearly stipulate the cases over which *adat* has jurisdiction, and those which must be referred to the formal justice system by reporting to the police. Such clarification of jurisdiction between the two systems is ground-breaking, as it has never been done before.

The guidelines include 18 petty cases and misdemeanours that are the most prevalent crimes arising in villages, and which have the greatest impact on the social cohesion of communities. Cases under *adat*’s jurisdiction include land claims; regulations concerning agriculture; individual or group disputes and fights; family legal issues such as marriage, divorce and inheritance; and petty theft. The guidelines clearly stipulate, however, those cases that do not fall under the jurisdiction of *adat* justice, such as rape, adultery, abduction, serious traffic accidents resulting in death, and armed robbery.

3. Procedures of Adat Justice

Once a claim is reported to an *adat* leader, consultations are held with the parties involved, and other *adat* leaders

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“This training has helped us a lot, because the types of disputes that fall under the jurisdiction of *adat* leaders are clear for everyone. Before, people had different ideas about how far *adat* could go in resolving civil suits. But now the police know that we can really help them, and that’s given us more credibility.”

Geuchik Hasanuddin from Padang Hilir village recounts the mediation process to resolve issues between two families in his village after the MAA training in Blang Pidie.

The case was brought back to the community. Since prior attempts to resolve the dispute had proven unsuccessful, the *Imeum Mukim* and several other clerics and elders from the village had been asked to join the proceedings. “We invited the entire families on both sides. Often, those who aren’t as emotionally connected to the feud can influence their relatives, because nobody wants problems in the village. The Babin responsible for our village was invited too as an observer. This made it easier to work out an agreement.”

The village and *mukim adat* leaders spent five hours discussing the problem with both parties and their families. They discussed the impact of the fight on the whole village, and presented *adat* and religious stories to illustrate the need to forgive and forget, for the benefit of their own health and safety. Ultimately, both sides were able to come to an agreement. The offending party was asked to make a formal apology to the family of the claimant, and both families were required to host a feast together for the whole village, to show the community that they had made amends.
are briefed on the details of the case. If the dispute cannot be reconciled through initial mediation, a closed hearing will be called by the Geuchik, to which all members of the adat leadership and both parties are summoned. This inclusive approach has been formalized in the guidelines to ensure the impartiality and fairness of the hearing. The communities most prone to using adat justice systems tend to be small rural villages or hamlets, where villagers, especially village leaders, are well-acquainted with one another, either through social interactions or family ties. Ensuring village justice is able to provide unbiased decisions in cases involving their neighbours must involve a larger collection of leaders to mitigate personal relationships which could otherwise result in subjective rulings.

The hearing structure is therefore constructed with the Geuchik facilitating the proceedings, the Tuha Peut and Imeum Meunasah present to deliberate both the issue and the potential recourse, and the Village Secretary to record the proceedings. Both parties must be present, and in many cases the families are invited to bear witness to the hearing.

Once a decision is taken, and recommendations or sanctions presented to one or both parties involved, the conclusion of the case is formally written and signed by all attending parties. The document includes the names of all parties, the official complaint or claim, details concerning the evidence presented (if any), a chronological account of the events of the case, the decision taken, and the steps for executing the decision. The guidelines stipulate that copies of the report are to be submitted to the police and subdistrict head to ensure all parties are informed of the decision should any further disputes arise between the claimant and the defendant.

4. Sanctions

The sanctions delivered by adat justice providers are often developed to ensure the ongoing harmony of the larger community. In the past, these could include brutal physical punishments, such as lashings, beatings and torture, or soaking in unclean water, meant to humiliate the perpetrator and deter future repetition of the crime. Given the historical proclivity to this sort of severe punishment, MAA and ACE referenced international human rights principles in the guidelines to limit the type and extent of sanctions that are applicable under adat law.

As per the guidelines, adat leaders may choose to provide advice or warnings, impose compensatory fines, revoke an adat title, require a public apology, or demand social isolation or exile from the community. Though not included in the guidelines, kerja bakti, comparable with the English concept of community service, is often implemented as a punishment, as it is a visible method of atonement and allows perpetrators to re-establish ties with their neighbours.

5. Appeal Mechanism

The Aceh Adat Justice Guidelines have also provided a clear appeal mechanism in adat justice, to strengthen people’s access to justice both within and beyond the adat system. Should either or both parties be dissatisfied with the outcome of an adat hearing, they must provide a written statement of their dissatisfaction to the Geuchik to request an appeal. The case is then referred through to the mukim, which functions as the appellate court for adat justice. The procedures for hearings at the mukim level are similar to those at the village level, and include the Imeum Mukim as the leader of the proceedings, the Tuha Peut Mukim, Imeum Chiek, the Mukim Adat council (MAA at the subdistrict level) and other academics or clerics from the mukim as deemed necessary. Cases involving more than one village (such as land claims resulting from the redrawing of boundaries or physical conflicts involving individuals from two or more villages) are also handled at the mukim level, with direct involvement of the Geuchiks from each village in the hearing.
If the village and *mukim adat* structures are unable to come to a satisfactory resolution, the guidelines stipulate that the case shall be reported to the police for further investigation and follow up. Police can also be engaged at earlier stages of the justice process if the safety and security of either party is at risk.

6. Special Provisions for Women and Children

While women have equal access to the *adat* justice system outlined above, the guidelines attempted to provide safeguards for the protection of women and children in *adat* justice administration. The guidelines require at least one female representative be included in the *adat* structure as part of the *Tuha Peut* or to be appointed by the *Geuchik*. Alternatively, a female claimant can report an incident to a formal *adat* justice provider’s wife or any local female authority, who in turn will notify the *adat* justice provider responsible for handling the case. If such reports are brought directly to male *adat* justice providers, then these men are required to refer the cases to their wives or other female authorities for preliminary investigation.

The involvement of women in these initial stages is crucial in the socio-cultural context of Aceh, as they have the necessary communication skills and knowledge of women’s issues, and female victims tend to feel more comfortable discussing their personal problems with other women. Culturally, women in most Acehnese communities generally do not feel comfortable with speaking directly with a man or speaking in a group setting where men are present. In this way, the guidelines try to ensure that the most complete possible information can be gathered in preparation for hearings.

However, in cases of domestic abuse, and sometimes divorce, where women may require additional protection from the perpetrators, the guidelines stipulate that security must be maintained from the day a complaint is filed, through inquiry and investigation, hearings and trials, and even after disputes have been settled. Following the successful resolution of a case, *adat* justice providers must monitor perpetrators to ensure against recurrence. Further more, the guidelines require that when *adat* justice providers are unable to guarantee a victim’s safety, or when there are threats on a victim’s life, the case and all details pertaining to threats to a woman’s personal safety must be reported to the police. Similarly, when *adat* justice mechanisms are used to resolve cases involving women and children, the guidelines emphasize special considerations and safeguards need to be put into place, so that victims do not feel pressured into accepting *adat* decisions against their interests.

7. Prevention of Recurrence

In line with the main principle of preserving social harmony and restoration, the guidelines require that once *adat* decisions are accepted by both parties, they are to be documented in a letter of agreement, highlighting the perpetrator’s vow never to commit violent acts again. The letter also stresses that if a perpetrator does repeat his misconduct, then *adat* justice providers will take special measures for the protection of victims, including reporting violations to the police.
Chapter 4: Coordination and Collaboration with the Formal Justice System

Before the establishment of the ACE project and the formal partnership between UNDP and MAA, adat leaders, including MAA staff at the provincial level, had initiated discussions with government and police officials to increase their understanding of adat’s role in the provision of alternative, community-focused justice. This was aimed to increase the coordination and collaboration between the adat and the formal justice system for more effective justice administration at the community level. MAA started socializing the policy changes affecting adat’s role as an extension of government and law enforcement structures in 2003. These meetings were largely informal, and MAA representatives were not perceived as viable contributors to the justice system in Aceh. No significant changes to the cooperation between adat and these state institutions was found.

In 2004, MAA took the initiative to hold a coordination forum with representatives from the provincial government and police authorities to develop a Memorandum of Understanding (MoU) detailing the roles and jurisdiction of each of these authorities. In a second forum organized one year later, the draft of this MoU was presented, but was ultimately not signed by either the police or the government, and discussions concerning a formal partnership agreement dissolved. The coordination forum was only held twice, because MAA did not have the financial capacity to continue formal discussions with the state agencies. It is suspected that the reluctance by both the police and the government to coordinate with adat representatives was a result of the political climate in Aceh at the time.

After the Helsinki Peace Agreement was signed, however, major reforms were implemented with in the structure of the police force in Aceh. The first was a re-alignment and re-education of their staff at all levels, to increase their ties and interactions with the communities under their jurisdiction and to impress the importance of upholding human rights in their work. 25

The second change to the law enforcement system was the introduction of a community policing system, as part of the police reform and ex-combatant re-integration programmes supported by the International Organization for Migration (IOM). This established a direct link between communities and the police by assigning one officer (Village Support Sergeant - Bintara Pembina Desa/Babin) to every village and one community counterpart to each officer. In most districts of Aceh, these systems have been set up broadly, with legal and security trainings extended to the community police representatives for each village. Interaction between subdistrict police and the communities under their jurisdiction is then maintained on an ongoing basis through formal interactions and reporting between the Babin and the community representative, and informal interactions in which police allocate time to socialize with the communities assigned to them.

The concurrent strengthening of adat and police institutions was crucial to the success of both projects. Without reforms within the police, the attempts to strengthen the ability of adat leaders to apply the skills learned through the MAA/UNDP trainings would have been minimized. Likewise, without the strong non-state justice structures provided by adat to deal with the frequent misdemeanours committed at the local level, the police would have had to maintain a more hard-line presence in communities to contain villagers.
Aceh Peace Process Support (APPS) from the European Commission provided comprehensive funding for both UNDP’s Aceh Justice Project and the community policing programme implemented by IOM. As a result, UNDP and IOM met on a monthly basis to discuss the developments and challenges they faced in executing their projects, and worked to harmonize their programmes under APPS. This gave UNDP access to all levels of police authorities, which was used to facilitate outreach and socialization by MAA. In addition, UNDP’s Aceh Governance Transformation Programme (AGTP), which was established in 2006 to provide technical assistance to the provincial government, provided UNDP with links to key government agencies that facilitated the formal support to MAA and adat leaders in developing adat justice.

At the beginning of the partnership between MAA and UNDP, these networks were used to involve key government and police officials in the development of the guidelines. Once strong networks were established, ongoing coordination between MAA and provincial and district level police was secured in the formal training structures of both institutions.

As further elaborated in the following chapter, in a typical adat leader training of ACE, MAA representatives are invited to the police training facilities to provide a half-day session during initiation trainings on the role of adat justice and interactions between adat and state justice providers. Likewise, representatives from district police offices are invited to MAA trainings for adat leaders to present the principles and structures of the community and formal police systems, and to generally introduce themselves as willing justice partners for the Geuchiks in their district. As a result, UNDP-ACE increased networks between MAA, the provincial and district police, and the government has strengthened the ongoing coordination between the police and MAA.
Referral Mechanisms from Adat to Formal Justice

As discussed in the previous chapter, the guidelines provide a clear division of jurisdiction between adat and state justice systems depending on the types of cases. Nevertheless, this distinction in practice can become blurred as petty cases escalate into more serious crimes. This is particularly the case in districts where the community police system has not yet been introduced; in those places, the onus for maintaining communication with police typically falls to the Geuchik or the Imeum Mukim,
depending on the severity or progress of the case. Formally, this is done through the submission of documentation relating to the case; though often reports are made verbally in direct meetings with the police at the local police station or in the village.

In districts where the community police system has already been implemented by IOM, the structures for maintaining communication concerning cases under adat jurisdiction are clearer. If a case requires a formal hearing by adat leaders, the Babin assigned to that village is invited to attend the proceeding as an observer. In such cases, the Babin is not assigned a specific role in the deliberation of the case or sanctions, but may be invited by the adat leaders presiding to provide his or her input on matters concerning formal law enforcement or law. If the opinions of the Babin are not required by adat leaders in deciding the case, the role of police representatives is simply to witness the proceedings and document the decisions made should any future violations concerning the same parties arise. A degree of flexibility and good communication between adat leaders and the police is thus necessary to monitor the status of cases and determine the appropriate forum to handle them.

On the other hand, in the districts targeted through the ACE project, the referral mechanism is the clearest, as the police have been educated on the contents of the guidelines and the implications regarding jurisdiction. Police continue to receive claims that fall under adat jurisdiction, either because the villagers have not yet fully understood the jurisdiction and role of adat justice providers, or because one or both of the parties involved still feel that a claim must be registered with the police to be formal. Nevertheless, if claims involve crimes that fall under the jurisdiction of adat justice, as per the guidelines, the police are obliged to refer the claimants to their Geuchik for initial mediation. Only if the adat system fails to reach a resolution acceptable by all, or if one or both of the claimants refuse to have their case handled by adat justice providers, will the case be turned over to the police. For the police to accept such a case, a written letter from the Geuchik is required, stating that adat justice system had already attempted to mediate the case, but had failed to reach a satisfactory decision for all parties.

This way, the ACE project has helped to increase the clarity and coordination between the formal and the adat justice system, through the development of the guidelines and joint-training of the formal and adat justice leaders, while synergizing with the highly important community policing project on the ground.
Chapter 5: Adat Justice Trainings

Once the guidelines had been finalized and disseminated to the relevant partners and authorities, UNDP and MAA planned a series of interactive trainings to adat leaders in 10 target regions on the contents and implications of the guidelines.

Prior to the UNDP-BAPPENAS support, MAA had held seminars and workshops with select adat representatives in the past, but these were not formally structured and the institution did not have the expertise to develop the trainings. To provide effective institutional support to MAA in adat leaders training, UNDP established a Project Management Unit (PMU) within MAA, staffed with trainers experienced in legal and development issues in Aceh, as well as one finance and one administrative staff.

The MAA-PMU was established to build MAA’s capacity and as an institutional mechanism to implement the ACE project, as well as provide in-house support for MAA’s engagement with adat justice. The PMU also increased MAA’s ownership of the adat leaders training programme by providing a separate budget and administrative wing within MAA to oversee and manage ACE, rather than directly through the UNDP or through the AJP PMU.

The ACE-PMU team worked with MAA and UNDP staff to develop an initial five-day Training of Trainers (ToT) and establish selection criteria for ToT participants. MAA representatives with experience in conflict resolution through adat justice were selected from the each of the target regions to attend the ToT, and were trained in principles of adat justice, the role of adat leaders and the process of conflict resolution in adat justice, administration of adat justice, gender from the Acehnese adat perspective, and human rights from the Acehnese adat perspective by five adat experts and two specialists on gender and human rights who had worked in the adat context.

Engaging pre-existing MAA representatives in the ToT created a sustainable means for ensuring the principles and procedures of the Adat Guidelines would be adhered to after UNDP’s role in the project ended. MAA district representatives had already indicated a voluntary commitment to supporting the revival of adat life in Aceh, and could be established within their districts as the main point of reference to respond to any questions or challenges adat leaders might face in the implementation of the guidelines.

During the ToT, MAA representatives received extended training on topics pertaining to the substance of the Adat Guidelines, as well as complementary sessions in training facilitation, basic human rights principles underpinning the guidelines, and the importance of women’s representation in adat justice. They were then engaged as the lead trainers for the regional trainings with adat leaders, and responsible for coordinating with adat experts and police representatives in their district to secure guest speakers.

The original training module for adat leaders provided an overview of the principles of adat justice, the legal framework of adat justice, the Aceh adat justice executive board, the roles and responsibilities of adat leaders, the jurisdiction of adat justice, the dispute settlement process, execution of adat justice decisions, adat justice appeals, referral mechanisms from adat to formal justice, and women’s participation in adat justice. The training module was later revised to include components on human rights and gender.
Initially, MAA requested that four adat leaders from each village (Geuchik, Village Secretary, Imeum Meunassah, and a representative from the Tuha Peut) be invited to attend the adat trainings. However, due to budget, logistical and time restrictions, representation from each village was limited to one, and Geuchiks were selected as the focal participants for the trainings.

The trainings were run over two days: the first day was dedicated to lead trainings on the topics pertaining to the administration of adat justice detailed above. On the second day, the participants were split into two or three groups and asked to simulate an adat trial based on the principles and processes they had learned the previous day. Cases were developed concerning common issues arising in communities that require mediation from adat leaders, such as land and livestock disputes, domestic violence, and fights between adolescents. The participants assumed the roles of the entire adat body involved in the adat justice mediation process, and were required to receive the claim, deliberate the severity of the crime and possible sanctions, and deliver a verdict to both "parties".

Training participants were positive about the potential impact of the trainings. Rather than focusing on new skills or a foreign method of conflict resolution, the MAA trainings uniquely focused on strengthening pre-existing practices and providing common parameters for executing justice. As many new Geuchiks are elected by villagers regardless of their personal background in adat, they are no longer necessarily rooted in a comprehensive knowledge of adat systems and beliefs. Synthesizing their understanding of their role was integral not only for the continuation of adat in Aceh, but also to support the development of accountable and responsible governance in communities across the province.

Until the end of 2010, the ACE project has trained over 2,878 adat leaders throughout Aceh from 2,551 villages and 327 mukims (out of 6,585 head villages and 755 head of mukim in total in the whole province) under seven districts and five municipalities. Overall, the trainings implemented through the ACE PMU have provided large-scale and ground-breaking support, for the first time in the province, to build the capacity of the adat leaders in the administration of adat justice with a high level of local ownership.
Chapter 6: Overall Impact of the Programme

1. Strengthened Village Leadership Capacity

The ACE project with MAA has succeeded in the standardization of *adat* practices in both the provision of community-level justice, and the indirect extension of better governance practices for the poor and marginalized. Unlike many justice strengthening programmes, which focus on increasing the capacity of formal justice providers and developing stronger awareness among the public of their legal rights, the ACE project uniquely worked with MAA to strengthen community governance systems, to develop general mediation skills and to promote standardized processes of informal justice administration among village leaders.

At the commencement of the project, *adat* structures in many villages in Aceh had not been restored to their complete forms. Many villages had returned the Geuchik to village governance structures, and maintained the Village Secretary position, which had also been employed during the Soeharto administration, but had either not or only partially redeveloped the Tuha Peut council. Because subdistrict structures have retained the kecamatan institution, the Imeum Mukim had in many cases also not been re-integrated into village governance or *adat* structures.

In this situation, the MAA trainings provided a comprehensive means of socializing the *adat* governance structures outlined in the provincial laws pertaining to *adat*. Rural village leaders are often unaware of the content and implications of regional and national laws. Re-establishing the complete *adat* governance structure as a requirement for providing village justice has thus broadened the scope of the consensus system traditionally used at the village level, and the opportunity for different viewpoints to enter deliberations on matters of justice and governance.

ACE and MAA also made use of the opportunity the Adat Guidelines and trainings afforded them to ensure minority groups, particularly women and children, were guaranteed representation within the *adat* justice, and therefore also governance, structures. Tuha Peuts are now required by MAA to have female representation, and a clear distinction of the special needs women may have as claimants have been recognized, socialized and accommodated in village communities.

2. Strengthened Networks between Adat Leaders and MAA

The ACE trainings on the Adat Justice Guidelines provided a learning experience for participants and trainers in the current and desirable methods of implementing community-based justice in more clear and accountable ways. Perhaps of equal importance as the skills participants gained during the training are the networks these trainings helped establish and strengthen.

MAA contacted focal points throughout the target regions to distribute the training invitations. In some cases, Geuchiks were informed of the training by neighbouring *adat* leaders, and their attendance was retro-actively added to the list. To the surprise of both MAA and the ACE team, some of the Geuchiks who attended the training had never heard of MAA.

Because of the willingness of MAA and the ACE project to accommodate all Geuchiks, regardless of formal invitation, the project was able to standardize *adat* practices across a wider area, reaching the most remote villages in each of the target districts, and therefore increase the number of communities able to benefit from a strengthened and regulated *adat* justice system. This expanded scope also provided MAA with a political and professional boost, as they became more aware of the extent of their networks and assured of the relevance of their trainings for local *adat* leaders. As such, the ACE helped to strengthen and promote MAA as a local institution with the capacity to help improve *adat* institutions and actors in the province.
3. Improved Coordination between State and Adat Justice Providers

Through the networks of UNDP-BAPPENAS projects, particularly the Aceh Justice Project and the Aceh Governance Transformation Project, MAA was able to connect and coordinate with many levels of state justice providers and government agencies that MAA had previously had either no or limited contact with. As emphasized earlier in this paper, UNDP and the ACE project were integral in linking MAA to crucial government agencies responsible for the harmonization, deliberation and passing of Qanuns, including the Legal Bureau of the Governor’s Office and the Legislation Board of the Provincial Parliament, as well as ensuring proper vetting systems were adhered to when developing the laws.

The legal basis gave MAA a better footing when working with the police to formalize the jurisdiction of both agencies in the provision of justice in Aceh. In particular, UNDP worked with IOM and other national and international agencies to ensure top-level buy in for the adat justice initiatives, which facilitated the implementation of the guidelines and trainings. Once formal introductions were made and the jurisdictional decisions taken, MAA and the provincial police were able to carry forward the partnership to more intensive activities with broader impacts, such as the shared sessions in both MAA and police trainings.

This element of the project has secured the sustainability of the adat justice project. UNDP has sufficiently handed over the management of these partnerships to the MAA executive, and has assumed a supporting role only in discussions concerning future strategies for coordination between the two agencies, which has allowed for regional priorities to be put forward and maximized the ownership of both agencies in the continued success of the project.

4. Prioritization of Women’s Rights and Representation

The inclusion of women’s rights in the guidelines and adat leaders training modules has resulted in a shift in mentality among adat leaders. Though Aceh history has seen a number of women rise to

Building Towards Peace Together

The village of Sarah Sirung looks like a ghost town. Set back about 15 km from the main road, along a pot-holed dirt road, the village receives very few visitors. In the centre of the village, across from a small meunasah, is a row of shuttered and padlocked store fronts, which sets a defeated tone throughout the village. The store owners left Sarah Sirung during the conflict, and their remaining family members guard the stores from others in the community who may have try to re-open the shops themselves. Small push-stalls are set up awkwardly in front of the store fronts, selling the day’s harvest to travelling traders.

Sarah Sirung is in the heart of a region securely under GAM control during the conflict. In a small coffee shop that functions as the hub of social life in the village, campaign posters for Partai Aceh, the official GAM political vehicle and ruling party in the province since the 2007 elections, are still hanging on the walls.

This is not a village where law enforcement authorities would have dared to enter five years ago – and when the UNDP team drove into the village and entered the coffee shop, we were greeted with a strong feeling of suspicion. It took quite awhile before the villagers were willing to talk to us and share their stories.

"Things are definitely safer here now," said Iskandar, a member of the Tuha Lapan in Sarah Sirung. "But the police don’t come here. If they do, it’s to meet with the Geuchik. We don’t deal with them.”

The Geuchik was called down from his field in the surrounding hills to meet with us. A young man, in his early thirties, he was elected into office recently. One of his first activities after being elected as Geuchik was attending the MAA training in Bireuen

“I have ok ties with the police here,” he said. “They’ve been really helpful in cleaning up illegal businesses in the hills around here. A few months back, an illegal telecom company moved in about five km up this mountain. I called the police, and worked with them to kick the business out. We’ve coordinated to discourage illegal logging too. But they don’t socialize with the villagers – I am the bridge between the village and the police.”

1The Tuha Lapan is a secondary council used in some villages to complement the work of the Tuha Peut and the Geuchik. If both a Tuha Peut and A Tuha Lapan exist, the Tuha Lapan focuses on budgetary and development issues.
infamy as regional heroes, the current situation sees fewer women taking on formal roles in elected government positions. Many factors could be cited as contributors to this shift: the introduction of syariah in the late 1990s, or social and familial changes resulting from the decline in personal and communal security during the conflict are most often blamed for the gender shift, particularly in public forums. However, the reality remains that women are not generally perceived as community leaders in Aceh, and this is reflected in the results of democratic elections at every level across the province.

Within this context, though women’s representation in the trainings conducted by AJP and MAA remained limited (only 17 of 2,000 participants were women), the shift in awareness among adat leaders of the need for women’s representation in the larger adat structures, and particularly in justice processes, marks a significant contribution to women’s rights at the village level.

During the survey to training regions, adat leaders demonstrated a variety of ways in which they had heightened the social and justice support extended to women in their communities. All Tuha Peuts are now required to have at least one woman representative, and many have adopted formal divisions within the Tuha Peut structure dedicated to women’s issues. These representatives are engaged on a reactive basis when cases arise involving women (such as domestic abuse or divorce), but also function as proactive contributors to village planning discussions on behalf of women. This involvement has also resulted in a rise in village budget allocations for women’s development projects and increased political awareness among women’s groups.

5. Case Documentation and Filing

During the trainings, adat leaders were given case documentation kits, which contained templates for case registration and guidelines on how to report a case and to whom. These are an excellent resource for adat justice providers, and in many of the survey locations adat leaders proudly displayed their files.

Ideally, every case handled by adat leaders would be fully documented and provided for

The city of Lhokseumawe in North Aceh was the first area to receive the AcehCustomaryCouncil (Majelis Adat Aceh, MAA) training programme. To support a fair and documented adat legal process, efforts were required to strengthen administration in adat government structures, as the current system was plagued by administrative challenges resulting from the conflict.

“During the conflict we still registered everything in the village office,” said M. Nur Abbas, currently in his second term as Village Secretary in Keude Aceh. “But in those days there was no system for archiving our records. The majority of our administrative documents were lost; we would leave them behind in coffee shops or just throw them out. Even if they were still in the office, we often couldn’t find them if needed.”

The lack of organization was not unique to the village level. Government offices at the subdistrict, district and provincial levels all had the same problem, “I would occasionally get a call from the Camat (subdistrict head), asking for proof of residence of one of our villagers. But we just didn’t keep any of our documents. It was embarrassing, but he was only asking because they didn’t have any records at the subdistrict level either, so there was no motivation to organize things.”

The absence of comprehensive archives was not completely unintentional. During the conflict, GAM, the police and the army were fighting for power. Most local level government officials believed that maintaining documentation on their villagers would only serve to help the fighting parties locate innocent civilians, which could lead to their ultimate arrest or disappearance.
reference to the Camat (subdistrict head) for documentation in the subdistrict government and subdistrict police files to avoid duplication of administrative and justice processes by both agencies. While challenges in the implementation of case registration and documentation have arisen (detailed in the “Challenges” section of this report), the MAA trainings helped to highlight and convince the village leaders of the importance of recording the details of adat justice cases and outcomes, as a basis to ensure greater accountability of adat decisions and to enable greater coordination with state justice providers.

Keude Aceh Geuchik (Village Head) Syamaun Yakob was elected in 2005, just before the conflict in Aceh was resolved. “When I entered office, MAA had already started to work on strengthening adat,” he said. “But it wasn’t until a couple of years ago that we received trainings from MAA on administrative stuff: how to document cases in the community and the importance of archiving them properly. They gave us templates for adat cases and taught us how to fill them in. It’s easy enough.” The Geuchik and Village Secretary showed the UNDP team their archives. Despite being in the process of moving office and currently occupying a temporary location, binders had already been filed away on the only shelves in the room.

“They are well organized,” said Nur Abbas proudly. “See, these are for the administration in each sub-village (Keude Aceh has four sub-villages). These over here are our registration forms; everyone has to have one to get an identity card. Births, deaths, and here are all the cases.”

“We started documenting cases after the MAA training,” added the Geuchik. “Actually, we started in 2006, but all our documents from before 2008 have been lost. We learned better ways to organize our records at the training with MAA and UNDP. Now, we provide written reports of every case to the MAA branch office in Lhokseumawe, the Camat’s office, and the sub-village head, if they were involved. This provides a backup for the information. The only problem is we don’t have a budget for administration, so it can be expensive to make all these copies.”
Chapter 7: Limitations and Challenges

1. Institutional Challenges

When MAA received its legal mandate from the Acehnese government as the custodian of adat affairs in the province, it formally became an autonomous state body, and was eligible for operational funding from the provincial government. The funding was contingent upon MAA’s willingness to accept government employees in the institution to process all financial and administrative affairs, who would be paid out of the budget allocated to MAA. At the time this paper was written, however, the state budget allocated to MAA remained small, and the MAA Secretariat had very little budget left over for adat-related activities after paying 37 civil servants in its employ. The same was true at the district level. In Lhokseumawe, for example, MAA was able to allocate a total of Rp. 300 million (approximately US$ 35,000) in 2010, and after district-level civil servants were added to the MAA structure, the budget was only able to pay each staff Rp. 75,000/month (approximately US$ 9). Therefore, MAA is currently not in a position to continue their activities in adat justice without funding support from UNDP-BAPPENAS.

Budget management has created additional challenges for MAA in terms of its authority. First, as a state body, the perception among adat leaders, including MAA representatives, is that MAA should have a sufficient budget to fund their operational needs. Since this is clearly not the case, and the MAA Secretariat has communicated their financial position to many of their district representatives; nevertheless, suspicions remain among adat leaders that much of the funding has disappeared as a result of corruption by MAA leadership.

Second, because MAA has not had to manage its own finances or administration on a larger scale, the capacity of MAA staff and executives in this area remains limited. For the duration of the ACE project the PMU was installed to help with the management and to work with MAA staff to increase their capacity in budgeting and programme management. However, MAA as an institution still remains underequipped to deal with the larger budget required to continue with or upscale the Adat Guidelines training programme on its own after UNDP-BAPPENAS support ends.

2. Documentation

All training participants were given case registration templates at the end of the trainings for them to photocopy and use to document adat cases in their villages. Because the majority of rural villages do not have ready access to computers and internet, the templates were distributed, and expected to be completed in hard copy.

This has created significant logistical and financial challenges for adat leaders and MAA staff. Without sufficient financial support from the local governments, small expenditures such as photocopies or postage costs are beyond the budget capacity of the MAA, particularly at the scale projected for full documentation of adat cases across an entire district. Formal postal services do not extend to remote areas of Indonesia, requiring case documentation files to be brought in person or sent with acquaintances travelling to district centres.

As a result, adat leaders have adopted creative interpretations of when and how to document cases they have handled. Some villages do not document their cases at all, while others only use the case registration template for repeat offences and/or cases of grave enough severity that they must be taken to the meunassah and heard in the presence of the community.
Most cases are still reported to the Babin or subdistrict police on an informal basis, which assists in ensuring coordination should there be any problems with implementing the sanctions or backlash from the mediation. However, the longer-term benefits of identifying trends in rural conflict and crime, and the most effective adat sanctions for dealing with community disputes are unfortunately lost due to these financial challenges.

3. Women’s Participation and Empowerment

A significant obstacle for the AJP project with MAA was fulfilling the 30 percent quota for women’s participation in the development of the Adat Justice Guidelines and trainings. The challenge arose, particularly in the trainings, because women are simply under-represented in the Aceh village governance structures; hardly any women are village heads. Despite the fact that Tuha Peut structures now require women’s representation, the MAA trainings targeted village heads, not the greater adat structures, due to time and budget constraints.

MAA and UNDP have worked to remedy this problem. MAA in Banda Aceh coordinated with local MAA chapters and village heads to ensure that women would be present at all of the trainings. Every woman in a position within the village governance structures (generally the Village Secretary or Tuha Peut) was sent formal invitations from the MAA Secretariat to ensure their attendance. Despite these efforts, however, women have thus far constituted less than 1 percent of the participants in the MAA trainings.

This shortage of women in positions of leadership in the communities is symptomatic of the shift in Acehnese society over the past 40 years. Despite the influence of syariah law in adat and greater social values, and its formal institution as a justice system for religious matters in 1999, syariah has not been the only factor in the shift in women’s public roles in Aceh. Women have historically held positions of power in Acehnese society, particularly through adat systems.

However, during the conflict that spanned thirty years, women’s social position in Aceh shifted drastically. Women were more susceptible to

Establishing a Role for Women in Adat Justice

Like most regions in Indonesia, when religion is embraced by the people, it often takes on a new form, mixing practices and beliefs rooted in adat with new religious beliefs. Traditionally, shariah law has been applied in Aceh, but has never limited the freedoms of women until the conflict erupted in the mid-1970s, at which point shifts in social constructs changed the Acehnese interpretation of shariah. However, the shariah upheld through adat leadership continues to allow for traditional practices to mesh with the fundamental principles and practices of Islam.

During the conflict, mobility was affected, which particularly affected women. Villages were under constant threat of attack, and a trip to the market could result in assault, rape or death. Over the 30 years of the conflict, women lost their access to education, social events outside of their immediate village, and, as a result, most involvement in village politics. The presence of war made politics a man’s business. These changes slowly redefined the role and freedom of women within their communities.

Currently, women’s representation in the provincial parliament and local governments is minimal. When UNDP began the Aceh Justice Project with MAA, gender rights was one of the main priorities for trainings and programming. “At first we were confused,” said Head of the MAA Adat Law Unit Abdurrahman Yunus. “We’re meant to deliver these trainings to adat leaders, and there just aren’t that many women in adat structures.” Despite attempting to invite at least 30% women participants to the trainings, only 17 women actually attended, of the 1,760 adat leaders who have been trained through the programme.

Frustrated, MAA consulted UNDP for creative approaches to get women more involved in the programme. One of their strategies was to harness
violence perpetrated by both sides of the conflict, and for the sake of their own security, limited their activities outside of their villages and homes. Over the course of two generations, this has developed into a new social norm where by women should not play a leadership role in the society, and has been further supported by the role of women depicted through conservative interpretations of syariah.

In this historical and social context, the limited involvement of women in the ACE project shows the weaknesses of imposing short-term gender objectives within an non-conducive socio-cultural environment. Women’s representation is possible in Aceh; women have the right to vote and outnumber men among voters. However, the social setting and dominant cultural-religious norms in Aceh have limited women’s ability to be perceived as leaders, even within women’s groups. In the provincial election in 2007, for instance, the first since the tsunami and the Helsinki Peace Agreement, a number of female candidates ran for office, but very few were elected. Therefore, in order to involve women in the adat justice in a comprehensive manner, a different, and separate, approach must be taken to build their general capacity, as well as their knowledge of adat structures, justice and governance. Suggestions in this regard are presented in the final chapter.

4. Securing Sufficient Government Funding

Establishing financial channels between MAA offices and district governments is crucial to the sustainability of adat justice in Aceh. Through decentralization, district governments are responsible for the budgets for programming within their region, and as an autonomous state body, MAA should be eligible for more operational and programming funding for its adat justice activities from the state budget. Although MAA offices in some areas have been successful in securing funds; they are often allocated less than one-tenth of the funding requested for carrying out their activities. This is further exacerbated by the compulsory addition of civil servants to the MAA offices as detailed in the “Institutional Challenges” section above.

The difficulties in securing adequate state funding are the result of institutional limitations in both champions who had attended the MAA trainings to pilot women’s outreach activities to strengthen their knowledge of adat principles and practices. Fauziah, a member of the Tuha Peut (Council of Elders) in Ujung Blang village, Lhokseumawe, told of her experience. “In our village, the Tuha Peutis involved in most village decisions. We are involved in the programme budgeting from village funds, and any discussions concerning development needs. I am the only woman on the Tuha Peut, so I am the representative of the women in the village.”

“Before MAA gave us the training, the adat systems weren’t functioning at all. The trainings gave us a clear basis from which we could build our adat government structures. And now women are entered formally into the structure. That never existed in the village government here. Because I was involved, we were able to secure 30% of the village budget for women’s programming.”

To strengthen the role of gender rights in adat justice, UNDP worked with MAA to develop modules that stressed the need for female representation in adat justice structures to understand and mediate disputes between women, or cases in which women were directly involved. “Now, any time a woman is involved in a case, I am called to meet with her. I meet first with the woman alone, then with her and her family. We discuss the details of the case, and I teach all of them about her rights within the adat justice system, based on the guidelines we received from MAA. This has helped prevent problems from becoming too heated as well. Women who know their rights are able to talk about their problems more rationally, and don’t get overly emotional because they feel trapped or powerless,” Fauziah added.
the district-level governments and MAA. District governments across the country have faced significant challenges concerning their financial absorption capacity since the introduction of the decentralization process in 2001. Many district governments have not been able to disburse all of their annual budgets, which in turn have resulted in smaller budget allocations in the following years.

On the other hand, MAA, both at the district level and the provincial level have exhibited difficulties in recording and compiling the data necessary to illustrate the achievements and future needs of adat in Aceh as a means to obtain greater state budget. While there are some exceptions, this weakness strengthens the argument for facilitating documentation practices that are easy to access and use across the province. A comprehensive database would allow MAA to analyse trends in disputes, capacity and programming needs, and provide clear data to support their case for more funding from the state budget.

5. Programme Coordination in Remote Areas

Initially, ACE and MAA staff involved in the trainings planned to hold a number of smaller trainings in each of the target districts, bringing the training and the adat experts to some of the more remote areas to engage local adat leaders in their subdistricts. This approach had many benefits for both the trainers and the participants: 1) MAA representatives and adat leaders were able to get first-hand insights into the condition of governance, justice and interactions with the authorities in the most remote areas of the province; 2) Adat practitioners were able to implement the practical components of the training in their own villages under the supervision of adat experts and trainers; and 3) the Adat Guidelines could be disseminated within the communities, directly to the villagers who would have to make use of the adat justice system in future.

However, MAA was unfortunately unable to organize trainings at the subdistrict level in the more remote areas because law enforcement officials demanded fees in order for them to operate there. These fees were not exclusive to the ACE project; many organizations entering Aceh following the tsunami and the peace agreement were subject to the similar requests. Furthermore, activities in remote areas required more travelling time and thus greater transportation costs, given the geographic and road conditions in the province, and MAA had to focus on those areas that were more cost-effective. As a result, more remote areas in Aceh have not benefitted from the ACE trainings.

6. Positioning Local Leaders as Expert Trainers

A key element for the success of the Adat Justice Guidelines was the involvement of local adat experts in the development of the adat principles and processes, which ensured the soundness and validity of the document. During the trainings, the ACE project and MAA invited adat experts in each district to facilitate the trainings with local MAA staff (if these were in fact different people). In theory, including local adat academic and leaders in the trainings was meant to promote the development of sustainable support networks for village adat leaders and provide localized applications for the Adat Justice Guidelines.

However, involving local adat experts directly also produced challenges for ACE and MAA staff, as they were too familiar with the local adat leaders in their districts, which ultimately detracted from their perceived authority as trainers. In most cases these perceptions were not based on facts, but were rather the result of five years of intensive development work throughout Aceh in which international and national experts had been included in training programmes and capacity development projects. This had created a misperception among some beneficiaries that internationally-funded projects must include “global experts” to have an authority over the subject without considering the actual suitability of the trainers in terms of the material.
In the case of the *adat* trainings, local leaders were clearly the best resources to deliver the trainings, as they were able to understand and convey the way in which the *Adat* Justice Guidelines applied in their localized context. Nevertheless, MAA had to deal with the perception issue among its beneficiaries.
Chapter 8: Lessons Learned

1. Secure Buy-in from Community Leadership

MAA, as a legally-recognized custodian of traditional customs, is a unique institution that does not exist elsewhere in Indonesia. Most institutions are either not have been formed or not yet formally recognized by the state. Nevertheless, the majority of traditional structures in most places do adopt some variances of hierarchical systems that function within or parallel to the formal governance structures in the state. The successful experience of MAA in improving adat justice clearly shows that working with the leaders of these structures to develop a traditional council or agency that can function as the custodian of traditional customs within its region is the most effective way of improving community-based justice systems in coordination/partnership with the formal system.

Furthermore, coordinating with provincial-level government officials, legal agencies and adat leaders (individuals or any existing councils or organizations responsible for the implementation of adat law and practices) is integral to establishing a successful programme capable of increasing the justice and governance capacities of informal justice actors in the villages.

When replicating the experiences of the ACE project in other locations in Indonesia, a number of practical steps are required. Initially, adat leaders at the provincial level should be engaged to review the Adat Justice Guidelines developed by the ACE project and MAA, and make any necessary changes to their structure and contents to reflect the particular context and nature of adat in the region. Because the principles and procedures are based on international standards for community justice provision, alterations should focus on the adat village, subdistrict and district structures, and how they interact within the regional context.

The revised draft should then be vetted with academics, adat leaders of high esteem, government officials and the formal justice actors (particularly the police) in the region to establish clear lines of communication and ensure the guidelines adhere to regional and national laws, before being disseminated to local adat leaders.

2. Establish a Legal Basis for Alternative Community-Focused Justice Systems

Developing a coordination body with the highest level of adat leaders within a target region is essential to securing support to adat initiatives beyond the scope of a project. As a formally recognized legal entity, adat institutions such as MAA can gain access to government funds and resources, and establish common hierarchies, responsibilities and areas of jurisdiction that will provide uniformity to adat communities. Of equal importance, establishing an agency as the responsible custodian for traditional practices can circumvent personal rivalries and interests that may emerge when engaging individual customary leaders, allowing for a more objective approach to the development and preservation of traditional beliefs.

Ideally, a legal basis can be established at the national level, supporting the formation of customary justice institutions from the provincial level down. However, in countries such as Indonesia, where legal determination is decentralized, this could lead to delays in implementation as the provincial governments develop regional laws supporting the national initiative. Programmes should assess the most expedient and powerful legal route for securing a traditional council’s mandate on a case per case basis.
3. Keep It Simple

Adat is often a complex web of history, religion, tradition, social structures, and folklore, and it is therefore difficult to capture the most beneficial traits of adat beliefs and transfer them into comprehensive systems. A key aspect of the success of the ACE project with MAA was the simplicity of the principles underpinning the Adat Justice Guidelines. Extracting characteristics that are generally seen as supportive of the collective good has proven to supersede religious, historical and social rifts.

Based on this experience from Aceh, when creating a comprehensive adat justice system, it is not necessary to accommodate the particulars of customs that can vary geographically. These can continue to be practiced within communities in the style specific to their tradition. A system that promises fair and accountable justice to communities cannot stray from basic principles of law in its structure. These principles are universal and must uphold basic international standards. It is the flexibility in the delivery of this justice, the way in which mediation is delivered, the parties involved (conflicting parties, their extended families, entire communities) in witnessing the mediation or verdict, and the execution of verdicts that is key to a successful adat justice programme.

Likewise, limiting the number of parties involved in the development of traditional justice systems will expedite its establishment. Only government agencies and officials directly involved in the legal and political process required to establish a traditional body as a legal entity and approve its legal jurisdiction should be directly involved in community-based informal justice programming. By focusing on key agencies, coordination, deliberation and socialization can be maintained in a more effective manner.

This does not prevent the involvement of other actors in the deliberation and piloting of community-based justice guidelines. Once a foundation has been laid from which a comprehensive outline can be developed, piloting workshops with representatives from civil society, academia, government and law enforcement should be encouraged to ensure the principles put forward in the guidelines are practical and representative of public interests.

4. Understand the Social Role of Women

In patriarchal societies, like in Aceh, men tend to dominate the public sphere – holding the majority of leadership positions in politics, religion and the family. Gender mainstreaming has become a general condition for programming in most international development agencies, through quotas, special financing, and separate programming especially dedicated to women.

To be effective, however, gender mainstreaming priorities, particularly those using quotas for participation, must first consider and address the socio-cultural positioning and relevance of women with respect to the programme objectives. In the case of the ACE project in Aceh, imposing a gender quota for adat leaders training was not the most effective way to ensure women’s participation, because there were simply not many female adat leaders. In addition, women would not speak when put together with men in the same room. In those cases, it would have been more effective to hold separate meetings for women and to implement a complementary project to increase the representation of women in the adat leadership.

Working to enhance adat’s role as a justice provider assumes coordination with pre-existing traditional governance structures that may not include women, as was the case in Aceh. In other words, programme developers need to look at where the most need lies in developing women’s role in traditional justice structures. Some preliminary questions that can be asked when initiating an alternative community-focused justice programme include:
Do we need to include a female representative in the traditional justice system to accommodate the special needs women have when reporting village disputes?

Is there a deeper need to increase women’s involvement in politics in general, to ensure women are represented throughout all village development and social activities?

To what extent does religion influence traditional governance and justice systems? What role do women play in religious activities?

To what extent do women and men interact in village activities?

What power dynamics exist between women and men as individuals and as groups?

Do laws exist that discriminate against women above the village level (regional/national laws) need to be addressed before an equitable traditional justice system can function?

Answering these questions can help development practitioners identify whether women can be engaged directly in a programme with their male counterparts, whether they would require separate programming to ensure equal participation, or whether deeper legal reforms are needed before equal participation at the village level is possible.
Chapter 9: Recommendations for Future Programming

1. Adopt A Mobile Database to Facilitate Documentation

As traditional governance systems tend to be informal and oral in nature, establishing strong documentation practices can present the largest challenge in strengthening adat capacity. The current hardcopy system employed by the ACE project and MAA provides a simple system that does not require access to computers or internet (as the majority of remote communities do not have regular access to either, and MAA district offices are not equipped with computers). At the same time, the costs associated with distributing these reports to all relevant authorities (which can include the Camat, MAA representatives and police) has also becomea hindrance to the development of thorough documentation practices and limits the audience that can access information on adat justice in practice.

During the survey for this project, all but one Geuchik had personal mobile phones, and all had access to phones (cellular or landline) in their village. No Geuchiks had personal computers in their homes, and approximately 50 percent of the villages surveyed for this study had warnets (internet cafes). Therefore, a telephonic database would potentially provide the most extensive access by adat leaders in Aceh, and support the centralized collection of data to be used across the province.

Here, an interesting example from Africa may inspire ideas for the future programming. The Oral Wiki system has been piloted with traditional leaders in Rwanda to address the challenges of coordinating meaningful and streamlined information across an expansive geography. The Oral Wiki system worked with a local cellular provider to develop a centralized, online database accessible by cellular phone. Traditional leaders could call the database toll-free to submit case data. The telephone service prompts the caller to record their name, the name of the village they are representing, the type of case for registration, names of both parties, names of all traditional leaders involved in the village hearing, the verdict and sanctions passed in relation to the crime. Tags can be used to reference the data for easier analysis.

In its simplest form, the Oral Wiki system could record data for traditional justice cases from across Aceh. This would provide the MAA Secretariat with access to a range of data for analysis, which could form the basis for future programming and funding priorities. The system can be further developed into an interactive database, by allowing adat justice providers to review verdicts passed in other villages related to similar cases, or proactively as a reference for how to manage difficult pending cases. A peer rating system can be employed to allow adat leaders to rate the decisions taken in other areas, which can inform future decisions and act as a mechanism for discouraging biased verdicts that deviate from adat principles.

While the Oral Wiki system may provide a solution to some obstacles that have arisen in the current documentation system in Aceh, a deeper understanding of the importance of data for future programming and funding is also necessary to secure participation by adat leaders. Many databases and documentation systems fail because those responsible for their maintenance do not see the direct benefits for their work, and therefore cannot justify the time needed to input the data.

To address this, the initial baseline surveys conducted at the outset of a programme, which are generally kept internal, should be shared with adat leaders, along with retroactive trainings on how the data is analyzed, how it can inform programming imperatives, and how it can translate into sustainable funding to generate sufficient buy-in from adat leaders at all levels.
Documentation and in-depth training on data analysis are required to allow MAA officials to monitor the developments in *adat* issues and assess future engagement strategies. Responses to trends can be developed within *adat* institutions through trainings or outreach programmes, but can also present opportunities for coordination with government agencies when larger trends in cases emerging at the village level indicate deeper social problems.

By harnessing information concerning communities and contributing on a larger scale to the overall governance of a region, *adat* leaders will be able to reposition themselves within the formal governance structures and take on a bigger role in determining the development and governance priorities for the communities they represent.

### 2. Engage Women on Their Terms

In order for development projects such as ACE to affect the social change they are capable of, particularly through the scope afforded by the community-based justice system, programming needs to focus on long-term engagement that aims to shift societal perceptions. MAA, through the ACE project, has been successful in emphasizing and raising public awareness of the importance of women’s representation within *adat* structures, which has laid the foundation for greater women’s involvement in village decision-making processes and justice. This has created a more receptive environment for women to take on political responsibilities within their communities.

While gender has been included in most development programmes carried out in Aceh since the 2004 tsunami, there has been a lack of intensive capacity development programmes that aim to engage women as leaders within their own social settings. To do this effectively, women’s organizations and staff should be utilized to tap into existing women’s social groups. These tend to be less formal and less obvious than men’s social groups, as they do not enter the public area as noticeably. In Aceh, for instance, they include Arisan (women’s social groups that meet, normally on a monthly basis, much like a pot luck club), *Majelis* taklim (meeting place for women to discuss *adat* and religion), *pos layanan terpadu*

**Adat is the Best Structure for Handling Women's Issues**

Fatimah heads the Legal Aid Institute’s Indonesian Women for Justice Association (Lembaga Bantuan Hukum Asosiasi Perempuan Indonesia untuk Keadilan/LBH APIK), said she was involved in the drafting and revisions to the *Adat* Justice Guidelines, and has distributed copies of the guidelines to key focal points in LBH APIK’s paralegal programme across three districts. “We were involved in a programme to train women as paralegal providers in their communities. Our programme was funded by another agency, but the guidelines were an excellent way of explaining to women the ways in which they could access justice systems and what their rights were.”

Fatimah works with isolated communities to increase women’s awareness of their rights and access to fair justice systems. “Technically, the paralegal providers we trained are meant to represent women in the courts. But MAA’s programme is more applicable for women, because they are more comfortable going through *adat* systems. The process is faster, and documented evidence is not as complicated. One of the biggest problems for women is the division of assets if they get divorced. If there are any records of ownership, they’re in the name of their husbands. If we go through the courts, that’s all that matters. But with the *adat* system, there’s an ability to access the communal memory, and a deeper desire to end things harmoniously – in a way that benefits the community. So we encourage our focal points to use the *adat* system whenever they can.”

“If we could, we’d like to tap into women’s networks more,” said Abdurrahman. “Forcing women’s participation in trainings for existing *adat* leaders is not enough. Those women who do attend often feel overpowered because they are sitting in a training with 60 men. So far our biggest success has been in explaining to the current *adat* leaders, and really convincing them, that the role of women in *adat* justice is important. We are seeing a change in mind set. But we need to strengthen women’s capacity to be strong problem solvers and better at conflict resolution in their own right – outside of the formal *adat* structures. Because if we increase their capacity and the willingness of the current system to accept and incorporate them, the role of women in *adat* will grow by itself. It’s part of Acehnese tradition.”
Strengthening Access to Justice Close to People

(posyandu) (community maternal health and childcare clinics), and wirit yasin (women’s groups that congregate after Friday prayers to pray at one of their houses); these are all environments in which women can be approached and socialization of programming is most effective.

To nurture the organic growth of women in politics, development programming needs to make use of these existing forums to identify natural leaders within women’s circles, and employ observational selection processes for participation in capacity development activities. In the context of the ACE project with MAA, separate trainings should be held for women that provide basic trainings on the Adat Guidelines, as well as additional trainings on leadership skills, problem solving, conflict resolution, strategic planning and community-based programme monitoring. Focal points in each district can receive supplementary trainings in capacity building and training skills, and work on an ongoing basis with women leaders to ensure continued development of their skills within their community context.

Engaging women in this way will have immediate results in the village context, particularly within women’s groups. Within daily interactions, the goal is that these women will emerge as strong leaders within women’s groups, and the perceptions of their ability to manage larger-scale political issues will develop, creating an avenue for increased women’s participation in politics through elected positions of office.

3. Strengthen Coordination with Police

Strong coordination between MAA and the police has been an important factor in the success of the ACE project. However, this coordination has largely focused on establishing the jurisdictional boundaries for state and non-state justice systems, and increasing the awareness of the ways in which these two institutions can interact in the ACE project target areas. Discrepancies in dissemination and coordination still exist in remote areas of the target districts, as detailed in the “Challenges” section of this report.

As the ACE project moves forward and expands to other districts of Aceh and, possibly, other regions of Indonesia, focus needs to be placed on working with police officials at the provincial and district levels more to ensure the smooth execution of the trainings and follow up coordination throughout the province.
Chapter 10: UNDP-BAPPENAS Response to this Study’s Recommendations

The draft of this report was completed in December 2010, and UNDP-BAPPENAS has already taken concrete measures to implement the key recommendations from this study. First, UNDP-BAPPENAS has designed and implemented a programme in 2011 focused entirely on building the capacity of women leaders in Aceh through a separate and dedicated programme to ensure greater women’s role and protection in the adat justice system. Between January and August in 2011, the fourth phase of the ACE project focused exclusively on training women leaders on adat justice and has successfully trained 514 women adat leaders from Pidie Jaya district and Lhokseumawe municipality. These trainings received a highly positive feedback from the beneficiaries, who were so inspired by the trainings that they demanded further support with forming an association of women adat leaders and mediators.

In these trainings, two women adat leaders from each village of selected subdistricts were selected for the training, based on the criteria of being a female representative in the Tuha Peut of a village, or a female elder or a woman who has a significant role in a village, such as the head of a women’s group (e.g. called GureebutNong or other names in Aceh). Each training lasted for two days, and included topics such as the overall legal framework of adat justice, mediation processes through adat, the rights of women and children, ways to protect women and children in adat justice, and the options of litigation and non-litigation to resolve disputes. Each training was attended by 20 to 30 trainees from two mukim or one subdistrict.

Furthermore, UNDP-BAPPENAS have just endorsed a new phase of the Adat Justice Programme (AJP) with MAA with the following outputs for the period of September-December, 2011:

1. Increased knowledge of women adat leaders on fair and accountable administration of justice in Aceh through adat justice trainings, targeting women in seven subdistricts (four subdistricts in Aceh Tengah and three subdistricts in Bireun);
2. Upgraded Adat Justice Guidelines that are more responsive to women and children accessing adat justice;
3. Increased capacity of the focal points of MAA, related NGOs and government institutions in mediation to emphasize the protection of women and children through adat justice;
4. Strategic road maps developed towards the establishment of a mediation centre under the provincial MAA;
5. Enhanced capacity of provincial MAA to refine a central website to communicate and share MAA’s work on the adat justice mechanism; and
6. Production of a strategic plan for 2012-2014 on an adat justice mechanism that will enable MAA to strengthen current achievements and respond to challenges to work towards an adat justice system that is more accessible, reliable and sustainable.

Between September and December 2011, the female adat leaders training will introduce a new component of collaborating with LBH-APIK, a leading paralegal NGO in Aceh which focuses on justice issues for women and children, so that the MAA will receive more input and can find the best way to train women with a combination of adat justice principles and paralegal skills and knowledge. This will also help the MAA Project Management Unit to map out the number of paralegals in the selected areas of training, and to synergize the functions of adat leaders with existing paralegals with the support from LBH APIK.

The selection of areas for the female adat leader training gives priority to areas where paralegals are present, and the trainers LBH APIK will help the female adat leaders to seek out paralegal assistance.
in resolving a case that requires a paralegal's advocacy and is beyond the *adat* jurisdiction. This has been introduced into the programme to address the legitimate concern that women should have an option to access paralegal and legal assistance when *adat* is unable or unwilling to provide a fair justice for women. As such, this is a ground-breaking initiative for UNDP-MAA in Aceh in the area of *adat* justice.
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Secondary Sources


NOTES

1 For the purposes of this paper, the term *adat* will be used in noun form as a general reference to all concepts the term can represent, and as an adjective in reference to specific facets of *adat*.


3 Ibid, Article 1 and Article 6.

4 *Mukim* refers to a *adat* law society unit in the Special Autonomous Province of Aceh consisting of several *gampong* (villages) with certain territorial borders and possessing its own property.

5 During the short period from 1874 to 1935, however, *adat* justice was retracted formally from justice structures, but remained in practice within communities.

6 This recognition was limited to an acknowledgement of the existence of *adat* systems at the local level, and did not stipulate the jurisdiction or parameters under which *adat* justice could be applied.

7 Gotong Royong refers to any *adat*-based community event or ceremony, generally focused on strengthening relationships between families and with other villages.


10 There is much debate on the conceptual issues surrounding these different terms. Since this paper is intended to document a UNDP project, we will not go into details of this debate. In this study, we chose the term “community-based justice mechanism” to encompass all of these characteristics. As the study will show, the *adat* justice system in Aceh is a hybrid system whereby customary (socio-religious) actors and local state actors (village/district heads) together make up the *adat* institutions and serve as *adat* justice leaders.

11 The three areas of direct governance Aceh was provided under the Special Autonomy Law are education, religion and *adat*.

12 In Aceh, local regulations promulgated before 2003 are called “Perda,” while those after 2003 are called “*Qanun*”, which mean that they are local regulation related to the special autonomy of Aceh.

13 *Mukim* refers to a *adat* law society unit in the Special Autonomous Province of Aceh consisting of several *gampong* (villages) with certain territorial borders and possessing its own property.

14 *Gampong* refers to the smallest unit of communal territory inhabited by a certain population with the right to manage its own administration.

15 *Tuha Peut* refers to a complementary body within a *gampong* or *mukim* whose members represent government officials, religious figures, *adat* leaders, and scholars of the *gampong* or *mukim*. They act as advisers to the *Geuchik* and *Imeum Mukim* on governance, *adat* law, community customs and tradition and also settle disputes in the *gampong* and *mukim*. 
16 *Imeum Meunasah* refers to a person who leads community Islamic activities and implementation of *Syari'at* within a particular *gampung*.

17 The term “relevant” included in this law refers to the specific jurisdiction over cases that was under development by MAA, UNDP and the Legal Bureau of the Governor’s Office at the time this law was issued.

18 Aceh comprises eight formally recognized ethnicities, all of whom identify themselves as possessing unique *adat* and cultural attributes that collide with the priorities of other ethnic groups. Because it is based in Banda Aceh, many *adat* leaders representing other ethnic groups did not want to join MAA for fear of being marginalized within the institution for priorities supporting the ethnic Acehnese majority.

19 *Syariat* refers to the implementation of Islamic syariah law.

20 UNFAO and Oxfam were included because of the intensive work they had done in Aceh at the grassroots level. UNFAO had conducted a project to increase the capacity of Panglima Laut (Fisheries Experts) in identifying marine trends and problems encountered in their work.

21 A complete list of the cases under *adat* jurisdiction is included in the complete Guidelines, attached to this report in Appendix II.

22 This rationale for implementing kerja bakti as an effective sanction was provided by a *Geuchik* in Bebesen subdistrict, Takengon, Central Aceh.

23 In some villages, an interim step is included in which the same village *adat* structures are involved in a second hearing at the village meunassah (small local mosque), to which all villagers are invited. This can be enacted if the concerns of the community need to be included in the proceedings, but is more often used for repeat offenders, to widen the scope of witnesses to the case and the decision.

24 The *Imeum* Chiek is a title given to one or several imams within a *mukim* who are considered wise.

25 This is a long-term process that continues to face challenges at the time of this report; however, noticeable progress in many districts is present.


27 For instance, MAA Takengon has exceptional documentation practices at the district level, but still faces challenges in coordinating with remote villages. Lhokseumawe has sufficient documentation facilities but not enough staff to make the full use of the facilities.
Appendix I – MAA Secretariat Organigram

Chair

Functional Positions
- Head of General Affairs
  - Deputy Head of General Affairs
  - Head of Internal Affairs
- Head of Planing and Evaluation
  - Deputy Head of Planing and Evaluation
- Head of Finance
  - Deputy Head of Budgeting
- Head of Information and Documentation
  - Deputy Head of Information and Documentation

Regional Secretaries
- Head of the Secretariat
- Deputy Head of General Affairs
- Deputy Head of Planing and Evaluation
- Head of Verification and Accounting
  - Deputy Head of Documentation
Appendix II – Sample of Gampong Reconciliation Decision Sheet

Gampong RECONCILIATION JUSTICE COUNCIL

Gampong : ....................
Mukim : ....................

RECONCILIATION DECISION
Case Registration Number: ..........................

1. Case classification :
2. Conflicting parties :
   a. Reporting party
      i. (name, age, occupation, address/residence)
      ii. (name, age, occupation, address/residence)

3. Case summary :
   b. Suspect
      i. (name, age, occupation, address/residence)
      ii. (name, age, occupation, address/residence)

4. Reconciliation decision:
   Whereas ...................................................................................................................... ...................................... ............................................................. ................................................
   ............................................................................................................................. ................................................
   ............................................................................................................................. ................................................

Reconciliation Justice Council

1. Keuchik (Court leader) 4. Tuha Peut 2
   [Signature] [Signature]
   (Fullname) (Fullname)

2. Imeum Meunasah (Council member) 5. Tuha Peut 3
   [Signature] [Signature]
   (Fullname) (Fullname)

3. Tuha Peut 1 (Council member) 6. Tuha Peut 4
   [Signature] [Signature]
   (Fullname) (Fullname)

Gampong Secretary (Council Secretary)
   [Signature]
   (Fullname)
## Appendix III - Reconciliation Justice Council Case Registration Book

<table>
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Appendix IV – Guidelines on Adat Justice in Aceh
Guidelines on *Adat* Justice in Aceh
For *Adat* Justice that is Fair and Accountable
DISCLAIMER

“The views expressed in this publication are those of the authors and do not necessarily represent those of the United Nations or UNDP.”
Acknowledgments

These guidelines on Adat Justice in Aceh are based on a large-scale joint research and consultative process carried out in Aceh Province from 2007 to 2008. The Aceh Adat Council (MAA) and the UNDP Aceh Justice Project are grateful to all the adat leaders who served as resource persons during research and to all parties who have participated in the development of these guidelines. We would like to thank especially Mr. Badruzzaman Ismail and the MAA Team including Mr. Abdurrahman, Mr. Muhammad Hamzah, Professor Teuku Djuned, and Mr. Zulfian for their expert advice and for the feedback they provided in the course of this research. We also thank Mr. Taqwaddin from UNSYIAH (University of Syiah Kuala) and Mr. Afridal Darmi from the Legal Aid Institute of Banda Aceh (Lembaga Bantuan Hukum, LBH Aceh) for serving as facilitators in the working sessions of our consultations with adat leaders.

We would like to thank the UNDP Aceh Justice Project Team led by Ms. Sadaf Lakhani, and comprised of Fakri Karim, Faisal Fuady, Ross Clarke and Mercedes Chaves. Special thanks go to two leading research experts, Mr. Nurdin Husein and Arie Brouwer.

Finally, we would like to extend special thanks to all adat leaders and everyone who participated in our focus group discussions and review workshops. We sincerely appreciate the efforts of the adat leaders, civil society representatives, experts, scholars and officials who have helped in the production of this document. The Guidelines reflect the current practice of adat law in Aceh and represent a serious effort by adat leaders to improve Acehnese people’s access to justice under adat law.

These guidelines are a component of the Bappenas-UNDP Access to Justice Project (AJP) funded by the European Union Aceh Peace Process Support Programme (APPS).
A. Introduction
Objectives of the Guidelines

Primary Objectives

These guidelines aim to provide *adat* leaders with clear and comprehensive information on fulfilling their roles as justice practitioners based on fair, accountable and effective practices established in a set of standardised minimum procedures. The Guidelines are further intended to protect the rights of conflicting parties and to increase accountability and fairness in the administration of *adat* justice for women and children, as well as for adult men.

Intended Beneficiaries

These general guidelines are directed toward *adat* justice providers administering *adat* justice both at the *gampong* (village) and *mukim* (settlement) levels. The guidelines also serve as a reference for formal justice institutions such as at the High Court, the District Court, and the Syariah Court. They will assist community members wishing to understand *adat* procedures, including those who seek help from *adat* leaders in resolving disputes. Finally, these guidelines should be of use to civil society organisations and government agencies working on justice administration at the community level throughout Aceh Province.

Why are these Guidelines Important?

The majority of Acehnese people seek and attain justice within traditional village structures and through *adat* procedures. A UNDP study demonstrates, however, that community members often lack adequate knowledge of *adat* procedures and their function. *Adat* law is generally understood as flexible, uncodified and transmitted by oral tradition. Misconceptions have arisen regarding the development of law in Aceh and the applicability of formal law (whether in the District or Syariah Courts), and about *adat* institutions and their general procedures. Many *adat* leaders have been lost due to the conflict and tsunami. The shortage of *adat* leaders, in turn, has reduced the number of *adat* dispute settlements, and has led to the unfair treatment of marginalised and vulnerable groups such as women, children, widows, disable person, the elderly, orphans, and children.

These guidelines intend to address these challenges by detailing the actual roles of *adat* justice practitioners and providing a set of standardised procedures for the administration of *adat* cases. By raising awareness about these standards, the guidelines seek to encourage greater clarity and fairness in *adat* justice administration, both for the benefit of justice providers and for the community at large.

The Guidelines are important as a means to synchronise understandings and practices among *adat* practitioners, including the *Geuchik* (village head), *Tuha Peut* (council of four elders), and *Imeum Meunasah* (village mosque leader). Studies have found that, among the current generation of *adat* practitioners in particular, there is a great deal of uncertainty as to procedures in the administration of *adat* justice. These guidelines put in writing some of the key principles and recommended standards in *adat* justice administration for the purposes of easy reference. Legislative matters are also discussed, so that practitioners may find themselves better able to grasp the foundations of *adat* justice. *Adat* justice practitioners are obligated to apply these general guidelines to ensure that their decisions are just and conform to the principles of human rights.
Methodology

Adat Guidelines are based on an analysis of legislation regulating adat in Aceh, and on field research observing actual adat justice in practice. Field research was conducted in 17 gampons located in 10 kecamatans spread across 4 Kabupatenls—namely Greater Aceh, North Aceh, Central Aceh, and South Aceh.

Data was collected by two methods: (1) Desk review, i.e. analysis of written material, previous research, and relevant legislation (Qanuns); and (2) Field research, which entailed both focus group discussions and in-depth individual interviews. Respondents chosen for this research included adat practitioners such as Geuchiks, Geuchik secretaries, Tuha Peuts, Imeum Meunasahs, Imeum mukims, keujruen blangs, Panglima Laots (sea commanders), and Pawang Glees (mountain custodians) along with the Peutua Seuneuboks (heads of hillside farming organisations).

The Guidelines are based both on research findings and on a workshop held November 12, 2007 at the Grand Nanggroe Hotel, Banda Aceh, NAD, attended by the Chairperson of the MAA, and adat leaders representing all research locations (Greater Aceh, North Aceh, Central Aceh, and South Aceh). It also included representatives of the Banda Aceh District Court, the Banda Aceh District Attorney, the Banda Aceh Syariah Court, the Chief of Nanggroe Aceh Darussalam Province Islamic Syariat Agency, BRR representatives, the United Nations Food and Agricultural Organisation (UN-FAO), Oxfam, the Aceh Judicial Monitoring Institute (AJMI), the International Development Law Organisation (IDLO), academics from UNSYIAH, Aceh Adat Communications Network (Jaringan Komunikasi Masyarakat Adat Aceh, JKMA), Aceh Legal Aid Institution (LBH Aceh) and Indonesian True Friends of Women (Mitra Sejati Perempuan Indonesia, MISPI).

This workshop was followed on November 13, 2007 by a private in-depth discussion with adat justice practitioners from all research locations. A number of key issues relating to implementation procedures at the gampong and mukim level were identified through these discussions. Conclusions reached at this workshop provided the foundation and framework for the drafting of the current Guidelines.

A second workshop was held on February 26, 2008 providing stakeholders with an opportunity to volunteer their input for incorporation into the draft Guidelines. This workshop led to several important changes, including the use of simplified language to accommodate the needs of rural communities.

Finally, a meeting was held between several members of MAA and a small number of adat leaders and adat representatives to ensure that the Guidelines draft is applicable and could be implemented without difficulty. The meeting provided an opportunity to accept feedback from the MAA and other stakeholders, including adat leaders, for consideration in the Guidelines’ final content and design.

Efforts have been made throughout the process to ensure that this document has developed on the basis of consultation, accurately reflecting the needs of adat leaders. This document should be acceptable to all key stakeholders such as the MAA, and should accurately reflect the state of current practice. While the limited scope of research underlying these guidelines has not allowed it to capture all the complexities and diversity of adat justice administration across the NAD Province, the identification of general principles and procedures will nonetheless lead to recognition of established minimum standards in roles and procedures pertaining to adat justice.
Limitations

Research for these guidelines was conducted in and focused primarily on Aceh’s coastal regions; it is deeply influenced by the practices and norms of adat justice as practised among Aceh’s coastal communities. These may diverge in some instances from adat justice as practiced in the rest of the province; nonetheless, the Guidelines should be of benefit to all Acehnese communities, since the basic principles of adat justice are applicable through the NAD.

The Guidelines focus primarily on processes and procedures of adat justice rather than on substance. Though some particulars of procedure may indeed vary among the different regions of Aceh, these guidelines detail general principles relevant to all of NAD Province. In other words, the Guidelines do not stipulate adat leaders’ actions; rather they outline a set of general principles to serve as the basis for just and coherent procedures.

B. Principles of Adat Justice

Principles embody a set of social values that should hold a paramount and inviolable position within any legal system. The Acehnese *adat* legal system recognises a number of principles, many of which are upheld in various other legal systems as well. At present, *identified principles* include the following:
1. **Acceptability**  
   The community perceives *adat* justice as a trusted institution.

2. **Accountability**  
   In handling disputes, *adat* justice practitioners are accountable to contending parties, the community, the State, and God.

3. **Equality before the law and non-discrimination**  
   *Adat* justice does not discriminate on the basis of gender, social status or age. All are equal and therefore maintain equal rights before the *adat* justice system.

4. **Accessibility**  
   All *gampong* judicial decisions are accessible to the community; procedures require neither excessive time nor cost.

5. **Voluntarism**  
   Parties cannot be forced to settle disputes through the administration of *adat* justice.

6. **Peaceful resolution**  
   This principle is illustrated by the Acehnese proverb “uleue bak mate ranteng bek patah” (kill the snake but nothing shall be sacrificed). The objective of *adat* justice is to maintain social balance and harmony.

7. **Consensus**  
   *Adat* judicial decisions are based on consensus, consistent with legal norms established by *adat* justice practitioners.

8. **Transparency**  
   All judicial processes (barring certain minimal exceptions), including complaints, summons, hearings and trials are conducted in an open and transparent manner.

9. **Competence/Authority**  
   *Adat* leaders do not benefit, whether materially or immaterially, from handling cases.

10. **Pluralism**  
    *Adat* justice respects the diversity of the various *adat* systems.

11. **Presumption of innocence**  
    *Adat* law prohibits taking the law into one’s own hands.

12. **Proportional Justice**  
    Judicial decisions are just and proportionate to the seriousness of the case as well as to the economic circumstances of the parties involved.
C. Legal Basis of *Adat* Justice

*Adat* justice as currently practiced is based on legislative and regulatory frameworks for *adat* law and its institutions. Relevant legislation states clearly that *adat* law and judicial empowerment begin at the *gambarong* and *mukim* levels, where the designated institutions for *adat* justice reside.

The following key laws and regulations govern the practice of *adat* justice in Aceh:

1. Act 44/1999 concerning the Special Status of Aceh Province, art. 6 and 7 states that:
   - The region is granted authority to practice *adat* in accordance with Islamic law.

2. Act 11/2006 concerning the Governance of Aceh, Chapter XIII on *Adat* Institutions states that:
   - Resolution of social-communal issues shall be attained through *adat* institutions (art. 98, para. (2)).
   - *Adat* Institutions referred to above include, inter alia:

![Adat Institutions Diagram]
3. Local Regulation 7/2000 concerning Adat Life Practices states that:

“Adat Institutions function as a means to guaranteeing the security, tranquility, harmony and order of society.”

The duties of adat institutions include:
• Resolution of social and community issues (art. 5)
• First priority in facilitating the resolution of cases, as acknowledged by local law enforcement (art. 6 and 10)

4. Qanun 4/2003 concerning Mukim Governance in Nanggroe Aceh Darussalam Province authorises mukims in:
• Decision-making and/or drafting laws
• Maintaining and developing adat
• Facilitating adat reconciliation
• Resolving and taking adat-based decisions on disputes and adat violations
• Granting legal endorsement to certain matters and other type of evidences according to adat
• Resolving cases related to adat or tradition

5. Qanun 5/2003 concerning Gampong Governance in Nanggroe Aceh Darussalam Province states that duties and obligations of the gampong administration include the following:
• Resolving adat disputes
• Protecting and conserving adat and tradition
• Maintaining peace and order; preventing immoral acts
• Assisting the Tuha Peut and Imeum Meunasah in effecting peaceful resolutions

6. 2007 MoU (number to be announced) between the Governor, Chief of Provincial Police and MAA
During the development of the Guidelines, a draft MoU (number to be announced) was prepared for signing by the Governor, Provinicial Police Chief, and MAA. In practice, some regions have already begun using this draft MoU as guidelines in the practice of adat justice.

With regards to adat justice, the draft MoU does the following:
(1) Acknowledges adat justice as an institution of reconciliation
(2) Grants privilege to adat justice in handling social and community-related cases before these are referred to mukim-level hearing
(3) Requires cases that do not fall under the jurisdiction of the gampong/mukim to be handled by State justice institutions
(4) Emphasises the need for order in the administrative procedures of adat justice

Adat justice/Hakim Perdamaian is structured at the following levels:

1. The gampong level, consisting of:
   a. Geuchik, as court leader;
   b. Gampong Secretary, as registrar;
   c. Imeum Meunasah, as member;
   d. Tuha Peut, as member;
   e. Clerics, adat leaders and scholars (experts in their respective fields) from the relevant gampong, and other than the Tuha Peut Gampong when necessary.

2. The mukim level, consisting of:
   a. Imeum Mukim, as court leader;
   b. Mukim’s Secretary, as registrar;
c. Tuha Peut Mukim, as member;
d. Clerics, adat leaders and scholars other than the Tuha Peut Mukim when necessary.

The joint decision also states that:

(1) Adat justice is practiced on the basis of consensus
(2) Adat instruments and administration should be systematic and well-documented
(3) Ideally, neither party should have reason to appeal adat decisions in the formal State court.
D. Institutions for the Execution of Adat Justice in Aceh

Gampong and mukim institutions are generally responsible for the administration of adat justice. This applies throughout Aceh, though different regions, such as Central Aceh and Aceh Tamiang, may use different terms.

These adat justice practitioners are not formally appointed; they serve by virtue of their roles as Geuchik, Imeum Meunasah, Tuha Peut, and Ulee Jurong. They become “official” practitioners as a result of their social responsibilities. At present, men maintain every pertinent role in the administration of adat justice, though women participate by virtue of their membership in the Tuha Peut, which requires one female representative.
The following represents the structure of *adat* justice at the *mukim* level:

### The Structure and Role of Adat Justice Practitioners at the Gampong Level

1. **MUKIM SECRETARY**
   - Serves as Registrar

2. **MUKIM ADAT COUNCIL**
   - Serves as Member

3. **IMEUM CHIEK**
   - Serves as Member

4. **IMEUM MUKIM**
   - Serves as Court Leader

5. **TUHA PEUT MUKIM**
   - Serves as Member

6. **CLERICS, ADAT LEADERS, SCHOLARS, ETC**
   - Serves as Member

The *adat* justice mechanisms at the *mukim* level are similar to those of the *gampong* level.

Types of cases that cannot be settled at the *gampong* level:

1. Cases involving disputes between two or more *gamongs* under the jurisdiction of a single *mukim*
2. Cases handled at the *gampong* level and appealed to the *mukim* level as a result of either party’s dissatisfaction
Similarly Local Regulation 7/2000 provides that:

- The *gampong* retains authority in resolving any dispute within two months of its first reporting; if after two months a case remains unresolved, then it shall be brought to a meeting of the *mukim adat* [art. 11, para. (2)]
- The *mukim* is authorised to resolve cases within one month of their appeal [art. 15, para. (1)]

The *mukim*’s authority is also regulated by Qanun 4/2003 concerning *Mukim Governance in NAD Province*; this *Qanun* states the following:

- The *mukim* institution is authorised to settle cases, or to execute the law in the case of *adat* disputes and under *adat* law [art. 4, letter (e)]
- The *Mukim Adat Council* maintains and develops *adat*, facilitates *adat* reconciliations, resolves *adat* disputes and *adat* violations, and grants legal power over certain matters in accordance with *adat* procedure [art. 12, para. (2)]

Regarding cases appealed to the *mukim* level, Qanun 5/2003 concerning Village Governance in NAD Province provides that:

- Dissatisfied parties as referred to in art. 2, para. (2), may appeal to the *Imeum Mukim*, whose decisions are final and binding [art. 12 para. (3)];

The *mukim* level represents the last resort for obtaining justice under *adat* jurisdiction. Serious crimes and/or disputes that cannot be resolved at the *mukim* level will be referred or appealed to a State judicial institution in accordance with applicable laws.
E. Responsibilities of Adat Leaders

Involvement in adat dispute settlement is a profound responsibility. Community members invest their faith in adat leaders to settle their disputes in a just and peaceful manner. The responsibilities listed below are designed to ensure that adat justice principles are maintained in settlement procedures.

Primary responsibilities of adat leaders include:

1. **Enacting judicial procedures**
   Adat justice providers are responsible for the entire judicial process; this includes receiving complaints, carrying out investigations, preparing hearings and trials, and reaching final decisions according to the demands of adat.

2. **Making just decisions**
   Adat justice providers ensure that all decisions made through adat mechanisms satisfy the contending parties’ sense of justice, and are based on adequate investigations and consensus; decisions are not based inequitably on the interests of any single party.

3. **Protecting the rights of all parties**
   Adat justice providers are responsible for protecting the rights of all parties at every phase of the judicial process: while receiving complaints, investigating cases, carrying out hearings and trials, and executing decisions.

4. **Documenting procedures and decisions**
   Procedures and decisions must be documented accurately in all administrative documents pertaining to adat justice.

5. **Archiving documents**
   Case documents, including letters of agreement, must be archived securely for future reference in judicial and decision-making procedures. These archives can serve as an important reference if one of the contending parties should repeat his or her behaviour, or if a similar case should arise.
F. Jurisdiction of *Adat* Justice

Based on the findings of research and on coordinating meetings held between the MAA and law enforcement officials, the jurisdictional boundaries of *adat* justice are drawn as follows:

According to a draft MoU between the Governor of Aceh, MAA and Provincial Police Chief, petty cases that can be settled at the community level fall under *adat* jurisdiction. Despite an apparently clear distinction between the two jurisdictions, however, the determination of jurisdictions in practice can become very complex as petty cases escalate into more serious crimes. Land disputes, for example, can develop into criminal cases once they become violent.

A degree of flexibility is therefore required in determining the appropriate forum for any particular case. Cases are referred to the police when the safety of any party is threatened—particularly common in cases of violence, and in cases involving vulnerable populations such as women or children. When fears of violence emerge, *adat* leaders are authorised to take effective charge in ensuring that all parties’ rights are protected. *Adat* practitioners are advised to report any concern over violence directly to the police.

### Cases Under the *Adat* Justice’s Jurisdiction

- Land disputes
- Violations of *adat* agricultural regulations
- Domestic within and between families
- Inheritance
- Wills
- Slander
- Physical conflict
- Engagements and marriages
- Petty theft
- Cattle (grazing of crops and disturbances of traffic)
- Light traffic accidents
- Rice farming schedule violations

### Cases Which Do Not Fall Under the *Adat* Justice’s Jurisdiction

- Murder
- Adultery
- Rape
- Narcotics, marijuana, and related substances
- Grand theft (cattle and vehicles)
- Treason
- Insulting the lawful government (presidents and governors)
- Serious traffic accidents (resulting in death)
- Abduction
- Khalwat (is when non-muhrim/muhrim = married or relative) persons of opposite gender are in isolation (behind closed doors together) and
- Armed robbery
Adat leaders are also responsible for ensuring that all parties are aware of their options in bringing cases before a formal legal forum (further details in section K). They may also refer parties to relevant legal aid centres or civil society organisations for support.

With regard to domestic violence cases excluding battery, a victim who prefers adat resolution must obtain effective guarantees of protection from the local adat leader to ensure against recurrence when the victim returns to her spouse’s or parents’ home.
G. Dispute Settlement Process

Adat law does not distinguish between civil and criminal cases; nonetheless, adat courts must apply certain considerations and procedures when criminal cases are underway. The most common criminal cases brought to adat courts involve theft and violence, for which special consideration must be taken in cases involving women and/or children. Generally adat justice dispute settlement procedures consist of the following steps:

I. Dispute Settlement

In civil disputes, an aggrieved party may take the following steps:

1. A complaint is made by either or both parties to the village chief or Peutuwa Jurong based on the principle of territoriality. Complaints can also be addressed directly to the Geuchik. The village chief or Peutuwa Jurong settles petty cases, while serious cases, including complex cases or those involving public interests, are referred by the village chief to the Geuchik;

2. Soon after the Geuchik receives a complaint, he meets with his secretary, the village chief and the Imeum Meunasah to schedule a hearing. Ideally, all relevant parties report to the Geuchik at the Meunasah or at his residence, rather than in public areas such as markets or coffee shops. Parties are encouraged to meet with adat authorities in person;

3. Prior to the hearing sessions, the Geuchik and his administrators (Geuchik secretary, Imeum Meunasah, village chiefs, or Peutuwa Jurong) approach all parties involved to inquire as to the possibility of peaceful resolution. The adat justice practitioners adopt techniques of mediation and negotiation to ensure a speedy resolution;

4. Apart from the Geuchik and other adat justice practitioners, other local figures may be called upon to meet with the parties to a case. In sensitive cases involving women and/or children, the Geuchik’s wife or a local female figure will meet with victims;

5. Once both parties have agreed to resolve a case through peaceful means, the Geuchik secretary officially invites both parties to a scheduled hearing;

6. Parties may be represented or accompanied by guardians or relatives acting as spokespersons during these hearings;

7. Hearings are formal and carried out transparently; they are commonly held in locations perceived as neutral, such as village Meunasahs;

8. Once hearings begin, seating arrangements for the contending parties and adat justice practitioners are based on formal adat arrangements;

9. Seating arrangements are as follows: The Geuchik (as head of the court) sits in the same row as the Tuha Peut, Imeum Meunasah, scholars, cleric and other gampong adat leaders. To the left of and behind the Geuchik sits the village secretary acting as registrar. In the front row, or in front of the Geuchik, are the parties to the case and their representatives. Witnesses are seated in the left and right-hand wings of the hearing room. Behind them sit participants and visitors consisting of gampong community members, as well as family members and relatives of the affected parties.
10. Hearings are held with solemnity appropriate to the occasion. The Geuchik requests all parties to a case or their representatives to make statements recorded by the registrar (Geuchik secretary);

11. The Geuchik summons witnesses to testify. When deemed necessary, these testimonies are made underoath;

12. The Geuchik provides an opportunity to the Tuha Peut or Tuha Lapan to offer his insights and propose alternative resolutions;

13. The Geuchik provides an opportunity to clerics, scholars, and other adat leaders to offer their insights and propose alternative resolutions;

14. The Geuchik discusses the case with other members of the court to reach a resolution on the basis of consensus. Once they have agreed upon a resolution, the Geuchik will ask all parties whether they accept the resolution as offered. If so, the registrar will prepare a decision statement referred to as a letter of peaceful resolution;

15. If either party remains unsatisfied with the decision, then he or she may appeal to the mukim for justice. Refusal to accept the gampong adat court’s proposal is documented as the basis of appeal to the mukim level;
16. The *Geuchik* reads out the court's decision. All parties are then required to sign a binding letter of agreement;

17. The decision is archived at the *Geuchik* and *Mukim* offices, and copies of the decision are given to both parties;

18. Once the *adat* court decision has been accepted by all parties, the decision is announced in a second meeting in the form of a reconciliation ceremony:

   - Sanctions are imposed on one or both parties, their severity corresponding to the type of violation or *adat* crime committed;
   - Decisions are carried out in a reconciliation ceremony with the imposition of sanctions on one or both parties, depending on the severity of the violations.

If both parties are satisfied, the court then sets a date for a reconciliation ceremony at which the decision will be formally issued; this may take place in the *Meunasah*, in public, or in a house, mosque, or other agreed locations.

19. The decision is documented in a Case Registration Book which includes the following information:

   a) Case registration number;
   b) Complaint date and name of person reporting;
   c) Case classification;
   d) Case summary;
   e) Date of resolution;
   f) Summary of decision (Please refer to Annex II on the Case Registration Book).

**II. Dispute Settlement for Criminal Cases**

The procedures and frameworks for criminal cases are similar to the procedures outlined above. Only certain preliminary measures must be added to prevent conflict escalation. These preliminary steps include the following:

a) Ensuring the safety of all parties through the following measures:

   1) Safeguard the perpetrator in an undisclosed location. Prisons and rehabilitation centres do not exist in the *gampong* *adat* system. Thus, perpetrators are usually kept in a family home, the *Geuchik's* home, or in a safe, secure location outside the village.
   2) If the victims of an offence include women and/or children, they are also provided protection; women and children are safeguarded at the residence of an *adat* justice provider until their case has been resolved or the victims can return home safely.
   3) When a complaint of violence against women and/or children is registered, an *adat* justice provider assigns his wife or another female authority figure to undertake preliminary measures.
   4) A peaceful atmosphere is maintained, particularly for the family of the victim.
   5) *Gampong* practitioners take the initiative in contacting all parties.
   6) Any person who has seen, witnessed or had knowledge of a criminal act, reports immediately to the *Geuchik*, so that he may take all necessary security measures to resolve the case. Complaints may also be addressed to the *Geuchik* directly by either one of the parties at any time or place. This may serve to prevent escalation or an increase in casualties, e.g. in cases of assault, murder, torture, or theft.
b) The Geuchik, along with gampong adat justice providers, conducts inquiries and investigations by approaching all relevant parties outside of the formal hearing room. The Geuchik is expected to base all his decisions on the principles of peaceful resolution. The Geuchik and other gampong elders, including the Tuha Peut continue their inquiries and investigations within the limits of their capacities and knowledge, interviewing parties and witnesses, and collecting evidence.

c) During the process elaborated above, elder members of the contending parties’ families attempt to keep the parties calm and encourage them to reflect on their actions and how they may have caused disputes.

d) Once evidence is gathered and a peaceful atmosphere established, the parties and their families enter the court, normally held in the village Meunasah (when all parties are from the same gampong) or in the mosque (when parties are from different gampongs).

1. Trials on domestic violence and/or involving violence against women and/or children are closed to the public.

2. If the case involves violence against women and/or children, adat justice providers shall ensure victims are provided necessary accompaniment.

e) The process of adat resolution is based on preliminary evidence and on the principle of peaceful resolution. During the reconciliation process the parties are provided opportunity to formally declare their acceptance of the process and its outcomes.

f) The court’s decision is based on the adat justice panel’s thoughtful and thorough deliberations; its aim is the restoration of peace and harmony.

g) The Geuchik delivers the court’s decision at a special reconciliation ceremony, wherein the parties sign a letter of agreement that they will not repeat their earlier misconduct. In cases involving violence against women and/or children, the letter of agreement includes an additional written statement from the perpetrator that he will not repeat his misconduct; in these cases the perpetrator must read out his statement before the adat panel.

h) Subsequent to a decision’s coming into force, adat justice providers monitor the behaviour of all perpetrators so as to prevent any repetition of previous misconduct. Repetition would require further interventions on the part of adat justice providers.

III. Cases Involving Women and Children

The general process elaborated above is applicable to almost all cases under adat jurisdiction, though cases involving violence against women and/or children are treated specially to protect the safety of the victims. Security must be maintained from the day a complaint is filed, through inquiry and investigation, hearings and trials, and even after disputes have been settled. Following the successful resolution of a case, adat justice providers must monitor perpetrators to ensure against recurrence.

When adat justice providers are unable to guarantee a victim’s safety, or when there are threats on a victim’s life, then these facts must be reported to police. Similarly, when adat justice mechanisms are used to resolve cases involving women and children, women and children must actively participate in the process so that victims do not feel pressured in accepting adat decisions.

Once adat decisions are accepted by both parties, they are documented in a letter of agreement, highlighting the perpetrator’s vow never to commit violent acts again. The letter also stresses that if
a perpetrator does repeat his misconduct, then adat justice providers will take special measures for the protection of victims, including reporting violations to the police.

When a reported case involves women, such as in disputes among women or in cases of domestic violence, then victims may report the case to an adat justice provider’s wife or to any local female authority who in turn will notify the adat justice provider responsible for handling the case. When such reports are brought directly to male adat justice providers, then these men are required to refer the cases to their wives or other female authorities for preliminary investigation. The involvement of women in these initial stages is crucial, as many understand women to have superior communication skills and knowledge of women’s issues, and female victims tend to feel more comfortable discussing their personal problems with other women. In this way, the most complete possible information can be gathered in preparation for hearings.

If these initial procedures fail to lead to a resolution, then women’s continued involvement in the case remains a priority. If no women hold positions within the adat structure, then female accompaniment should be guaranteed as a minimum provision for the length of the judicial process.
IV. Negotiation Techniques in Adat Justice

Although case-handling procedures provide the necessary frameworks for dispute settlement, adat justice providers also require various skills to effectively enact peaceful conflict resolution. These skills include competence in facilitation techniques, active listening, clear speaking, and effective communication with conflicting parties. Oftentimes adat justice providers fail to resolve problems due to their lack of relevant skills. Skill and ability are therefore crucial in resolving community problems.

Both mediation and negotiation are key concepts in the practice of dispute resolution. When these concepts are applied properly through the adat justice system, they enable adat justice providers both to identify possible challenges and seek out potential resolutions.

These English-language concepts are quite similar to an indigenous concept of ‘musyawarah’ (decision-making through consensus) as applied in adat justice. Perhaps the most important difference is that mediation and negotiation employ a more structured approach in a series of specific steps.

Adat justice providers are advised to consider the following explanation of mediation and negotiation, since they are expected to practice these strategies as they interact with conflicting parties.

The application of musyawarah (here, in the sense of mediation and negotiation) techniques plays a significant role in determining whether an adat court hearing can proceed. The proper application of mediation and negotiation techniques can assist in the resolution of even the most complex cases. Musyawarah may then become a process by which a mediator—in this case the adat justice provider—assists the conflicting parties in settling a dispute satisfactorily.

A. Characteristics of Mediators

A good mediator possesses the following characteristics:

1. Trustworthiness
2. Integrity
3. Impartiality
4. Freedom from conflicts of interest
5. Commitment to dispute settlement
6. Congeniality and confidence
7. Ability to encourage equanimity on the part of all parties
8. Ability to understand the expectations and intentions of all parties
9. Ability to present the expectations of one party to another diplomatically
10. Ability to understand a dispute in its religious, social and psychological significance
11. Expertise in using language sensitively
12. Ability to apply the “hadih maja” (traditional rhymes embodying local wisdom) appropriately
B. Roles and Functions of Mediators

Roles and functions of mediators include the following:
1. Counseling both parties that disputes are not to be won, but resolved
2. Formulating and proposing alternative resolutions
3. Assisting both parties in analysing alternative resolutions

C. Stages and processes of mediation

Mediation consists of three distinct stages:

1. Establish relationships with conflicting parties.
   To achieve this, the mediator must:
   • Establish trust among conflicting parties
   • Maintain a good reputation
   • Advise parties as to the importance of resolving disputes peacefully

2. Collect and analyse background information relevant to the dispute.
   This will involve:
   • Data collection
   • Conflict analysis

3. Develop a mediation plan.
   Factors to be determined or considered:
   • Participants
   • Location of mediation
   • Seating arrangements
   • Rules of mediation
   • Current psychological states of contending parties

4. Earn trust.
   The mediator pre-empts potential obstacles to the process by:
   • Holding separate meetings with each party
   • Paraphrasing all communications so that they may be easily understood
   • Limiting sensitive discussions that could offend the various parties
D. Strategies for meeting with contending parties

The communications that occur in individual meetings are to remain private and confidential. The purposes of these individual meetings include the following:

1. Develop relationships with conflicting parties
2. Gain parties’ trust so their interests may be discussed frankly
3. Enable mediator to seek additional information, including causes of disputes and/or hidden agendas
4. Allow the mediator to understand parties’ motives and priorities, and develop empathy for the contending parties
5. Provide each party an opportunity to express his/her feelings without hindering further mediation
6. Allow the mediator to assess the potential of proposed resolutions
7. Enable the mediator to direct the parties toward meaningful negotiation
8. Provide opportunities to both parties to develop and consider alternative resolutions
9. Allow the mediator to convince both parties to accept proposed resolutions
10. Provide parties with adequate space and time to express their concerns regarding:
   • The process of mediation
   • Personal feelings
   • Proposed resolutions
   • The prospects of a ‘win-win solution’
H. Execution of Adat Justice Decisions

Decisions reached as a result of adat justice are the products of musyawarah—here in the sense of restoring peaceful relations between contending parties. The sanctions may be as light as proffering advice, or as severe as banishment from a gampong. Both parties must agree openly to proposed sanctions in an atmosphere free of intimidation.

I. Flexibility of Adat Sanctions

Adat sanctions are executed soon after their issuance by the Geuchik, particularly when sanctions are limited to advice, warnings, and/or public apologies. In the case of financial compensation, the amount of damage paid is flexible and dependent on the compensating party’s ability to pay. Similarly, when a villager is asked to leave the gampong, he/she is not forced to leave immediately, but rather given time for adequate preparation.

II. Decisions in Written Form

Adat justice providers are currently inclined to record decisions in writing so that they may have greater legal weight and more effective monitoring. Conflicting parties, as well as mukim institutions and police, each receive a copy of the written decision. Keeping the police informed of which cases have been resolved at the gampong level prevents the police from re-investigating already-settled cases (notwithstanding certain cases outside of the gampong’s jurisdiction). A written decision also serves as a reference in determining whether a case should be appealed (see the written decision in Annex I).

Once a decision has been written and signed, details of the case are recorded in the Case Registration Book. Data entered includes the case registration number, complaint date and name of person(s) reporting, case classification, case summary, date resolved (if applicable), and summary of the decision (see Annex II on the Case Registration Book).
I. Appealing in Adat Justice

The adat mukim court functions as the appellate court in the adat justice system and is the final resort for anyone seeking justice under the adat legal system. The mukim’s authority is stipulated by Qanun 4/2003 concerning Mukim Administration in NAD Province:

- The mukim institution is authorised to issue decisions and affirm law in cases of conflict and adat-related cases. [art. 4, letter e].

Qanun 5/2003 concerning Village Administration in NAD Province states that:

- Parties dissatisfied with a resolution decision as referred to in art. 2 para. (2), may appeal to the Imeum Mukim whose decision is final and binding [art. 12, para. (3)]

Parties dissatisfied with or unable to reach a resolution at the gampong level may appeal to the mukim. Parties must draft a statement describing their dissatisfaction with the gampong-level decision as the basis of appeal.
J. Referral Mechanisms from Adat to Formal Justice

Referrals can be made from the formal justice sector to the adat sector, just as they may be made from the adat to the formal sector. Cases may be referred for the following causes:

1. The case does not fall under adat jurisdiction;
2. Both parties refuse to settle their case through adat mechanisms; or
3. Adat mechanisms are unable to resolve the case.

Crimes that fall outside of adat jurisdiction, even when occurring on adat territory, include the following: murder; adultery; rape; possession, use or trafficking of narcotics, marijuana, and similar substances; grand theft (cattle and vehicles); treason; insulting the lawful government (presidents and governors); serious traffic accidents (causing death); and abduction. The Geuchik is obligated to report such crimes to the police at the kecamatan level (Sector Police office). Reports can be made verbally or in written form.

In cases where both parties refuse to submit to gampong adat justice, these parties may take their cases to court with a letter from the Geuchik stating that he has dismissed the case. This letter of referral serves as a basis for the formal court to hear the case, as stipulated in Regional Regulation 7/2000. This regulation states that, “the law enforcement apparatus shall give Geuchiks the opportunity to settle disputes/conflicts in their respective gampongs/mukims first” (art. 10).

When adat justice practitioners at the gampong and mukim levels feel themselves unable to settle serious criminal cases, then these also are referred to the formal court system (Draft 2007 MoU, art. 1).
K. Women’s Participation in *Adat* Justice Dispute Resolution Processes

Women’s participation in *adat* justice processes remains low for the following reasons: (1) *adat* court sessions are held in the evening, when communities often perceive it as unethical for women to leave the home; (2) women are perceived as lenient and emotionally sensitive—though this need not rule out women’s involvement in *adat* justice resolution processes entirely. Although women do not hold any formal role as justice providers in the *gampong* administrative structure, they do perform key functions in *adat* justice administration (and are thus considered informal justice providers). Women are often highly involved as mediators in domestic violence cases, for instance.

In a two-day workshop with *adat* leaders, conducted as part of the process of creating these guidelines, leaders agreed that excuses no longer exist for the exclusion of women from *adat* resolution processes. In fact, the *Tuha Peut* is legally obligated to include one woman.

*Adat* justice must be non-discriminatory. All citizens are equal before *adat* law regardless of social status or gender. In practice, women can report their grievances directly to the Geuchik or Peutua Jurong, and the Geuchik will handle the case immediately. All cases must be dealt with regardless of alleged perpetrators’ genders.
List of Annexes

GAMPONG RECONCILIATION JUSTICE COUNCIL

Gampong : ...................
Mukim : ..................

RECONCILIATION DECISION
Case Registration Number: .............

1. Case classification : 
2. Conflicting parties : a. Reporting party
   i. (name, age, occupation, address/residence)
   ii. (name, age, occupation, address/residence)

3. Case summary : b. Suspect
   i. (name, age, occupation, address/residence)
   ii. (name, age, occupation, address/residence)

4. Reconciliation decision :
   Whereas ........................................................................................................................................................................
   ..................................................................................................................................................................................
   ..................................................................................................................................................................................

Reconciliation Justice Council

1. Keuchik (Court leader) 4. Tuha Peut 2
   [Signature] [Signature]
   (Fullname) (Fullname)

2. Imeum Meunasah (Council member) 5. Tuha Peut 3
   [Signature] [Signature]
   (Fullname) (Fullname)

3. Tuha Peut 1 (Council member) 6. Tuha Peut 4
   [Signature] [Signature]
   (Fullname) (Fullname)

Gampong Secretary (Council Secretary)
[Signature]
(Fullname)
## Annex II

### Reconciliation Justice Council Case Registration Book

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Annex III

PROVINCIAL REGULATION 7/2000 CONCERNING THE MAINTENANCE OF ADAT LIFE

WITH THE APPROVAL OF
HOUSE OF REGIONAL REPRESENTATIVES
NANGGROE ACEH DARUSSALAM (NAD) PROVINCE

HAS DECIDED

To declare:

Nanggroe Aceh Darussalam (NAD) Provincial Regulation on the Maintenance of Adat Life

CHAPTER I
GENERAL PROVISIONS

Article 1

For the purpose of this provincial regulation:
1. Province refers to Special Autonomous Province of Aceh;
2. Governor refers to the Governor of Special Autonomous Province of Aceh;
3. Regents/Mayors refer to Regents/Mayors in Special Autonomous Province of Aceh;
4. Sub-district heads refer to sub-district heads in Special Autonomous Province of Aceh;
5. An adat institution refers to a customary community organization established by certain adat law societies having control over a certain territory and possessing their own wealth; it is authorized to arrange, administer and manage Acehnese adat matters;
6. Mukim refers to a an adat law society unit in the Special Autonomous Province of Aceh consisting of several gampongs (villages) with certain territorial borders and possessing its own property;
7. Imum Mukim refers to the head of a Mukim and its leading adat functionary;
8. Tuha Lapan (the eight elders) refers to a complementary body of gampong and mukim organisations consisting of government officials, religious figures, adat leaders, social leaders, scholars, youth, women, and civil society organizations;
9. Gampong refers to the smallest unit of communal territory inhabited by a certain population with the right to manage its own administration;
10. Keuchik refers to an individual who is elected and whom the community relies upon; he is legally installed by the Kabupaten or kota governments to lead the gampong administration;
11. Tuha Peut refers to a complementary body within a gampong or mukim whose members represent government officials, religious figures, adat leaders, and scholars of the gampong or mukim who act as advisers to the Keuchik and Imum Mukim on governance, adat law, community customs and tradition; they also settle disputes in the gampong and mukim;
12. Imum Meunasah refers to a person who leads community Islamic activities and implementation of Syari’at within a particular gampong;
13. Keujreun Blang refers to a Keuchik’s assistant in managing rice farm irrigation;
14. Panglima Laot refers to an adat leader specialising in fishing customs who determines fishing areas and settles disputes;
15. Peutua Seneubok refers to a person who leads and regulates the use and establishment of land for farming and plantation cultivation;
16. Haria Peukan refers to a person who manages order, security, and environmental issues; he also collects market taxes at the gampong market;
17. **Syahbanda** refers to a person who leads and manages ship/boat docks as well as traffic at sea, lakes and rivers;

18. Hukum **Adat** refers to Acehnese customary law as it exists and develops in the Acehnese community;

19. **Adat istiadat** (customs) refers to a set of rules or actions based on Islamic Syariat, practiced, respected, honoured, and long regarded as the philosophy of life;

20. Kebiasaan (traditions) refers to activities or actions that are not based on hukum **adat** or **adat istiadat**; but recognized and practiced as tradition nonetheless.

**CHAPTER II**

**ADAT INSTITUTIONS**

**Article 2**

Hukum **adat**, **adat istiadat** and kebiasaan that are prevalent, applied and developed within the Acehnese community shall be preserved, on the condition that they conform to *Syari’at* Islam.

**Article 3**

*Syari’at* Islam is the basis of the establishment of **adat** life in the region.

**Article 4**

**Adat** institutions are a means of maintaining social control in administering the region.

**Article 5**

1. **Adat** institutions existing and developing within the region shall be preserved, utilised, maintained, empowered and standardized.

2. **Adat** institutions as mentioned in paragraph (1) include:
   a) **Imum Mukim**;
   b) **Keuchik**;
   c) **Tuha Peut**;
   d) **Tuha Lapan**;
   e) **Imeum Meunasah**;
   f) **Keujreun Blang**;
   g) **Panglima Laot**;
   h) **Peutua Seuneubok**;
   i) **Haria Peukan**; and
   j) **Syahbanda**;

The **adat** institutions as referred to in paragraph (1) include **adat** institutions with similar functions and purposes under different terms at the Kabupaten and kota levels. Other existing **adat** institutions which have not yet played significant roles in the community such as Panglima **Uteun** (Forest Commander) and **Pawang Glee** (Mountain Guardian) and similar positions shall be registered and empowered in accordance with their functions and purposes.

3. **Adat** institutions as referred to in paragraphs (1), (2), (3) and (4) accommodate community participation in development, including the Acehnese **Adat** and Culture Institution (Lembaga **Adat** dan Kebudayaan Aceh, LAKA).
Article 6

Adat institutions as referred to in Article 5 regulate the security, safety, harmony, and order of the community through preventive and repressive means, including:

a. Resolution of social-communal matters;

b. Mediation (reconciliation) and settlement of disputes within the community.

CHAPTER III
OBJECTIVES AND FUNCTIONS

Article 7

1) The objective of this government regulation is to standardize, promote, support and improve community participation in the establishment of adat istiadat life and adat law in the region;

2) Adat is intended to form honourable, dignified and civilized human beings.

Article 8

The function of adat life is to implement adat istiadat and adat law, to make them effective, and to guide the community.

CHAPTER IV
ADAT FUNCTIONARIES AND COUNSELORS

Article 9

1) The governor and Regents/Mayors are adat functionaries and counsellors, and they are assisted by a body called the Acehene Adat and Culture Institution (Lembaga Adat dan Kebudayaan Aceh, LAKA);

2) LAKA and its administrators are established/appointed and dismissed by the Governor at the provincial level and by the Regents/Mayors at Kabupaten/kota level;

3) The establishment and appointment of LAKA administrators as referred to in paragraph (2) is carried out in accordance with the conditions of the respective Kabupaten/kota.

CHAPTER V
DISPUTE SETTLEMENT

Article 10

The law enforcement apparatus prioritizes the authority of the Keuchik and Imeum Mukim in settling any disputes/conflicts in their respective gampongs/mukims.

Article 11

1) The Keuchik is authorized to settle any conflicts, disputes or problems in the village, including domestic or neighbourhood disputes, and any community social problem through a gampong adat meeting;

2) If disputes are not resolved at the gampong level within two months, or if conflicting parties refuse to accept the Keuchik's decision, the case shall be appealed to the mukim level to be settled through a mukim adat meeting.
Article 12

(1) Gampong adat meetings are led by the Keuchik and Teungku (religious leaders) of the gampong (Imum Meunasah) with the assistance of the gampong secretary and the gampong’s Tuha Peut/Tuha Lapan;
(2) Mukim adat court meetings are led by Imum Mukim with the assistance of the Mukim secretary, and attended by the mukim’s Tuha Peut/Tuha Lapan.

Article 13

All conflicts, disputes or domestic disturbances between or among families or communities, shall be resolved through peaceful negotiations in adat meetings.

Article 14

(1) All dispute and conflict resolutions reached by the Keuchik or Imum Mukim in adat meetings are binding on the conflicting parties;
(2) Those who fail to respect the Keuchik or Imum Mukim’s decision will be punished with more serious sanctions for breach of agreement and disruption of community balance.

Article 15

(1) If an Imum Mukim is unable resolve a case within a month, or if conflicting parties refuse to accept the mukim decision, the case may be referred to the formal law enforcement apparatus.
(2) Completed adat decisions may be considered by the formal law enforcement apparatus as a reference in their handling of cases.

Article 16

Dispute/conflict settlement procedures and requirements shall be applied in accordance with regulations applicable to the particular Kabupaten, kota, kecamatan, mukim or gampong.

Article 17

When resolving cases in court, the Keuchik and Imum Mukim may act as expert witnesses during trial, under condition that a decision has been made for that case in an adat meeting.

Article 18

All adat dispute settlements made by the Keuchik and Imum Mukim shall be documented in a report, and that report shall be made public.

CHAPTER VI

TYPES OF RESOLUTION

Article 19

Types of dispute resolution and sanction are as follows:

a) Advice;
b) Warning;
c) Public apology in the Meunasah or mosque, followed by a peusijuk (literally, “cooling down”, but more broadly a symbol of reconciliation, congratulation or good wishes) ceremony;
d) Fine;
e) Compensation;
f) Social isolation within the *gampong*;
g) Removal from the *gampong*;
h) Revocation of *adat* title; and
i) Other locally applicable sanctions.

Article 20

An *adat* violator’s family shall bear responsibility for ensuring the execution of *adat* sanctions on their family member.

Article 21

Dispute/conflict/problem settlement negotiation sessions are held at the *Meunasah* at the *gampong* level and at the mosque at the *mukim* level; other locations may also be chosen by the *Keuchik* or *Imeum Mukim*.

CHAPTER VII

ADAT EMPOWERMENT

Article 22

In an effort to empower *adat*, the local government holds *adat* trainings for *gambar* and *mukim* administrators.

Article 23

Aceh’s *adat* law and *adat istiadat* shall be included in primary and secondary educational curricula and shall be further managed by provincial regulation.

Article 24

Government officials assigned to work in Aceh from outside the region shall learn and respect the fundamentals of Acehnese *adat* law and *adat* community values.

CHAPTER VIII

FUNDING

Article 25

National Government Budget (Anggaran Pendapatan dan Belanja Negara, APBN), Provincial Government Budget (Anggaran Pendapatan dan Belanja Daerah, APBD), District/City Organizational Government Budget (Anggaran Pendapatan dan Belanja Organisasi, APBO), and other legal and independent funding sources.

CHAPTER IX

TRANSITIONAL PROVISIONS

Article 26

By enactment of this provincial regulation, existing *adat* institutions are now declared to be *adat* institutions as referred to in Article 5 para. (2), and shall continue to perform their duties, unless otherwise provided.
Article 27

Laws, regulations, and provisions on the establishment of adat life in the region will continue to apply under condition they have not been rescinded, amended or replaced by this Provincial Regulation.

CHAPTER X
CONCLUDING PROVISIONS

Article 28

Matters not yet stipulated by this Provincial Regulation shall be further regulated by a Governor’s Decree in accordance with applicable provisions and guidelines, under the condition that these implement regulations.

Article 29

This Provincial Regulation will enter into force on the date of its enactment.
To ensure public awareness of the regulation, the enactment of this provincial regulation shall be announced in the NAD Province Gazette.
This Provincial Regulation becomes operational on the date of its issuance.

Legalised in Banda Aceh on July 25, 2000
Rabiul Akhir 22, 1421 H

Enacted in the Provincial Gazette
Special Province of Aceh
No: 32, on August 25, 2000Serial “D”, number 23
EXPLANATION
OF PROVINCIAL REGULATION 7/2000 CONCERNING THE ESTABLISHMENT OF ADAT LIFE

I. GENERAL EXPLANATION

Adat istiadat refers to a set of social values and beliefs rooted in and developing out of Acehnese community life. Adat istiadat has made a significant contribution to the sustaining of community life.

Act No. 44/1999 concerning the Administration of the Special Status of Aceh Province provides for adat as a feature of Aceh’s special status recognized by the NAD Provincial government.

The Minister of Internal Affairs's Ministerial Decree 11/1984 concerning Training in and Development of Adat Istiadat at the Desa/Kelurahan Level states that adat institutions have a firm legal basis. Therefore the NAD province is able to manage training, development and preservation in matters of adat istiadat.

The general function of adat istiadat is to establish harmonious relations in community, as illustrated in the saying “Adat Bak Po teu Meurehom, Hukom bak Syiah Kuala. Kanun bak Putroe Phang, Resam bak Laksamana. Hukom ngan adat iage Zat ngoen Sifeut” (Adat is guarded by Po teu Meurehom, and Law is enforced by Syiah Kuala. Qanun is drafted by Putroe Phang, and Tradition is guarded by the Admiral. The relationship between law and adat is like that between a substance and its nature).

This explains the necessity of a provincial regulation on the establishment of adat life in the Special Province of Aceh.

II. EXPLANATION OF ARTICLES

Articles 1 to 10
Clear

Article 11
Paragraph (1)
Adat Gampong Meeting refers to an adat meeting attended by the Tuha Peut and other relevant adat leaders.
Paragraph (2)
Clear

Article 12
Clear

Article 13
‘Musyawarah Adat’ refers to a dispute settlement process conducted by a Tuha Peut and attended by relevant parties.

Article 18
Clear, Paragraph (19)
Letters (a) through (c)
Clear
Letter (d)
ANNEX IV

QANUN 4/2003 CONCERNING MUKIM GOVERNANCE STRUCTURES IN NANGGROE ACEH DARUSSALAM PROVINCE

IN THE NAME OF ALLAH THE BENEVOLENT AND THE MERCIFUL WITH ALLAH’S BLESSING

THE GOVERNOR OF NANGGROE ACEH DARUSSALAM PROVINCE,

Considering:

a. For the purpose of the implementation of Nanggroe Aceh Darussalam Province’s Special Autonomy, regulations are required for the structure, position and authority of mukim administration within the Nanggroe Aceh Darussalam Province;

b. Mukims in the Nanggroe Aceh Darussalam Province have developed for centuries, have integrated the community, and have carried forth from one generation to the next as the root of social and cultural systems, forming a unity in the adat community that continues to exist and develop;

c. Mukims have contributed significantly to the sustenance of the community, to the struggle for Independence and to the development of Nanggroe Aceh Darussalam Province, so that they cannot be overlooked in the contexts of politics, economics, social-cultural development, or defence and security; thus it is necessary to maintain and develop the institution of mukims by providing them with a status, role and function consistent with governance, progress, growth and national development;

d. Thus a Nanggroe Aceh Darussalam Province Qanun is necessary.

Recalling:

1. Act 24/1956 concerning the Establishment of the Autonomous Province of Aceh and the Amendment of the North Sumatra Establishment Regulation (1956 State Gazette of the Republic of Indonesia number 64, Additional State Gazette of the Republic of Indonesia number 1103);

2. Act 22/1999 concerning Local Governance (1999 State Gazette of the Republic of Indonesia number 60, Additional State Gazette of the Republic of Indonesia number 3839);

3. Act 25/1999 concerning Central and Local Government Revenue Proportionality (1999 State Gazette of the Republic of Indonesia number 72, Additional State Gazette of the Republic of Indonesia number 3839);

4. Act 44/1999 concerning the Administration of the Special Status of Aceh Province (1999 State Gazette of the Republic of Indonesia number 172, Additional State Gazette of the Republic of Indonesia number 3839);

WITH THE APPROVAL OF
HOUSE OF REGIONAL REPRESENTATIVES
NANGGROE ACEH DARUSSALAM (NAD) PROVINCE

HAS DECIDED

To declare:

QANUN 4/2003 CONCERNING MUKIM GOVERNANCE STRUCTURES IN NANGGROE ACEH DARUSSALAM PROVINCE

CHAPTER I
GENERAL PROVISIONS

Article 1

For the purpose of this Qanun:
1. Kabupaten or Kota, or any other terms used, refer to districts and cities in Nanggroe Aceh Darussalam Province;
2. Bupati or Walikota, or any other terms used, refer to Regents or Mayors in Nanggroe Aceh Darussalam Province;
3. Kecamatan, or any other terms used, refer to territorial units led by a Camat, or any other terms used;
4. Mukim, or any other terms used, refers to legal community units within Nanggroe Aceh Darussalam Province consisting of several gampongs within certain territorial boundaries, possessing their own assets, under the authority of a Camat, or any other terms used, led by an Imuem Mukim, or any other terms used;
5. Gampong, or any other terms used, refers to a legal community unit which constitutes the smallest governmental organization, one level under mukim, or any other names used, within a certain territory under the authority of a Keuchik, or any other names used, and authorized to run its own administration;
6. The mukim’s assets and financial resources are owned by the mukim, which includes assets not transferred to a gampong during the establishment of that gampong, and other legal sources;
7. Tanah Ulayat (indigenous land) refers to land within a mukim’s territory under hukum adat jurisdiction and administration;
8. Hukum adat (adat law) refers to all adat rules, adat istiadat, and customs existing in the Acehnese community; they are legally binding;
9. Musyawarah mukim refers to consensus discussions in adat activities, governance, development and community life led by Imuem Mukim and attended by Keuchiks, adat institutions and religious leaders;
10. Mukim Adat Meeting refers to discussions of or negotiations held in relation to adat cases, dispute settlement between residents, or in adat legal disputes within the Kemukiman attended by the Imuem Mukim and the Tuha Peut Mukim;
11. Imuem Mukim, or any other terms used, refers to the leader of a mukim administration;
12. Tuha Peut Mukim, or any other terms used, refers to a complementary mukim institution consisting of religious figures, adat figures, social figures and scholars.
CHAPTER II
POSITION, DUTIES AND FUNCTIONS

Article 2

The mukim is a unit of governance with direct control over several gampongs and under the responsibility of a Camat.

Article 3

Mukim duties include government administration, development implementation, community training and improvements to the implementation of Islamic Syari’at.

Article 4

In carrying out the duties referred to in Article 3, mukims maintain the following functions:

a. Practicing good governance based on the principles of decentralization, de-concentration, assistance and other governmental practices;

b. Implementation of economic, physical, mental and spiritual development;

c. Community training in Islamic Syari’at, education, customs, social-cultural affairs, communal harmony and order;

d. Acceleration of services to the community;

e. Settling, deciding, and codifying law in adat–based disputes, cases and law.

CHAPTER III
ELEMENTS AND ORGANISATION OF MUKIMS

Article 5

Mukims are led by an Imuem Mukim, or any other names used.

Article 6

1. Imuem Mukims are appointed and dismissed by Bupatis or Walikotas at the request of Camats based on legitimate elections.

2. Imuem Mukims are elected through direct, open and independent secret-ballot elections.

3. Imuem Mukims are appointed for an initial five-year terms, and may be re-elected for another term.

Article 7

Requirements for an Imuem Mukim include the following:

a. Possesses faith in and fear of Allah Subhanahuwata’ala, and practices Islamic Syari’at;

b. Possesses loyalty to the legitimate Unitary State of the Republic of Indonesia;

c. Junior high school education or equivalent (grade 9);

d. At least thirty years of age during his candidacy and married;

e. Originates from or has resided in the kemukiman for a minimum of two consecutive years, is familiar with and well-recognized by the mukim community;

f. Satisfactory physical and mental health;

g. Has never been convicted of a crime;

h. Experience in governance, community and adat matters;

i. Voting rights not currently revoked by a legitimate court.
Article 8

An Imeum Mukim may be dismissed for the following reasons:

a. Death;

b. Voluntary resignation;

c. End of term and inauguration of a new Imeum Mukim;

d. Failure to fulfil requirement as referred to in Article 7;

e. Experience of a large-scale crisis of public trust because of case reports’ rejection by the Mukim Tuha Peuet.

Article 9

For the effective administration of mukim governance, the following institutions are established:

a. Mukim Secretariat;

b. Mukim Consensus Council;

c. Mukim Adat Council;

d. Imuem Chiek (Leading Imeum).

Article 10

1. The Mukim Secretariat is headed by a Mukim Secretary appointed and dismissed by the Camat at the request of the Imeum Mukim;

2. To assist the Mukim Secretariat, the following divisions are established: Administration, Governance, Economy and Development, Aceh’s Special Status, and Women’s Empowerment;

3. Guidelines for the organizational structure and operating procedures of the mukim and its Secretariat are stipulated by Governor’s decree.

Article 11

1. The Mukim Musyawarah Council functions as a consensus body to provide input, recommendations and consideration to the Imeum Mukim in matters of government administration, the economy and development, community training, Aceh’s special status, women’s empowerment and the determination of additional requirements for Imeum Mukim candidacy;

2. The Mukim Musyawarah Council consists of:
   a. Imeum Chiek;
   b. Keuchiks;
   c. Mukim Tuha Peuet;
   d. Mukim Secretary;
   e. Adat Institutional Leaders in their respective mukims.

3. The Mukim Musyawarah Council is led by a chairman and is assisted by a vice chairman chosen from and by the Mukim Musyawarah Council members;

4. The Mukim Musyawarah Council meets at least every three months;

5. The Mukim Musyawarah Council serves a term of five years.

Article 12

1. The Mukim Adat Council is led by an Imeum Mukim, assisted by the Mukim Secretary, and attended by all members of the Mukim’s Tuha Peuet;

2. The Mukim Adat Council functions as a body for the preservation and development of adat, handling adat reconciliations, resolving and taking decisions on adat disputes and violations, and granting the legal endorsement on certain matters and other means of verification in accordance with adat;
3. The Mukim Adat Council’s decisions and decrees become a reference for Keuchiks, provided that they conform to government laws and regulations;
4. Mukim Adat Council meetings are held at the request of the Imuem Mukim to resolve adat and adat istiadat cases.

**Article 13**

Imeum Chieks are appointed and dismissed by Camats at the request of Imuem Mukim and on the basis of Mukim Musyawarah Council decisions.

**Article 14**

Responsibilities of the Imeum Chiek include:

a. Managing, implementing and leading all activities related to the mosque and its property;
b. Coordinating implementation of religious activities, improving religious practice and implementing Syari’at Islam within the community.

**CHAPTER IV**

**MUKIM ESTABLISHMENT**

**Article 15**

1. For the benefit of government administration, development, community training, implementation of Aceh’s special status, women’s empowerment, and community service improvement, mukims may be established, expanded, and merged;
2. Mukim establishment, expansion, merger or abolition procedures are further regulated through a Kabupaten or Kota Qanun;
3. Substantial contents requiring further regulation as referred to in paragraph (2) are:
   a. The cause of mukim establishment, defined as the establishment of a new mukim outside any existing mukim, or establishment of a new mukim through expansions, merger and abolition of other mukim;
   b. The establishment of a mukim shall take into consideration the population, territorial size, number of gampongs, social-cultural conditions, security and order, economic and natural resource potential, and governmental facilities and infrastructure;
   c. Determination of a mukim’s territorial boundaries during the mukim’s establishment;
   d. Mechanisms for the establishment, abolition and merger of mukims, proposed by the Imeum Mukim to the Camat and based on community input, Camat approval, and approval by a Bupati or Walikota as stated in a decree, following approval by the Kabupaten or Kota House of Regional Representatives. This process concludes with a Bupati or Walikota issuing a decision for the establishment of a mukim;
   e. Division of mukim territory;
   f. Details of mukim authority.

**Article 16**

Changes to a mukim’s borders may be made through negotiation between neighbouring mukims, and are established by a Bupati or Walikota decree.

**Article 17**

1. The Mukim Administrative Capital is located in a gampong considered strategic in government administration, development, community training, implementation of Aceh’s special status, and community service improvement;
2. The Mukim Administrative Capital as referred to in paragraph (1) of this Article is determined by a Bupati or Walikota decree.

CHAPTER V
MUKIM ASSETS AND REVENUE

Article 18

a. A mukim’s assets consist of existing assets, or assets transferred to a mukim, in the form of forests, land, reservoirs, estuaries, lakes, seas, mountains, swamps, ponds, etc., all of which are included in a mukim’s ulayat, provided that it does not contradict existing law and/or regulation;
b. A classification and accounting of mukim assets shall be undertaken and registered, and the use of such assets shall be regulated by a Bupati or Walikota decree based on mukim consensus;
c. The Mukim Tuha Peut supervises mukim assets.

Article 19

1. The sources of mukim revenue include the following;
   a. Direct income from mukim assets;
   b. Income from a mukim’s meusara land;
   c. Government support;
   d. Adat funds;
   e. Legitimate and non-binding donations and aid from outside parties.

2. A Mukim’s revenue as referred to in Article (1) is managed through a Mukim Government Budget (Anggaran Pendapatan dan Belanja Mukim, APBM) developed by the Mukim with the Tuha Peut’s approval.

Article 20

1. A Mukim’s revenue as referred to in Article (19) is used for government administration, development, community training, implementation of Aceh’s special status, and community service improvement;
2. Mukim revenue management and spending procedures as referred to in paragraph (1) are regulated and stipulated by consensus of the Mukim.

CHAPTER VI
TRANSITIONAL PROVISIONS

Article 21

Currently existing mukims are declared as mukims and authorized to perform the duties and functions referred to in Article (3) and (4) of this Qanun.
CHAPTER VII
CONCLUDING PROVISIONS

Article 22

1. Matters which have not yet been stipulated in this Qanun shall be further regulated by a Nanggroe Aceh Darussalam Province Governor’s Decree;
2. The enactment of this Qanun rescinds any conflicting provisions on mukims.

Article 23

This provincial regulation will enter into force on the date it is enacted.
To ensure public awareness of the regulation, the enactment of this provincial regulation shall be announced in the NAD Provincial Gazette.

Legalized in Banda Aceh
July 15th, 2003
Jumadi Awal 15, 1424

Enacted in Banda Aceh
July 16, 2003
Jumadil Awal 16, 1424

GOVERNOR OF
NANGGROE ACEH DARUSSALAM PROVINCE

[Signature and Seal]

ABDULLAH PUTEH

SECRETARY OF
NANGGROE ACEH DARUSSALAM PROVINCE
Annex V

QANUN 5/2003 CONCERNING GAMPONG GOVERNANCE STRUCTURES IN NANGGROE ACEH DARUSSALAM PROVINCE

CHAPTER II
POSITION, DUTIES, FUNCTIONS, AND AUTHORITY OF GAMPONGS

Article 2
Gampong refers to the smallest organizational unit under a mukim in the administrative organizational structure of Nanggro Aceh Darussalam Province.

Article 3
Gampong duties include government administration, development implementation, community training, and improvements to the implementation of Islamic Syari’at.

Article 4
In carrying out the duties referred to in Article 3, gampongs assume the following functions:
(a) Practicing good governance based on the principles of decentralization, de-concentration, assistance, and other matters of governance at the gampong level;
(b) Implementation of economic, physical, mental and spiritual development at the gampong level;
(c) Community training on education, customs, social-cultural matters, communal harmony and order at the gampong level;
(d) Improved implementation of Islamic Syari’at;
(e) Acceleration of community services;
(f) Settling, deciding, and codifying law in adat-related disputes, cases and law at the gampong level;

Article 5
(1) Gampong authorities include:
(a) Existing authorities based on fundamental understandings of adat and adat istiadat provisions;
(b) Authorities granted by law;
(c) Authorities granted by law which have not yet been taken or implemented by the central, provincial, Kabupaten/kota, kecamatan and mukim governments;
(2) Duties of assistance as referred to in paragraph (1) letter (d) must include funding, facility/infrastructure, and personnel support;
(3) Gampong administration has a right to refuse any duty of assistance that does not contain funding, facility/infrastructure, and personnel support.

CHAPTER III
GAMPONG ESTABLISHMENT, MERGER AND ABOLITION

Article 6
(1) The establishment of gampongs is based on community initiative, taking into consideration a local community’s social-cultural condition
(2) The establishment of *gamongs* as referred to in paragraph (1) is the result of existing *gamongs'* expansion;

(3) If a *gampong*’s social-cultural condition and territory do not meet requirements, it may be abolished or merged with another *gampong*.

**Article 7**

*Gampong* territory consists of hamlets/jurongs, or any other term used, led by a Kepala Dusun/Jurong, or any other term used, who are the territorial administrators of a *gampong*.

**Article 8**

(1) Procedures for the establishment, expansion, merger or abolition of a *gampong* are regulated through a *Kabupaten* or *Kota Qanun*;

(2) The *Kabupaten* or *Kota Qanun* as referred to in paragraph (1) shall include:
   a. The cause of *gampong* establishment, defined as the establishment of a new *gampong* outside of existing *gampong* territory, or establishment of a new *gampong* as a result of other *gamongs*’ establishment, merger, or abolition;
   b. Requirements for the establishment of a *gampong*;
      1. Minimum population;
      2. Territorial size;
      3. Number of hamlets/jurongs;
      4. Social-cultural conditions;
      5. Economic and natural resource potential;
      6. Government facilities and infrastructure;
   c. Determination of a *mukim*’s territorial boundaries during the establishment of the *gampong*;
   d. Mechanisms for the establishment, proliferation, merger and abolition of *gamongs*, are proposed by the *Keuchik* based on community input after receiving Tuha Peuet *Gampong*’s approval through the *Imeum Mukim* and *Camat*, to its establishment through a *Bupati* or *Walikota* decree after receiving approval from the *Kabupaten* or *Kota* House of Regional Representatives;
   e. Division of *gampong* territory;
   f. Details of the authority of the *gampong*.

(3) The naming of a *gampong* shall take into account its Acehnese heritage.

**CHAPTER IV**

**FORM AND STRUCTURE OF GAMPONG ADMINISTRATION**

**Part One**

**General Provisions**

**Article 9**

A *Tuha Peut Gampong* shall be established to administer a *gampong* collaboratively.

**Article 10**

*Gampong* administration consists of a *Keuchik*, *Imeum Meunasah* and *gampong* functionaries.
Part Two
Keuchik

Article 11

The Keuchik is the head of a Gampong Executive body in gampong administration.

Article 12

(1) Duties and responsibilities of Keuchiks include:
   a. Leading gampong government administration;
   b. Training the community in Islamic Syari'at;
   c. Preserving and maintaining adat and adat istiadat customs existing and developing in the community;
   d. Developing and improving the community economy, conserving the environment, maintaining harmony and order, and preventing immoral acts in the community;
   e. Facilitating reconciliation within the gampong community;
   f. Proposing Reusam Gampong (heritage plans) for the Tuha Peut Gampong to be approved as gampong heritage;
   g. Proposing a Gampong Government Budget (Anggaran Pendapatan dan Belanja Gampong, APBG) to the Tuha Peut Gampong for approval and validation;
   h. Representing the gampong inside and outside of court, while reserving the right to appoint a lawyer for representation.

(2) Facilitates reconciliation as referred to in paragraph (1) letter (f), with the assistance of the Imuem Meunasah and Tuha Peut Gampong;

(3) Parties dissatisfied with reconciliation decision as referred to in paragraph (2) may refer their cases to the Imeum Mukim. The Imeum Mukim’s decision is final and binding.

Article 13

In performing the duties and responsibilities of a Keuchik as referred to in Article 12, the Keuchik must be just, firm, and wise.

Article 14

(1) The Keuchik leads gampong administration based on policies decided on and approved by the Tuha Peut Gampong;

(2) In performing their duties and obligations, Keuchiks must be accountable to the people, either by the end of their term or by request of the Tuha Peut Gampong;

(3) A Keuchik is obliged to submit a report on the accomplishment of his duties to the Imeum Mukim at least once a year, at the end of the budget year or on the Imeum Mukim’s request.

Article 15

A Keuchik is directly elected by gampong residents through a free and democratic secret-ballot election held in a just and respectable manner.

Article 16

The Keuchik’s term is for five years beginning from the date of his installation; he may be re-elected for another term.
**Article 17**

One may be recognized by the gampong community;
m. Has good understanding of Qanun, Reusam, and adat istiadat; and has never violated adat istiadat and traditions;
n. Is willing to run for office or has been proposed by another party;

**Article 18**

A person has a right to be appointed as Keuchik if that person an Indonesian citizen and fulfills the following requirements:
a. Is at least 17 of age, or is has been married;
b. Is already living in the particular gampong;
c. Clearly does not suffer from mental disturbances or memory impairment;
d. Does not currently have voting rights revoked by a legitimate court;
e. Is registered as a voter;

**Article 19**

(1) During the Keuchik's election, the Tuha Peuet Gampong forms an Independent Election Commission from members of the community;
(2) The Keuchik Election Committee consists of one chairman, one vice-chairman, one secretary, one vice-secretary, and a maximum of five members;
(3) Mukim functionaries monitor the Keuchik election;
(4) Members of the Keuchik Election Committee as referred to in paragraph (1) may not run for office and shall be replaced if they do;
(5) Keuchiks may assign security personnel to election sites.

**Article 20**

(1) The election of a Keuchik consists of a number of phases: candidacy, election, confirmation of outcomes, and inauguration of an elected Keuchik;
(2) Registration of candidacy as referred to in paragraph (1) is conducted by:
a. Voter registration by the Keuchik Election Committee;
b. Registration and administrative selection of candidates, conducted by the Keuchik Election Committee;
c. Presentations of candidates' work plans (programs) before the Tuha Peuet Gampong;
d. Choice of between two and five candidates by the Tuha Peuet Gampong;
e. Approval of candidates by Tuha Peut Gampong;
(3) The election phases as referred to in paragraph (1) involve the following activities:
a. Election process is organized by the Keuchik Election Committee;
b. The vote count is conducted by the Keuchik Election Committee immediately after voting; it is open to public, witnessed by the Imuem Mukim, Imuem Meunasah, Tuha Peut Gampong and voters;
c. The minutes and outcome reports of the election are signed by the Election Committee Chairman, Vice-Chairman, Secretary, Vice-Secretary and witnesses;
d. The minutes and election count report are submitted by the election committee to Tuha Peut Gampong;
e. The Tuha Peut Gampong, accompanied by the Imuem Mukim, submits the report and election count results to the Bupati or Walikota through the Camat;
(4) The authorization and inauguration of the elected Keuchik entails the following:
a. Elected Keuchiks are authorized by a Bupati or Walikota by issuance of an appointment letter;
b. Elected Keuchiks are inaugurated by the Bupati, Walikota or other acting officials on behalf of the Bupati or Walikota, in a ceremony for the gampong.

Part Three
Imeum Meunasah

Article 25

Imeum Meunasah, or any other terms used, have the duty and responsibility of leading and increasing religious activities, as well as conducting educational activities for children, youth and other community members; leading all activities related to the prosperity of the Meunasah/mushalla (small mosque or community centre in the village); and leading all activities related to the implementation of Islamic Syari'at in the community.

Part Four
Gampong Personnel

Article 27

(1) Gampong personnel assist the Keuchik in performing his functions, duties and obligations;
(2) Gampong administrative personnel report to and are responsible to the Keuchik in performing the duties referred to in paragraph (1);
(3) Gampong personnel are appointed residents of the gampong who fulfil all requirements in accordance with the local community’s social-cultural conditions;
(4) Gampong personnel are appointed and dismissed by decision of the Keuchik upon approval of Tuha Peut Gampong;

Article 28

Gampong personnel as referred to in Article (27) paragraph (1) consist of:
A. Staff, led by a gampong secretary, or any other terms used; in performing his duties, he may be assisted by staff members as appropriate to the necessities and capacities of the gampong:
   1. Head of Governance Division;
   2. Head of Planning and Development Division;
   3. Head of Aceh Special Status and Social Welfare Division;
   4. Head of Community Order and Security Division;
   5. Head of Women’s Empowerment Division;
   6. Head of Youth Division;
   7. Head of Public Service Division;
   8. Head of Finance Division;
B. Executors, that is, functional and technical executors charged with carrying out specific tasks in accordance with the community’s socio-economic and social-cultural needs and conditions:
   1. Tuha Adat (Adat Elder), or any other terms used, whose duty and function is to aid in the conservation of adat istiadat, customs, and local cultures based on benefit;
   2. Keujruen Blang (farm organizer), or any other terms used, whose duty and function is related to rice farming;
   3. Peutua Seuneubok, or any other terms used, whose duty and function is related to farming, cattle, and forestry;
   4. Pawang Laot, or any other terms used, whose duty and function is related to fisheries, including coastal fish farming, fish catching, reef and coastline mangrove conservation, and other fishery-sector activities;
5. *Haria Peukan*, or any other terms used, whose duty and function is to handle all matters related to the *gampong* market;
6. Other technical executors, in various terms, based on necessity, capacity and the social-cultural and socio-economic condition of the *gampong* community;

C. Territorial executors are those who assist *Keuchik*s in any part of the *gampong* territory, such as the head of hamlet/Petua Jurong, or any other customary terms used in the region.

Part Five

Keuchik, Imeum Meunasah, Tuha Peut Gampong, and Gampong Personnel Funding Status

Article 30

(1) The *Keuchik*, *Imeum Meunasah*, *Tuha Peut Gampong* and all *gampong* personnel are provided with regular monthly salaries, budgeted annually in the Kabupaten/Kota Government Budget (*Anggaran Pendapatan dan Belanja Daerah*, APBD);
(2) The *Keuchik*, *Imeum Meunasah*, *Tuha Peut Gampong*, and *gampong* personnel salary details and benefits are stipulated by Bupati or Walikota Decrees.

CHAPTER V

Tuha Peut Gampong

Article 31

(1) The *Tuha Peut Gampong* consists of:
   a. A *gampong* cleric;
   b. Community youth and women leaders;
   c. *Adat* figures;
   d. Scholars;
(2) The number of *Gampong* Tuha Puet members depends on *gampong* population size as well as on necessity and social-cultural conditions prevailing within the *gampong*.

Article 33

(1) The *Tuha Peut Gampong* is constituted by *gampong* consensus, as referred to in Article 31;
(2) The *Tuha Peut Gampong* is inaugurated by the Bupati or Walikota as referred to in Article 20 paragraph (4) letter (b).

Article 34

(1) The *Tuha Peut Gampong* as *Gampong* Representative Body serves as an implementing body for democratization, transparency and people’s participation in *gampong* governance;
(2) The *Tuha Peut Gampong* is an equal partner of *gampong* administration in *gampong* governance.

Article 35

(1) The *Tuha Peut* maintains the following functions and duties:
   a. Improves efforts at implementing Islamic *Syari’at* in the community;
   b. Maintains *adat istiadat*, local custom and local culture according to its benefits;
   c. Carries out legislative functions, discusses/formulates and grants approval to the *Keuchik*s decisions on Reusam *Gampong*;
d. Carries out budgeting functions; discusses/formulates and grants approval to the proposed Gampong Budget (Anggaran Pendapatan dan Belanja Gampong, APBG);

e. Carries out monitoring, including supervising the implementation of Reusam Gampong, the Gampong Budget (Anggaran Pendapatan dan Belanja Gampong, APBG) and policies issued by the Keuchik;

f. Accommodates community aspirations and represents these to the gampong administration;

(2) Execution of duties and functions as referred to in paragraph (1), and as stipulated by Tuha Peut Gampong rules, with consideration to general guidelines provided in Bupati and Walikota Decrees;

Article 36

(1) The Tuha Peut Gampong leadership consists of members serving as chairman and vice-chairman;

(2) The Tuha Peut Gampong leaders as referred to in paragraph (1) are elected democratically by members of the Tuha Peut Gampong, from whose numbers they come;

(3) The first Tuha Peut Gampong election meeting is led by the oldest member, assisted by the youngest member.

Article 37

The Tuha Peut Gampong leaders and members may not hold positions as gampong administrative staff.

Article 38

(1) A Tuha Peut Gampong Secretariat shall be established for the proper work and functioning of the Tuha Peut Gampong;

(2) The Tuha Peut Gampong Secretariat as referred to in paragraph (1) is led by a Secretary (non-member) who reports to and is responsible to the Tuha Peut leader;

(3) The Tuha Peut Gampong Secretariat may be assisted by staff, depending on the necessities and capacities of the gampong;

(4) The Secretary of the Tuha Peut Gampong Secretariat and its staff shall not be part of the gampong administration;

(5) The Secretary of the Tuha Peut Gampong Secretariat and its staff are appointed and dismissed by the Keuchik at the request of Tuha Peut Gampong leaders.

Article 39

(1) Leaders, members, secretaries and secretariat staff of the Tuha Peut Gampong may receive payment in accordance with the gampong’s financial capacity;

(2) Meeting fees as referred to in paragraph (1) are determined annually through the Gampong Budget (Anggaran Pendapatan dan Belanja Gampong, APBG).

Article 40

(1) The Tuha Peut Gampong receives routine funds in support of its activities depending on the financial capacity of the gampong, managed by the Tuha Peut Gampong Secretary;

(2) The routine funds referred to in paragraph (1) are determined annually through the Gampong Budget (Anggaran Pendapatan dan Belanja Gampong, APBG).
Article 41

(1) **Tuha Peut Gampong** shall be further regulated in Kabupaten and Kota Qanuns;

(2) Kabupaten and Kota Qanuns as referred to in paragraph (1) shall regulate:
   a. **Gampong** consensus mechanisms in appointment of the **Tuha Peut Gampong**;
   b. **Tuha Peut Gampong** rights;
   c. **Tuha Peut Gampong** members’ rights;
   d. **Tuha Peut Gampong** responsibilities;
   e. **Tuha Peut Gampong** restrictions;
   f. Regulations on **Tuha Peut Gampong** rules;
   g. Terms of appointment and termination;
   h. Periodic transfers;
   i. The **Tuha Peut Gampong** Secretariat;
   j. Police actions toward the **Tuha Peut Gampong**;

CHAPTER VI
GAMPONG FUNDING

Part One
Gampong Income Resources

Article 42

(1) **Gampong** sources of income include:
   a. Original income sources:
      1. **Gampong** business profits;
      2. **Gampong** assets;
      3. Donations and community voluntarism;
      4. Communal work outputs;
      5. Zakat (charity); and
      6. All other legitimate sources;
   b. Kabupaten or kota government aid, taken from:
      1. Shares of Kabupaten or kota tax and retribution;
      2. Shares distributed out of financial revenue from central and local government allocated
to Kabupaten or kota administrations
   c. Other types of assistance from higher-level governments:
      1. Third party donations;
      2. Gampong loans.

**Gampong** income is owned and managed by the gampong and shall not be transferred or taken over
by any higher-level administration.

Article 43

(1) **Gampong** business profits as referred to in Article 42 paragraph (1) letter (a) are collected by
the gampong;

(2) **Gampong** assets as referred to in Article 42 paragraph (1) letter (a) consist of:
   a. **Gampong**-owned lands;
   b. Markets, kiosks, and stores owned by the gampong;
   c. **Gampong**-owned buildings;
   d. Recreational spots owned and managed by the gampong;
   e. Public bathing facilities owned and managed by the gampong;
   f. **Gampong** adat forests;
g. Certain areas of coastal waters managed by the gampong;

h. Fisheries managed by the gampong;

i. Fishing docks and fish auctions sites owned and managed by the gampong;

j. Other gampong-owned assets.

Article 44

(1) Kabupaten and kota income from the gampong, such as tax and retribution, shall not be collected a second time by the gampong;

(2) A share of the income sources referred to in paragraph (1) shall be transferred to the relevant gampong in a proportional and just manner.

Article 45

(1) A gampong’s natural resource potential may be activated through the establishment of Gampong-Owned Enterprises or loans;

(2) Further regulation shall be stipulated by a general guideline on Gampong-Owned Enterprises, third-party cooperatives between gampongs, and through loans as referred to in paragraph (1), legitimized by Bupati or Walikota Decrees.

Article 46

Gampong sources of income as referred to in Article 42 are managed by the Gampong Budget (Anggaran Pendapatan dan Belanja Gampong, APBG).

Article 47

(1) Gampong sources of income as referred to in Article 42 shall be further regulated in the Kabupaten and Kota Qanuns;

(2) The Kabupaten and Kota Qanuns referred to above include:
   a. Types of original gampong income, depending on local conditions;
   b. Types of gampong assets;
   c. Management and development of gampong sources of income;
   d. Supervision of gampong income sources.

CHAPTER VII
REUSAM GAMPONG (SPECIFIC TRADITIONAL VALUES)

Article 53

(1) Reusam Gampong drafts are proposed by the Keuchik to the Tuha Peut Gampong;

(2) Reusam Gampong are discussed by the Keuchik and the Tuha Peut Gampong;

(3) Keuchik enact a Reusam Gampong after receiving approval from a Tuha Peut Gampong.

Article 54

(1) In discussing the proposed Reusam Gampong as referred to in Article 53 paragraph (10), the Tuha Peut Gampong arranges a meeting attended by at least two thirds of all members;

(2) Decisions are made based on the approval of at least 50% plus one of the members present.
Article 55

(1) Reusam Gampong are signed by the Keuchik and the Tuha Peut Gampong leader;
(2) Reusam Gampong as referred to in paragraph (10) shall be submitted to the Bupati or Walikota through the Imuem Mukim and Camat within 45 days of their approval;
(3) The Bupati or Walikota is expected to have authorized a Reusam Gampong within 45 days of its receipt;
(4) If the Reusam Gampong is not yet authorized within 45 days as referred to in paragraph (3), the Reusam Gampong is still considered authorized.

Article 56

(1) Further regulation on Reusam Gampong is stipulated by Kabupaten and Kota Qanuns;
(2) Kabupaten and Kota Qanuns as referred to in paragraph (1) regulate:
   a. Reusam Gampong forms;
   b. Reusam Gampong material;
   c. Reusam Gampong draft discussion mechanism and procedures;
   d. Further deliberations should less than two third of total Tuha Peut Gampong members attend a meeting;
   e. Reusam Gampong positions regarding public interest, Kabupaten and Kota Qanuns and higher-level laws and regulations;
   f. Provision regarding sanctions on Reusam Gampong violation.
Annex VI
MEMORANDUM OF UNDERSTANDING
GOVERNOR, PROVINCIAL POLICE CHIEF, AND CHAIRMAN OF THE ACEH ADAT COUNCIL
NANGGROE ACEH DARUSSALAM PROVINCE
REGARDING
ADAT JUSTICE COURT PRACTICES AT THE GAMPONG AND MUKIM LEVELS

MEMORANDUM OF UNDERSTANDING
GOVERNOR, PROVINCIAL POLICE CHIEF, AND CHAIRMAN OF THE ACEH ADAT COUNCIL
NANGGROE ACEH DARUSSALAM PROVINCE
REGARDING
Adat JUSTICE COURT PRACTICES AT THE GAMPONG AND MUKIM LEVELS

GOVERNOR, PROVINCIAL POLICE CHIEF, AND CHAIRMAN OF THE ACEH Adat COUNCIL

Considering:

a. Adat and adat law are part of a code of conduct that exist and continues to develop in creating security, order and justice for the people of Aceh's welfare, and in accordance with Islamic Syari'at;

b. Acehnese community life has provided adat institutions with a foundation and a role in carrying out adat justice and adat law in an effort to provide security, order, harmony and peace in the community, in line with a policy of community policing to live as a community, nation and country in the Unitary State of the Republic of Indonesia;

c. Based on the outputs of coordination meetings (on December 3-4, 2004 and September 25, 2007 in Banda Aceh) between the Aceh Adat Council and the Coordinators of Law Enforcement, a Memorandum of Understanding has been agreed upon to recognize and provide a guideline on adat justice/reconciliation justice practices in gampongs and mukims throughout Nanggroe Aceh Darussalam Province;

d. Based on the considerations referred to in letters (a), (b), and (c), it is deemed necessary to establish a Memorandum of Understanding;

Considering:

1. Act 24/1956 concerning the Establishment of the Autonomous Province of Aceh and the Amendment to the Regulation Establishing North Sumatra Province (1956 State Gazette of the Republic of Indonesia number 64, Additional State Gazette number 1103);

2. Act 2/1999 concerning Local Governance (1999 State Gazette of the Republic of Indonesia number 60, Additional State Gazette number 3839);

3. Act 22/1999 concerning Local Governance (1999 State Gazette of the Republic of Indonesia number 60, Additional State Gazette of the Republic of Indonesia number 3839);

4. Act I i/2006 concerning Aceh Governance (State Gazette of the Republic of Indonesia number 2006 number 62, Additional State Gazette number 4633);

5. Nanggroe Aceh Darussalam Provincial Regulation (Qanun) number 2/1990 concerning the Training and Development of Adat Istiadat, Community Customs and Adat Institutions within
the Special Autonomous Province of Aceh (1991 Provincial Gazette Special Province number 13);
6. Nanggroe Aceh Darussalam Provincial Regulation (Qanun) number 5/1996 concerning Mukim as an Adat Community Unit in the Special Autonomous Province of Aceh (1996 Provincial Gazette of Special Autonomous Province of Aceh number 195, series D number 194);
7. Nanggroe Aceh Darussalam Provincial Regulation (Qanun) number 7/2000 concerning the Establishment of Adat Life (2000 Provincial Gazette of Special Autonomous Province of Aceh number 35);
8. Nanggroe Aceh Darussalam Provincial Regulation (Qanun) number 4/2003 concerning the Mukim Governance Structures within Nanggroe Aceh Darussalam Province (2003 Provincial Gazette of Nanggroe Aceh Darussalam Province number 17 series D number 7, Additional Provincial Gazette number 20);

Bearing in mind:
HAS DECIDED:

To declare:

MEMORANDUM OF UNDERSTANDING
GOVERNOR, PROVINCIAL POLICE CHIEF, AND CHAIRMAN OF THE ACEH ADAT COUNCIL
NANGGROE ACEH DARUSSALAM PROVINCE
REGARDING
ADAT JUSTICE COURT PRACTICES AT THE GAMPONG AND MUKIM LEVELS

Article 1

1. To promote security, order, harmony and peace within the community in increasing welfare and justice in gampongs and mukims in Nanggroe Aceh Darussalam Province, the Adat Justice Institution may function as a reconciliation institution settling disputes and conflicts;
2. Serious criminal cases or cases unresolved at the mukim level shall be resolved through State justice institutions in accordance with the applicable laws and regulations.

Article 2

Adat or Reconciliatory Justice Institutions refer to justice institutions authorized to implement adat judicial power to enforce security, order, harmony and peace, promoting balance and welfare among gampong and mukim communities based on adat law principles applicable in their respective areas.

Article 3

Adat/reconciliatory justice implementation procedures are based on locally applicable adat istiadat rules/adat law, through the consensus of gampong or mukim adat functionaries in accordance with their respective competencies and authorities, technical management/documentation, and good administration.

Article 4

Adat/reconciliatory justice functionaries at various levels:
1. A gampong consists of:
   a. Keuchik, as leader;
   b. Gampong Secretary, as registrar;
   c. Imeum Meunasah, as member;
   d. Tuha Peut, as members;
   e. Clerics, adat leaders, scholars (field experts) other than Tuha Peut Gampong as necessary;
2. A mukim consists of:
   a. Imeum Mukim, as leader;
   b. Mukim Secretary, as registrar;
   c. Mukim Tuha Peut, as members;
   d. Clerics, adat leaders, scholars (field experts) other than Tuha Peut Mukim as necessary.

Article 5

(1) Law enforcement apparatus shall provide gampongs the opportunity to resolve all disputes/conflicts emerging in the gampong; and if one of the conflicting parties is dissatisfied with the decision, then they may appeal to the mukim level for a final settlement;
(2) In carrying out its duties and functions, the police, as community police organ, provide assistance and facilitate dispute settlements as referred to in paragraph (1).
Article 6

(1) All decisions made in Gampong or Mukim Adat Court, due to their “reconciliatory/peaceful” (consensual) nature are “final and conclusive decisions”;
(2) To make a “final and conclusive decision”, the adat justice process shall be carried out through the consensual mechanisms of adat justice and a systematic, well-documented administrative system;
(3) Reconciliatory decisions, as final and conclusive decision as referred to in paragraph (1), may not be appealed to state justice institutions.

Article 7

(1) Governors and Bupatis/Walikotas as head of provincial/local governments, as well as officials under their administration, are responsible for guiding and monitoring the implementation of adat/reconciliatory justice as referred to in this Memorandum of Understanding;
(2) The Chief of the Police of Nanggroe Aceh Darussalam Province and his administration are responsible for providing security and support in accordance with the POLMAS objective of this Memorandum of Understanding;
(3) Chairmen of the Aceh Adat Council at the provincial/Kabupaten/kota levels and their administration shall educate, monitor and develop adat justice materials compatible with the values and traditions of existing adat/adat istiadat law in local community environments;

Article 8

(1) All relevant institutions involved in this Memorandum of Understanding can issue instructions to their officials and administration to implement this Memorandum of Understanding fully and responsibly;
(2) All “adat/reconciliatory decision statements” based on consensus and related to adat justice cases are to be made in written form and sealed, with copies given to all parties; they are signed by the Keuchik and Gampong Secretary or Imeum Mukim and Mukim Secretary at the mukim level.

Article 9

Provisions which have not yet been regulated through this Memorandum of Understanding, provided that they concern operational technicalities or other matters negotiable among the respective adat justice institutions as referred to in Article 4 or with the relevant institution and administrations depending on their needs.

Article 10

This Memorandum of Understanding enters into force on the day of its enactment.

Enacted in: Banda Aceh on [date]
The Governor of NAD Province The Police Of NAD Cahirperson Of Aceh Adat Province Province Province

[Signature and Seal] [Signature and Seal] [Signature and Seal]

Note:
This concept draft was developed during the Adat Aceh Council and Law Enforcement Institutions’ Coordination Meeting of September 2, 2007 in Banda Aceh.
ANNEX VII
THE HADIH MAJA (RHYMES CONTAINING WISE WORDS) RELEVANT TO
ADAT JUSTICE

Lemoh hukom diatoe lee pangkat: (Weak law is controlled by the powerful)
Leumoh adat jahee raja: (Weak adat makes for a cruel ruler)
Leumoh kanun tinggai bak kalam: (Weak Qanun remains on the paper)
Leumoh Reusam gadoh budaya: (Weak Reusam leads to a loss of culture)

[The verse above illustrates the problems of a law enforcement system that lacks the support of strong adat institutions (informal justice functionaries)]

Leumoh tanoh keubue meukubang: (Weak soil makes mud puddles for water buffalo)
Leumoh geudeubang digob panglima: (Weak policy is commanded by an outsider)
Leumoh nanggroe sabee dalam prang: (Weak countries are always are war)
Leumoh parang beusoe tan meulila: (Weak swords come from poor quality iron)

(The verse above illustrates the importance of a leader's power and dignity)

Hukom lillah sumpah bek: (An oath is on behalf of God's Law)
Hukom adat ikat bek: (Practice follows adat law)
Hukom ade pakee bek: (Fair law makes no quarrels)
Hukom meujroh meupoh bek: (Good legal practice causes no fights)

(The verse above illustrates the principles of peace and reconciliation in conflict resolution under adat law)

Urueng peurintah yang atoe buet: (The commander makes an example of his practice)
Urueng tuha puet peuputoh haba: (The Tuha Puet propose resolutions to quarrels)

(The verse above illustrates the position of the Tuha Peut in adat justice)

Bek peusaban kai ngon aree: (Kai and aree are different units of measure)
Bek peusaree naleh ngon gunca: (Naleh and gunca are different units of measure)
Barang gapue buet bek teumiree: (No work should be done by speculation)
Bak meugeuree jiet sampurna: (Learning from the master makes for perfected skill)

(The verse above illustrates the importance of proper training in adat judicial practice)

Sesat jalan: (Getting lost)
Kusut Rambut: (Tousling hair)
Kusut Benang: (Tangled thread)
Kusut Sarang burung Tempua: (Just like the structure of a bird nest)

(The verse above illustrates strategies and techniques of dispute resolution)

Meunyoe tan ileumee hukom han peutoh: (Without knowledge no problem is resolved)
Meunyoe tan peng meksud han troeh: (Without money the will does not come to fruition)
Meunyoe tan akai binasa teuboh: (Without brain the body is useless)
Meunyoe tan useuha reuziki pih jioh: (Without effort the person makes no living)

(The verse above illustrates the qualifications of Informal justice providers)
Meunyoe carong tapeulaku: (If you have the skills)
Boh labu jiet keu sri kaya: (You can make sweets out of pumpkin)
Meunyoe han carong tapeulaku: (If you do not have the skills)
Aneuk tingku jiet keu beulaga: (You make a gangster out of an innocent child)

(The verse above illustrates the capacities an adat leader ought to have in settling disputes)
Meunyoe carong tapeuantok: (If you are skilled in hitting)
Dalam bak jok diteubiet saka: (You can tap sugar liquid from a palm tree)
Meunyoe han carong tapeuantok: (If you are unskilled in hitting)
Siuroe seuntok lalee meudakwa: (A full day's discussion leads to quarrel instead of resolution)
(The verse above illustrates the importance of negotiation skills for adat justice functionaries in dealing with contentious issues)

Salah cok tapulang: (Take the wrong stuff, return it)
Salah jalan tagisa: (Take the wrong direction, return home)
Tameupake alang: (Quarrel brings you nowhere)
Tameuprang papa: (War brings poverty)
(The verse above illustrates the importance of having conflicts resolved peacefully through mediation and negotiation)

Mantong di reubong jiet tapeukiwieng: (Still a sprout, it is bendable)
Oh jiet keu trieng han jiet tapeuta: (Once a bamboo bar, it cannot be turned)
(The verse above illustrates the importance of resolving problems early, before they become too complex)

Meunyoe get dalam hatee, Lahee bak ie rupa: (Good inside, it is reflected through shining performance)
Meunyoe brok lam hatee, Lahee bak peugah haba: (Bad inside, it is reflected through bad words)
Meunyoe get niet ngon hasat: (With good intention and wishes)
La’ot darat Tuhan peulara: (God cares for you wherever you are)
(The verse above illustrates adat justice functionaries' skill in assessing the good will and intentions of contending parties)

Geupeuna utak geuyue seumikee: (Brain is created for thinking)
Geupeuna hatee geuyue peurasa: (Heart is created for feeling)
Padupna ek gop peugah sabee: (Others do not remind you forever)
Leubeh meusampe ingat lam dada: (Your memory helps you the most)
(This verse underlines the importance of remembering the advice of others—meaning not to make the same mistakes twice)

Bek tamse asap yang mita manyang: (Don't be like the smoke in the air)
Siat meulayang gadoh dimata: (It flies a while then disappears)
Bah lagee reudok yang mita baroh: (Be like the heavy cloud covering the sky)
Siat hujuen troeh ie raya teuka: (Then even a brief rain can cause floods)
(The verse above illustrates the importance of creating sustainable and significant impacts in the peaceful resolution of conflicts or disputes)

Meunyoe tapateh pue kheun kitab: (If you truly believe all the book says)
U tupee kap han tateumee rasa: (Your coconuts are all eaten by squirrels)
Meunyoe han tapateh pue kheun kitab: (If you do not believe what the book says)
Jiet keubangsat siumue masa: (You will become a scoundrel all your life)
(The verse above illustrates how adat justice providers should understand the law as well as the context; if not, then the honest and the righteous are endangered. Therefore, wisdom and background analysis are pivotal)

Dari pada crah leubeh get beukah: (Broken is preferable to cracked)
Dari pada sihet rhoe bah habeh: (Collapse is preferable to sideways)
Pakriban crah lagenyan beukah: (The crack makes for breakage)
Pakriban manoe lagenyan basah: (Shower makes you soaked)
(The verse above illustrates the importance of consistency in adat justice functionaries’ imposition of sanctions. All parties should be made accountable for what they have done)

Meeleuha langai watee me’ue blang: (Use ploughs when working the farms)
Meuleuha parang watee cah paya: (Use knives when cleaning the swamps)
Meuleuha pa’i watee nanggroo prang: (Use soldiers when the nation is in turmoil)
Meuleuha pawang dalam Glee raya: (Use mountain guardians in the mountain ranges)
(The verse above illustrates the various specializations of various adat functionaries, particularly the Pawang Glee)

Let let kadilet di lhoe: (After being chased, one is beaten up)
Oh lheueh dilhoe hatee jih saket: (Once beaten up his emotion heats up)
Tameugetget sabee keudroe droe: (Make good relations with one another)
Oh uroe dudoe hana meupalet: (In the future you have no one to hinder)
(This verse illustrates the importance of treating people well to create an atmosphere of peace and harmony. It is more pertinent to conflict prevention than conflict resolution)

Soe yang pajoh camplie, nyan yang keu’ueng: (Who eats chili tastes the spice)
Soe yang meuaneuk, nyan yang meuadeueng: (Who desires a baby should taste pregnancy)
(This verse illustrates the impartiality and fairness of adat justice principles)

Paleh umong cot teungoh geuboh asoe: (The bad rice farm has a hill at its centre)
Paleh Inong geuteumanyong ban woe lakoe: (The bad wife interrogates her husband on reaching home)
Paleh Agam sipat kuah bileueng asoe: (Bad husbands complains too much about cooking)
Paleh Tingku lagee geuneuku hana gigoe: (Bad grater is the one without notches)
(This verse illustrates the conducts, attitudes and behaviours that can lead to adat conflicts or disputes)

Paleh tuha geuboh tungkat: (The bad elder throws off his walking stick)
Paleh tukang geuboh seunipat: (The bad carpenter throws off his measuring stick)
Paleh Tengku geuboh ayat: (The bad cleric throws away his holy book)
Paleh meukat geuboh keunira: (The bad businessman throws away his strategy)
(The verse above illustrates the inconsistency of adat functionaries in carrying out their functions and duties as peacemakers)

Paleh inong hana lakoe: (The bad woman is without husband)
Paleh nanggroo zalem Raja: (The bad nation lives under a tyrant)
Paleh gasien hana hareukat: (The bad poor man is without endeavors)
Paleh kaya hana himat: (The bad rich man is one who is wasteful)
(The verse above illustrates the characteristics of bad leaders and citizens. Both should prove themselves useful to the nation and humanity)

Paleh umong hana meuateung: (Bad rice farm is the one without)
Paleh ureueng hana agama: (A bad person is one without religion)Paleh on u hana meupeureh: (A bad coconut leaf has no rib)
Paleh wareh hana meuhaba: (A bad relative makes no communication)
(The verse above illustrates bad attitudes, conducts and behaviours of people when they have no common sense)

Lagee peucok aron sigoe saho: (As casuarina leaves blow here and there)
Lagee aneuk yee teubiet tamong: (As sharks are moved by springs coming in and out)
Lagee pukat hana pawang: (Like the fish net without a fisherman)
Lagee meuprang hana panglima: (Like a battle fought without commander)
(The verse above illustrates the absence of bodies or institutions designed to serve, parallel to the absence of good leaders and adat functionaries enforcing adat law for a harmonious and peaceful community life)

Mate anuk meupat jirat: (If offspring dies, we know his graveyard)
Mate adat hanpat tamita: (If adat dies, we know not where to find it)
Peuteh teulueng di dalam jrat: (Even when you turn into bones in graves)
Mantong teuingat guna gata: (We still remember your virtues)
(The verse above illustrates the importance of preserving adat values for the sake of harmonious community life, and of maintaining good conduct so that one may be respected after death)

Adat bak po teumeureuhom: (Adat is referred to as Po Teumeureuhom)
Hukom bak Syiah Kuala: (Law is referred to Syiah Kuala)
Qanun bak putroe Phang: (Qanun is referred to Putroe Phang)
Reusam bak Lakseumana: (Reusam is referred to the Admiral)
(The verse above illustrates the importance of having the right person in the right position, and of respecting all values practiced in a community or country)
Considering:

a. That adat institutions that have developed in the social life of Aceh have for centuries and up until today played an important role in developing cultural values, adat norms and procedures for realising peace, order, accord, amity and welfare among the people of Aceh, in accordance with the values of Islam;

b. That the nurturing, development, and maintenance of adat and adat-istiadat must be transmitted from one generation to the next so that all may understand the adat values and culture that develop in the social life of Aceh;

c. That to further pursue Articles 98 and 162, paragraph (2) letter (e) of Law Number 11/2006 concerning the Governance of Aceh and Law Number 44/1999 on the Preservation of the Special Status of the Special Province of Aceh, there must be one Qanun concerning the Cultivation of Adat Life and Adat-Istiadat;

d. That based on proper consideration of letter (a), letter (b) and letter (c) above, an Aceh Qanun must be issued concerning the Cultivation of Adat Life and Adat-Istiadat.

Bearing in mind:

1. Law number 24/1956 concerning the Establishment of the Autonomous Province of Aceh and the Amendment to the Regulation Establishing North Sumatra Province (1956 State Gazette of the Republic of Indonesia number 64, Additional State Gazette number 1103);

2. Law number 44/1999 concerning the Administration of the Special Status of Aceh Province (1999 State Gazette of the Republic of Indonesia number 172, Additional State Gazette of the Republic of Indonesia number 3893);

3. Law number 11/2006 concerning the Governance of Aceh (2006 State Gazette of the Republic of Indonesia number 62, Additional State Gazette of the Republic of Indonesia number 4633);

WITH THE APPROVAL OF
THE HOUSE OF REGIONAL REPRESENTATIVES
GOVERNOR OF
NANGGROE ACEH DARUSSALAM (NAD) PROVINCE
HAS DECIDED
To stipulate:
QANUN CONCERNING CULTIVATION OF ADAT LIFE AND ADAT-ISTIADAT
CHAPTER I
GENERAL PROVISIONS

Article 1
For the purpose of this Qanun:
1. Aceh is a province led by a Governor, comprising a single legal community with special characteristics and granted special authority to organise and manage its own governance in the interests of its local society and in conformity with the law stipulated by the systems and principles of the Unitary State of the Republic of Indonesia, as based on the Constitution of 1945.
2. Kabupaten or Kota refer to an area within the province led by a Bupati or Walikota, forming a single legal community, with special characteristics and granted special authority to organise and manage its own governance in the interests of local society and in conformity with the law as stipulated within the systems and principles of the Unitary State of the Republic of Indonesia, as based on the Constitution of 1945.
3. Governance of Aceh refers to the governance of a province within the system of the Unitary State of the Republic of Indonesia, as based on the Constitution of 1945, administering the business of governance as carried out by the Government of Aceh and the Aceh House of Regional Representatives, in conformity with their respective functions and authorities.
4. Government of a Kabupaten/kota refers to the administration of the business of governance as carried out by the government of a Kabupaten/kota and its House of Regional Representatives, in conformity with their respective functions and authorities.
5. Government of the Province of Aceh, which from here on shall be referred to as the Governor of Aceh, refers to the executors of Aceh governance, as constituted by the Governor and the governing apparatus of Aceh.
6. Governor refers to the head of the Government of Aceh, chosen in democratic process carried out on the basis of direct, public, free, secret, honest, and fair elections.
7. Governments of Kabupaten/kota areas, which from here on shall be referred to as Kabupaten/kota governments, refers to the executors of Kabupaten/kota governance, consisting of the Bupati/Walikota and the governing apparatus of the Kabupaten/kota.
8. Bupati/Walikota refers to the head of governance for a Kabupaten/kota, as chosen in democratic process carried out on the basis of direct, public, free, secret, honest, and fair elections.
9. Wali Nanggroe refers to the leader of an independent nanggroe adat institution serving to unite society, having authority to cultivate and oversee the administration of adat institutions and adat-istiadat, granting of titles and rank, and the executors of adat rituals in Aceh, as well as serving as advisor to the Government of Aceh.
10. Adat refers to codes of conduct and practice already established in the community that have become foundational to the social life of Aceh.
11. Hukum Adat refers to a set of unwritten rules that live and develop in the society of Aceh and include sanctions against their violation.
12. Adat-istiadat refers to an eternal code of behaviour passed from one generation to the next, respected and honoured as an inheritance tied to Syari’at Islam.
13. Kebiasaan refers to attitudes and actions taken repeatedly in relation to similar matters; it lives
Pemangku Adat (adat functionary) refers to an individual who holds a position in adat institutions.

Reusam or any other name refers to adat-istiadat guidelines in practice in the community.

Upacara adat refers to a series of activities carried out in accordance with adat norms, values and customs according to the local adat society.

CHAPTER II
SCOPE OF CULTIVATION AND DEVELOPMENT
OF ADAT LIFE AND ADAT-ISTIADAT

Article 2

(1) The scope for the cultivation and development of adat life and adat-istiadat includes all activities of social life.
(2) Cultivation, development, maintenance and overseeing of adat and adat-istiadat as referred to in paragraph (1) is based on Islamic values.

CHAPTER III
BASIS, INTENTION AND OBJECTIVES

Article 3
Cultivation and development of adat life and adat-istiadat is based upon the following:

a. Islam;
b. ustice;
c. truth;
d. humanism;
e. harmony;
f. peace and order;
g. tranquillity;
h. family;
i. mutual benefit;
j. cooperation;
k. amity;
l. consensus; and
m. the public good.

Article 4

(1) Cultivation and development of adat life and adat-istiadat is intended to develop an order of social life that is harmonious and balanced as commanded by Allah SWT among all people, between people and their environment, and between the people and their leaders.
(2) Cultivation and development of adat life and adat-istiadat as referred to in paragraph (1) is pursued to improve the function and role of adat and adat-istiadat in ordering social life.

Article 5
Cultivation and development of adat life and adat-istiadat has the following aims:

a) compose a harmonious order of social life;
b) prepare a basis for the ordering of social life;
c) cultivate an adat-based society that is strong and esteemed;
d) preserve, sustain and protect the rich inheritance of adats, cultures, local languages and hallowed objects;
e) revitalize the adats, arts and languages that live and develop in Aceh; and
f) inspire creativity that can provide economic benefit for the welfare of society.

CHAPTER IV
RESPONSIBILITIES IN THE CULTIVATION AND DEVELOPMENT
OF ADAT LIFE AND Adat-Istiadat

Article 6

(1) The Wali Nanggroe is responsible for sustaining, developing, protecting, and preserving adat life, adat-istiadat, and social culture.
(2) Cultivation and development of adat life and adat-istiadat as referred to in paragraph (1) is undertaken through the Majelis Adat and other adat institutions.

Article 7

Cultivation and development of adat life and adat-istiadat as referred to in Article 6 paragraph (2) is carried out with the development of consciousness among and participation of the community.

Article 8

Majelis Adat and other adat institutions implement the cultivation and development of adat life and adat-istiadat in conformity with Syari’at Islam.

CHAPTER V
IMPLEMENTING THE CULTIVATION AND DEVELOPMENT
OF ADAT LIFE AND ADAT-ISTIADAT

Article 9

(1) Adat life and adat-istiadat is implemented by the Government of Aceh, Kabupaten/kota Governments, and all levels of society.
(2) Carrying out the cultivation and development of adat life and adat-istiadat as referred to in paragraph (1) is done through:
   a. Family life;
   b. Education;
   c. Social life;
   d. Working life;
   e. Social organisations.

Article 10

(1) Cultivation and development of adat life and adat-istiadat as referred to in Article 9 can be carried out by the following measures:
   a. declaration by the Government of Aceh and Kabupaten/kota Governments;
   b. example;
   c. elucidation, socialisation, discussion and simulation;
   d. competitions and exhibitions/instructions;
   e. legal protection of adat works;
f. protection of the rights of adat society, which include land, marsh, forest, sea, rivers, lakes and other social rights; and

g. organising of prominent adat figures, among youth and women particularly.

(2) Every government functionary working in Aceh must understand and value adat and adat-istiadat arrangements in Aceh.

(3) Every government official/functionary, the Government of Aceh, and the Kabupaten/kota Governments must understand, cultivate and value adat and adat-istiadat arrangements within their locality.

Article 11

Adat institutions must work cooperatively with all parties concerned to recover the rules of adat and adat-istiadat.

Article 12

(1) Cultivation, development and sustaining of adat and adat-istiadat includes the following:

a. adat and adat-istiadat social order;

b. Acehnese architecture;

c. engravings of Acehnese motifs;

d. ancient objects

e. traditional weaponry;

f. written works of Ulama, scholars and artists;

g. indigenous languages of Aceh;

h. traditional arts of Aceh;

i. marriage customs;

j. customs of social intercourse;

k. customs of hospitality;

l. adat peutemat darueh (the Khatam Al Qur’an, or completion of Qu’ranic reading ceremony);

m. adat mita raseuki (berusaha);

n. traditional clothing;

o. traditional Acehnese food;

p. jewellery with Acehnese motifs;

q. handicrafts with Acehnese motifs;

r. piasan tradisional Aceh;

s. other adat rituals.

(2) Noble behaviour and spiritual piety that have formed the character and personalities of Acehnese Muslims.

RESOLUTION OF DISPUTES/CONFLICT

Article 13

(1) Adat and adat-istiadat disputes/conflicts include the following:

a. Disputes within the home;

b. Disputes within the family having to do with inheritance;

c. Disputes between residents;

d. khalwat meusum;

e. conflicts over ownership;

f. theft within the family (minor theft);

g. disputes over earned [hareukat] property;

h. minor theft;
Case of UNDP Project on Developing Informal Justice Guidelines and Training Informal Justice Leaders with Aceh Customary Council (MAA)
d. One representative of the Office of Oceans and Fisheries and/or leader of the fishing community.

(8) A consensus meeting for the resolution of a dispute/conflict is held at the Meunasah or any other name used at the level of Gampong or any other name used, at the mosque when at the level of mukim, at the laot pade balee nelayan or any other space indicated by the Keuchik or any other name used, Imeum Mukim or any other name used, and Panglima Laot or any other name used.

Article 15

Procedures and conditions for the resolution of disputes/conflicts are carried out in conformity with local rules.

CHAPTER VII

FORMS OF ADAT SANCTION

Article 16

(1) The following types of sanction may be imposed in the resolution of adat disputes:

a. advice;

b. admonition;

c. public apology;

d. sayam ceremony;

e. compensation;

f. fine;

g. compensation for loss;

h. isolation from gampong society;

i. ejection from gampong or any other name used;

j. loss of adat title; and

k. other forms of sanction according to local adat.

(2) The family of the individual who has violated adat shares responsibility in administering the sanctions imposed on the violator.

CHAPTER VIII

PAYMENT

Article 17

Funds for the cultivation and development of adat and adat-istiadat will be obtained by the following measures:

a. assistance from the Government of Aceh and Kabupaten/kota Governments according to their abilities; and

b. other legitimate and unbound sources.

CHAPTER IX

TRANSITIONAL PROVISIONS

Article 18

All rules and regulations regarding the cultivation and development of adat and adat-istiadat continue to apply so long as they are not in conflict with the rules stipulated in this Qanun.
**Article 19**

All matters that have not yet been stipulated in this *Qanun* regarding further implementation shall be stipulated in a Governor’s Regulation.

**CHAPTER X**

**CLOSING PROVISIONS**

**Article 20**

With the enactment of this *Qanun* the Regional Regulation of the Special Province of Aceh number 2/1990 concerning Cultivation and Development of *Adat-Istiadat*, Social Customs and *Adat* Institutions in the Special Province of Aceh and Regional Regulation number 7/2000 concerning Management of *Adat* Life are hereby rescinded.

**Article 21**

This *Qanun* will enter into force on the date of its enactment. To ensure public awareness of the regulation, the enactment of this *Qanun* shall be announced in the NAD Province Gazette.

Authorised in Banda Aceh
On the date 2008 M 1429 H

GOVERNOR NANGGROE ACEH DARUSSALAM,

IRWANDI YUSUF

Enacted in Banda Aceh
On the date 2008 M 1429 H

ACEH PROVINCIAL SECRETARY
NANGGROE ACEH DARUSSALAM,

HUSNI BAHRI TOB
NANGGROE ACEH DARUSSALAM PROVINCIAL GAZETTE 2008 NUMBER
EXPLANATION OF ACEH QANUN NUMBER 9 /2008 CONCERNING CULTIVATION OF ADAT LIFE AND ADAT-ISTIADAT

I. GENERAL EXPLANATION

Law number 11/2006 concerning Aceh Governance provides a solid basis for the cultivation of adat life and adat-istiadat in Nanggroe Aceh Darussalam Province. Article 99 of that law orders the cultivation of adat and adat-istiadat with the issuance of an Aceh Qanun. Adat and adat-istiadat conform to Syari'at Islam and represent a cultural treasure exemplifying a national identity that must be nurtured, developed and protected.

In Nanggroe Aceh Darussalam Province, adat and adat-istiadat live in great variety among the sub-ethnicities. This variety represents the riches of a pluralistic culture. Therefore, the cultivation of adat life and adat-istiadat must be aimed at the cultivation and development of adat and adat-istiadat in the local communities.

Adat and adat-istiadat already serve to bind and unite the life of the community, and therefore serve as a crucial resource in its development. Therefore adat and adat-istiadat values must be nurtured and developed in the life of society.

II. ARTICLE BY ARTICLE

Article 1
Clear
Article 2
Clear
Article 3
Clear
Article 4
Clear
Article 5
Clear
Article 6
Clear
Article 7
Clear
Article 8
Conformity with the teachings of Islam refers to a guarantee that the implementation of adat and adat-istiadat does not contradict the values of Syari'at Islam.

Article 9
Clear
Article 10
Clear
Article 11
Clear
Article 12
Clear
Article 13
With reference to resolution in stages, disputes/conflicts should be resolved first within the family; if they cannot be resolved in the family, then they are brought to the gampong for adat resolution.
Sayam refers to the settlement of a dispute/conflict that resulted blood spattered among the parties through sacrificing livestock as a means of repaying the loss caused by the dispute/conflict.

Paragraph (2)

Clear

Article 17
Clear

Article 18
Clear

Article 19
Clear

Article 20
Clear

Article 21
Clear

ADDITIONAL GAZETTE OF NANGGROE ACEH DARUSSALAM PROVINCE NUMBER
ACEH QANUN
NUMBER 10 YEAR 2008
CONCERNING
ADAT INSTITUTIONS

BISMILLAHIRRAHMANIRRAHIM
IN THE NAME OF ALLAH THE BENEVOLENT AND THE MERCIFUL

GOVERNOR NANGGROE ACEH DARUSSALAM,

Considering:

a. That the adat institutions that have developed in the social life of Aceh have for centuries and up until today played an important role in developing cultural values, adat norms and procedures for realising peace, order, accord, amity and welfare among the people of Aceh, in accordance with the values of Islam;

b. that adat institutions must have an increased role in sustaining adat and adat-istiadat as one measure for preserving the special status of Aceh in the field of adat-istiadat;

c. that to further pursue Articles 98 and 162, paragraph (2) letter (e) of Law Number 11/2006 concerning the Governance of Aceh and Law Number 44/1999 on the Preservation of the Special Status of the Special Province of Aceh, the existence of adat institutions must be ordered and regulated;

d. that based on proper consideration of letter (a), letter (b) and letter (c) above, a Qanun for Aceh must be issued on adat institutions.

Bearing in mind:

1. Law number 24/1956 concerning the Establishment of the Autonomous Province of Aceh and the Amendment to the Regulation Establishing North Sumatra Province (1956 State Gazette of the Republic of Indonesia number 64, Additional State Gazette number 1103);
2. Law number 44/1999 concerning the Administration of the Special Status of Aceh Province (1999 State Gazette of the Republic of Indonesia number 172, Additional State Gazette of the Republic of Indonesia number 3893);
3. Law number 11/2006 concerning the Governance of Aceh (2006 State Gazette of the Republic of Indonesia number 62, Additional State Gazette of the Republic of Indonesia number 4633);
4. Qanun number 4/2003 on Mukim Governance in Nanggroe Aceh Darussalam Province (2003 Regional Gazette, number 17, series d, number 7);
5. Qanun number 5/2003 concerning the Governance of Gampongs in Nanggroe Aceh Darussalam (2003 Regional Gazette, number 18, series D number 5);
6. Qanun number 3/2004 concerning the Establishment of an Organizational Structure and Operating Procedures for the Aceh Adat Council of Nanggroe Aceh Darussalam Province (2004 Regional Gazette, number 8, series D number 5);
WITH THE APPROVAL OF 
THE HOUSE OF REGIONAL REPRESENTATIVES 
GOVERNOR OF 
NANGGROE ACEH DARUSSALAM (NAD) PROVINCE 

HAS DECIDED 

To stipulate: 
Qanun 10/2008 CONCERNING Adat INSTITUTIONS 
CHAPTER I 
GENERAL PROVISIONS 

Article 1 

For the purpose of this Qanun: 
1. Aceh is a province led by a Governor, comprising a single legal community with special characteristics and granted special authority to organise and manage its own governance in the interests of its local society and in conformity with the law as stipulated by the systems and principles of the Unitary State of the Republic of Indonesia, as based on the Constitution of 1945. 
2. Kabupaten or Kota refer to an area within the province led by a Bupati or Walikota, forming a single legal community, with special characteristics and granted special authority to organise and manage its own governance in the interests of local society and in conformity with the law as stipulated within the systems and principles of the Unitary State of the Republic of Indonesia, as based on the Constitution of 1945. 
3. Governance of Aceh refers to the governance of a province within the system of the Unitary State of the Republic of Indonesia, as based on the Constitution of 1945, administering the business of governance as carried out by the Government of Aceh and the Aceh House of Regional Representatives, in conformity with their respective functions and authorities. 
4. Government of a Kabupaten/kota refers to the administration of the business of governance as carried out by the government of a Kabupaten/kota and its House of Regional Representatives, in conformity with their respective functions and authorities. 
5. Government of the Province of Aceh, which from here on shall be referred to as the Government of Aceh, refers to the executors of Aceh governance, as constituted by the Governor and the governing apparatus of Aceh. 
6. Governor refers to the head of the Government of Aceh, chosen by a democratic process carried out on the basis of direct, public, free, secret, honest, and fair elections. 
7. Government of Kabupaten/kota areas, which from here on shall be referred to as Kabupaten/kota Government, refers to the executors of Kabupaten/kota governance, consisting of the Bupati/Walikota and the governing apparatus of the Kabupaten/kota. 
8. Bupati/Walikota refers to the head of governance for a Kabupaten/kota, as chosen in a democratic process carried out on the basis of direct, public, free, secret, honest and fair elections. 
9. Adat Institution refers to an adat social organisation formed by an adat law community within certain territorial boundaries, possessing its own assets, and with the rights and authority to organise and administer as well as resolve matters of Acehnese adat. 
10. Majelis Adat Aceh, which from here on shall be referred to as MAA, refers to an assembly of adat practitioners in Aceh, whose institutional structure reaches to the level of gampong. 
11. Lembaga Wali Nanggroe refers to an adat leadership organisation for uniting the community and preserving adat life and culture. 
12. Kecamatan refers to areas led by a Camat as the local executor of the Kabupaten/kota in the governance of a kecamatan.
13. **Mukim** refers to a legal community below the level of *kecamatan* consisting of several *gampongs* within certain territorial boundaries and led by an *Imeum Mukim*, or any other names used, and holding a position directly below that of *Camat*.

14. **Gampong**, or any other names used, refers to a legal community below the level of *mukim* and led by a *Keuchik*, or any other names used, with the right to run its own administration.

15. **Imeum Mukim**, or any other names used, refers to the leader of *mukim* administration.

16. **Imeum Chik**, or any other names used, refers to a mosque leader at the *mukim* level, leading all social activities within the *mukim* related to Islam and the carrying out of Islamic *Syari’at*.

17. **Keuchik**, or any other names used, refers to the leader of a *gampong adat* community who administers *gampong* governance, preserves *adat* law and *adat-istiadat*, and preserves social peace, order, accord, amity and welfare.

18. **Tuha Peut Gampong**, or any other names used, refers to an element of *gampong* governance that functions as a body of *gampong* consensus decision-making.

19. **Tuha Peut Mukim**, or any other names used, refers to a *mukim* organisation that functions to provide advice to the *Imeum Mukim*.

20. **Tuha Lapan**, or any other names used, refers to an *adat* organisation at the *mukim* or *gampong* level that functions to assist the *Imeum Mukim* and *Keuchik*, or any other names used, for these positions.

21. **Imeum Meunasah**, or any other names used, refers to an individual who leads social activities related to Islam within a Tuha Peut, as well as the implementation and maintenance of *Syari’at* Islam.

22. **Keujruen Blang**, or any other names used, refers to an individual who organises and leads rice cultivation activities.

23. **Panglima Laot**, or any other names used, refers to an individual who organises and leads *adat-istiadat* in coastal and ocean matters.

24. **Peutua Seuneubok**, or any other names used, refers to an individual who organises and leads *adat* decisions on the clearing and use of land for farming and plantations.

25. **Haria Peukan**, or any other names used, refers to an individual who organises *adat* decisions on market structure, organisation, peace, and cleanliness as well as carrying out other helpful tasks.

26. **Syahbanda**, or any other names used, refers to a person who organises and leads *adat* decision-making on the docking of boats/ships, the comings and goings of boats/ships at sea, in rivers and in lakes when these decisions are not taken by the Government.

27. **Pawang Glee** and/or **Pawang Uteun**, or any other names used, refers to an individual who organises and leads *adat-istiadat* related to the administration and preservation of the forest environment.

28. **Hukum Adat** refers to a set of unwritten rules that live and develop in the society of Aceh and includes sanctions for its violation.

29. **Adat-istiadat** refers to an eternal code of behaviour passed from one generation to the next, respected and honoured as an inheritance connected with *Syari’at* Islam.

30. *Kebiasaan* refers to stances and actions taken repeatedly in relation to similar matters; it lives, develops, and is applied by the community.

31. **Pemangku Adat** (**adat** functionary) refers to an individual who holds a position in *adat* institutions.

CHAPTER II

ROLES AND FUNCTIONS OF Adat INSTITUTIONS

**Article 2**

(1) *Adat* institutions function as a means for participation of the community in the management of governance, development, and social growth, and in the resolution of social problems.

(2) *Adat* institutions as referred to in paragraph (1) include the following:
a. *Majelis Adat Aceh*;
b. *Imeum Mukim* or any other names used;
c. *Imeum Chik* or any other names used;
d. *Keuchik* or any other names used;
e. *Tuha Peut* or any other names used;
f. *Tuha Lapan* or any other names used;
g. *Imeum Meunasah* or any other names used;
h. *Keujruen Blang* or any other names used;
i. *Panglima Laot* or any other names used;
j. *Pawang Glee/Uteun* or any other names used;
k. *Petua Seuneubok* or any other names used;
l. *Haria Peukan* or any other names used; and
m. *Syahbanda* or any other names used.

(3) Besides those *adat* institutions referred to in paragraph (2), *adat* institutions that live in the community are acknowledged to exist, and to be sustained and preserved.

**CHAPTER III**

**CHARACTER AND AUTHORITY OF *ADAT* INSTITUTIONS**

**Article 3**

*Adat* institutions are autonomous and independent partners of the Government at the level of Government commensurate to their operation.

**Article 4**

In undertaking the functions referred to in Article 2 paragraph (1) *adat* institutions maintain authority to do the following:

a. protect the peace, order, accord, amity and welfare of the community;
b. assist the Government in the implementation of development;
c. support and improve community participation;
d. defend *adat* and *adat-istiadat* values that do not contradict *Syari’at* Islam;
e. enforce *adat* decisions;
f. resolve community problems;
g. resolve conflicts arising in the community; and
h. uphold *adat* law.

**Article 5**

Every *adat* institution has a right to an income whose form and amount is agreed upon by the consensus of the *adat* community.

**Article 6**

Every *adat* institution can play a role in the process of Government policy formation, according to the level of Government at which they function, and according to the tasks, functions and authority of the particular *adat* institution.
CHAPTER IV
ORGANISATION, COMPONENTS, AND DUTIES OF ADAT INSTITUTIONS

Part One
Majelis Adat Aceh

Article 7

(1) Majelis Adat Aceh has the duty of assisting the Wali Nanggroe in developing and coordinating adat institutions, as these are referred to in Article (2) paragraph (2) letters (b) through (m).

(2) In carrying out the duties referred to in paragraph (1) the Majelis Adat Aceh is formed, organised and set to function as regulated in Qanun Aceh.

Part Two
Imeum Mukim or Any Other Names Used

Article 8

Imeum mukim, or any other names used, is responsible for the following:

a. Carry out community development;

b. Carry out adat-istiadat activities;

c. Resolve disputes;

d. Assist in improving the implementation of Syari’at Islam;

e. Assist in government administration; and

f. Assist in the implementation of development projects.

Article 9

(1) The Imeum Mukim is chosen by the consensus of the mukim.

(2) The Imeum Mukim, or any other names used, is appointed and terminated by the Bupati/Walikota on the suggestion of the Camat from the results of mukim consensus.

(3) Formation of rules for organisation, position, duty, function and assisting bodies for the Imeum Mukim, or any other names used, is regulated by Kabupaten/kota Qanun.

Article 10

Procedures for the choosing, appointment and termination of the Imeum Mukim, or any other names used, as referred to in Article 9 paragraphs (1) and (2) are regulated by Aceh Qanun.

Part Three
Imeum Chik or Any Other Names Used

Article 11

Imeum Chik, or any other names used, is responsible for the following:

a. coordinate the progress of religious life and increase the observance and implementation of Syari’at Islam in social life;

b. organise, implement and lead all activities related to the operation and property of the mosque; and

c. defend and sustain adat values, so that they do not conflict with Syari’at Islam.
Article 12

(1) *Imeum* Chik, or any other names used, is chosen by consensus of the *mukim*, in a meeting attended by *Imeum Mukim* or any other names used, *Tuha Peut Mukim* or any other names used, *Mukim Secretary* or any other names used, *Pemangku Adat*, *Keuchik* or any other names used, *Imeum Masjid*, or any other names used, and *Imeum Meunasah* or any other names used.

(2) Conditions and procedures for choosing the *Imeum* Chik, or any other names used, are set out by consensus of the *mukim*.

Article 13

An *Imeum* Chik, or any other names used, is installed and terminated by the *Bupati* on the advice of the *Imeum Mukim*, or any other names used, through the *Camat* and based on the consensual agreement of the *mukim*.

Article 14

An *Imeum* Chik, or any other names used, ceases his position for the following reasons:

a. death;

b. resignation on his own initiative;

c. neglect of his duties as *Imeum Chik* or any other names used; or

d. commission of a reprehensible act in conflict with *Syari'at* Islam or *adat-istiadat*.

Part Four

*Keuchik* or Any other Names Used

Article 15

(1) The *Keuchik*, or any other names used, is responsible for the following:

a. develop community religious life and implementation of *Syari'at* Islam;

b. defend and sustain *adat* and *adat-istiadat* as it lives and develops in the community;

c. lead the administration of *gampong* governance;

d. encourage and support community participation in *gampong* development;

e. develop and advance the community’s economy;

f. advance preservation of the living environment;

g. protect community peace, order and accord, while preventing the emergence of immoral activity;

h. propose *Gampong Qanun* to the *Tuha Peut Gampong*, or any other names used, for approval;

i. propose a *gampong* budget to the *Tuha Peut*, or any other names used, for approval;

j. take leadership in and resolve social problems; and

k. act for peace in cases of conflict between *gampong* residents.

(2) The *Keuchik*, or any other names used, as referred to in paragraph (1) letter (k) is assisted by the *Imeum Meunasah*, or any other names used, and by the *Tuha Peut Gampong*, or any other names used.

Article 16

(1) The *Keuchik*, or any other names used, is chosen directly by the residents of the *gampong* in a democratic, free, secret, open, honest and fair election.

(2) Procedures for the election, appointment and termination of a *Keuchik*, or any other names used, as referred to in paragraph (1) is regulated by *Aceh Qanun*. 
Part Five
Tuha Peut or Any Other Names Used

Article 17

(1) The *Tuha Peut Mukim*, or any other names used, is installed and terminated by the *Bupati/Walikota* on the suggestion of the *Camat*, based on *mukim* consensus.

(2) The *Tuha Peut Gampong*, or any other names used, is installed and terminated by the *Camat* by the suggestion of the *Imeum Mukim* or any other names used, from the results of *gampong* consensus.

(3) The *Tuha Peut*, or any other names used, is led by a Leader and a Secretary who serve concurrently as members.

Article 18

The *Tuha Peut Gampong*, or any other names used, is responsible for the following:

a. discuss and agree upon a *gampong* budget or any other names used;

b. discuss and agree upon *Gampong Qanun* or any other names used

c. oversee implementation of *gampong* governance or any other names used;

d. Accommodate and represent community aspirations in the administration of government and in *gampong* development or any other names used;

e. formulate *gampong* policy, or any other names used, along with the *Keuchik* or any other names used;

f. provide advice and opinions to the *Keuchik*, or any other names used, whether or not requested; and

g. resolve conflicts that arise in the community along with *adat* practitioners.

Article 19

The *Tuha Peut*, or any other names used, ceases at his position for the following reasons:

(1) death;

(2) resignation on his own initiative;

(3) neglect of his duties as *Tuha Peut* or any other names used; or

(4) commission of a reprehensible act in conflict with *Syari’at Islam* or *adat-istiadat*.

Article 20

The *Tuha Peut Mukim*, or any other names used, is responsible for the following:

a. accommodate and represent the community’s aspirations in government administration and *mukim* development;

b. formulate *mukim* policies along with the *Imeum Mukim* or any other names used;

c. provide advice and opinions to the *Imeum Mukim*, or any other names used, whether or not requested; and

d. resolve conflicts emerging in the community along with *adat* practitioners.
Part Six
Tuha Lapan or Any Other Names Used

Article 21

(1) A Tuha Lapan, or any other names used, can be formed at the gampong or mukim level in accordance with the development and needs of the community.

(2) A Tuha Lapan, or any other names used, is chosen by consensus of the gampong, or any other names used, or by consensus of the mukim.

(3) The membership of A Tuha Lapan, or any other names used, includes elements of the Tuha Peut, or any other names used, and several individuals representing specialised fields according to the needs of a particular gampong or mukim.

(4) Installation and termination of A Tuha Lapan, or any other names used, as well as its duties and functions are delineated by consensus of the mukim or gampong or any other names used.

Part Seven
Imeum Meunasah or Any Other Names Used

Article 22

(1) The Imeum Meunasah, or any other names used, is chosen by consensus of the gampong or any other names used.

(2) Installation and termination of the Imeum Meunasah, or any other names used, is carried out by the Camat on the authority of the Bupati/Walikota.

(3) Procedures, elections, and terms of office for the Imeum Meunasah, or any other names used, are delineated by consensus of the gampong or any other names used.

Article 23

Imeum Meunasah, or any other names used, is responsible for the following:

a. lead and coordinate activities of observance, education and implementation of Syari’at Islam in the life of the community;

b. organise, administer and lead all activities related to maintenance and property of the mosque;

c. provide advice and opinions to the Keuchik, or any other names used, whether or not requested;

d. resolve conflicts that emerge in the community along with other adat practitioners; and

e. Protect and maintain adat values, so that they do not conflict with Syari’at Islam.

Part Eight
Keujruen Blang or Any Other Names Used

Article 24

(1) The Keujruen Blang, or any other names used, consists of the Keujruen Muda, or any other names used, and the Keujruen Chik or any other names used.

(2) Regulation of duties, functions, authorities and conditions of the Keujruen Blang, or any other names used, are delineated by consensus of the local Keujruen Blang or any other names used.

(3) In carrying out the duties, functions and authorities referred to in paragraph (2), the Keujruen Blang will coordinate with other relevant parties.
Article 25

Keujruen Blang, or any other names used, maintains the following responsibilities:

a. codify and coordinate methods of work in wet rice fields;
b. organise the distribution of water to wet rice farmers;
c. assist the Government in matters of farming;
d. coordinate khanduri or other rituals connected to adat in the working of wet rice fields;
e. reprimand or impose sanctions on farmers who violate adat regulations on wet rice cultivation, or who do not carry out other obligations in the adat-regulated system of wet rice cultivation; and
f. resolve conflicts between farmers connected to the business of wet rice cultivation.

Article 26

Keujruen Blang, or any other names used, ceases at his position for the following reasons:

(4) death;
(5) resignation on his own initiative;
(6) neglect of his duties as Keujruen Blang or any other names used; or
(7) commission of a reprehensible act in conflict with Syari'at Islam or adat-istiadat.

Part Nine

Panglima Laot or Any Other Names Used

Paragraph 1

Organisational Structure

Article 27

(1) Panglima Laot, or any other names used, consists of:
   a. Panglima Laot Lhok or any other names used;
   b. Panglima Laot Kabupaten/Kota or any other names used; and
   c. Panglima Laot Aceh or any other names used.
(2) Panglima Laot Lhok, or any other names used, is chosen by pawang-pawang boat lhok, or any other names used, by way of consensus.
(3) Panglima Laot Kabupaten/Kota, or any other names used, is chosen by the consensus of Panglima Laot Lhok or any other names used.
(4) Panglima Laot Aceh, or any other names used, is chosen by consensus of Panglima Laot Kabupaten/Kota or any other names used.

Paragraph 2

Authority, Duties and Functions

Article 28

(1) Panglima Laot, or any other names used, has the following authority:
   a. stipulate an orderly structure for catching fish, including distribution of catch and days on which fishing is forbidden;
   b. resolve adat disputes and conflicts among fishermen;
   c. resolve adat conflicts among the Panglima Laot Lhok or any other names used; and
   d. coordinate the enforcement of the adat law of the sea, improve natural resource use, and carry out policy advocacy in the field of oceans and fisheries to improve the welfare of fishermen.
(2) **Panglima Laot Lhok**, or any other names used, is responsible for the following:
   a. enforce, maintain and protect the implementation of *adat-istiadat* and the *adat* law of the sea;
   b. assist the Government in matters of fisheries and oceans;
   c. resolve conflicts and disputes among fishermen in accordance with the *adat* law of the sea;
   d. protect and preserve the functions of the coastal and ocean environments;
   e. struggle for uplift in the lives of fishermen; and
   f. prevent illegal fishing.

(3) **Panglima Laot Kabupaten/Kota**, or any other names used, is responsible for the following:
   a. carry out the duties referred to in paragraph (2) when these cross lhok boundaries.
   b. resolve conflicts between **Panglima Laot Lhok** or any other names used.

(4) **Panglima Laot Aceh**, or any other names used, is responsible for the following:
   a. carry out the duties referred to in paragraph (3) letter (a) when occurring between Kabupatens/kota.
   b. carry out policy advocacy on oceans and fisheries and provide legal assistance to fishermen abroad;
   c. coordinate implementation of the *adat* law of the sea.

(5) Functions of the **Panglima Laot**, or any other names used, include the following:
   a. **Panglima Laot Lhok**, or any other names used, and **Panglima Laot Kabupaten/Kota**, or any other names used, serve as *adat* leaders to the community of fishermen;
   b. **Panglima Laot Lhok**, or any other names used, and **Panglima Laot Kabupaten/Kota**, or any other names used, serve as intermediaries between the Government and the fishing community; and
   c. serve as a partner to the Government in the successful implementation of programs for the development of oceans and fishing.

**Paragraph 3**

Organisation and Term of Service for **Panglima Laot**

**Article 29**

Procedures for the election of and conditions for service as **Panglima Laot**, or any other names used, is stipulated by the consensus of **Panglima Laot** or any other names used.

**Part Ten**

**Pawang Glee** or Any Other Names Used

**Article 30**

(1) The **Pawang Glee**, or any other names used, is chosen by the society of people living in forest areas.

(2) Procedures for election and conditions of service for the **Pawang Glee**, or any other names used, are stipulated by consensus of the forest-area community.
Article 31

Pawang Glee, or any other names used, is responsible for the following:

a. organise and lead adat-istiadat pertaining to the management and maintenance of the forest environment;

b. assist the Government in forest management;

c. uphold adat law with regard to forests;

d. coordinate the undertaking of adat rituals connected to forests; and

e. resolve disputes among community members in the use of forest resources.

Part Eleven

Peutua Seuneubok or Any Other Names Used

Article 32

(1) Peutua Seuneubok, or any other names used, is chosen by the community residing in one hillside community.

(2) Procedures for election and conditions of service for the Peutua Seuneubok are stipulated by consensus of the hillside community.

Article 33

(1) Petua Seuneubok, or any other names used, is responsible for the following:

a. regulate and distribute arable land within the hillside community;

b. assist in government functions relating to plantations and forestry;

c. organise and oversee the implementation of adat rituals in the hillside community;

d. resolve disputes that emerge within the hillside community; and

e. carry out and protect adat law in the hillside cultivation community.

(2) The carrying out of duties referred to in paragraph (1) is coordinated along with all interested parties.

Part Twelve

Haria Peukan or Any Other Names Used

Article 34

(1) A Haria Peukan, or any other names used, can be formed for a traditional market.

(2) A Haria Peukan, or any other names used, as referred to in paragraph (1) is formed for traditional markets that do not yet have a Government functionary.

(3) If a Haria Peukan, or any other names used, has formed, then a designated Government functionary must cooperate with the Haria Peukan or any other names used.

(4) The formation and installation of Haria Peukan, or any other names used, is carried out by the Camat following consultation with prominent traders and the Keuchik or any other names used.

Article 35

Procedures for the formation, installation and conditions for service of a Haria Peukan, or any other names used, as referred to in Article 34 paragraph (4) are stipulated by the consensus of prominent traders and the Keuchik or any other names used.
Article 36

A Haria Peukan, or any other names used, is responsible for the following:

a. assist the Government in regulating market organisation, order, and peace, and in other tasks;

b. enforce adat and adat law in the various activities of the peukan;

c. enforce the cleanliness of the peukan, or any other names used; and

d. resolve conflicts arising in the peukan or any other names used.

Article 37

A Haria Peukan, or any other names used, may cease in his duties for the following reasons:

e. death;

f. resignation on his own initiative;

g. neglect of his duties as Haria Peukan, or any other names used; or

h. commission of a reprehensible act in conflict with Syari’at Islam or adat-istiadat.

Part Thirteen

Syahbanda or Any Other Names Used

Article 38

(1) Syahbanda, or any other names used, may be formed for a common port.

(2) Formation of a Syahbanda, or any other names used, as referred to in paragraph (1) is done for common ports that do not yet have a Government functionary.

(3) If a Syahbanda, or any other names used, has been formed, then a designated Government functionary must cooperate with that Syahbanda or any other names used.

(4) The appointment of a Syahbanda, or any other names used, is carried out by a Bupati/Walikota on the advice of the Panglima Laot, or any other names used, and other prominent local figures.

Procedures for the formation, installation and conditions of service for the Syahbanda, or any other names used, as referred to in Article 38 paragraph (4) are set by the agreement of the appropriate Government offices, the Panglima Laot, or any other names used, and other prominent social figures.

Article 40

A Syahbanda, or any other names used, is responsible for the following:

a. organise the use of a common port;

b. protect peace and order in the area of a common port;

c. resolve disputes arising in the area of a common port; and

d. regulate rights and responsibilities pertaining to use of the common port.

CHAPTER FIVE

PEMANGKU ADAT AND THE DEVELOPMENT OF ADAT INSTITUTIONS

Article 41

(1) Pemangku Adat regulate policy and procedures for the implementation of adat and adat-istiadat in accordance with the tasks and functions of their respective adat institutions.

(2) Pemangku Adat function as peacemakers in resolving social problems as appropriate to their respective fields of operation.
Article 42

(1) *Adat* institutions as referred to in Article 2 paragraphs (2) and (3) are under the management of the *Wali* Nanggroe.

(2) Management as referred to in paragraph (1) is implemented by the *Majelis Adat* Aceh.

(3) Management procedures as referred to in paragraph (2) are further regulated by the *Wali* Nanggroe.

Article 43

(1) Administrative and financial management of *adat* institutions is undertaken by the Government of Aceh, and the *Kabupaten/Kota* Governments.

(2) The Government of Aceh and *Kabupaten/Kota* Governments prepare financial resources for the management of *adat* institutions according to their capability.

CHAPTER SIX
TRANSITIONAL PROVISIONS

Article 44

Until the *Wali* Nanggroe is established, the management of *adat* institutions will be undertaken by the MAA.

Article 45

All regulations already existing with regard to *adat* institutions continue to apply so long as they do not contradict this *Qanun*.

CHAPTER VII
CLOSING PROVISIONS

Article 46


Article 47

This *Qanun* will enter into force on the date of its enactment. To ensure public awareness of the regulation, the enactment of this *Qanun* shall be announced in the NAD Province Gazette.
GOVERNOR NANGGROE ACEH DARUSSALAM,

IRWANDI YUSUF

Enacted in Banda Aceh
On the date 2008 M
1429 H

ACEH PROVINCIAL SECRETARY
NANGGROE ACEH DARUSSALAM,

HUSNI BAHRI TOB

NANGGROE ACEH DARUSSALAM PROVINCIAL GAZETTE 2008 NUMBER
EXPLANATION
OF
ACEH QANUN
NUMBER /2008
CONCERNING
ADAT INSTITUTIONS

I. GENERAL EXPLANATION
Law number 11/2006 concerning Aceh Governance has provided a strong basis for the cultivation of adat life and adat-istiadat in Nanggroe Aceh Darussalam. Article 98 of that law ordered the regulation of duties, authority, rights and responsibilities in carrying out the management of adat life and adat-istiadat by the issuance of an Aceh Qanun.

Adat institutions that have long developed in the life of the Acehnese community continue to maintain their functions and roles in the development of cultural values, adat norms and rules for the realisation of peace, harmony, order, accord, amity, and welfare. Thus adat institutions serve as one basis for the manifestation and common realisation of goals, as appropriate to the wishes and interests of local communities.

To maintain and improve the role of adat institutions as one aspect of implementing the special status of Aceh in the field of adat-istiadat, there must be a continuous development and empowerment of adat institutions as suited to the dynamics of Acehnese society.

II. ARTICLE BY ARTICLE
Article 1
Clear
Article 2
Paragraph (1)
Clear
Paragraph (2)
Clear
Paragraph (3)
In addition to those stated in paragraph (2), there are adat institutions maintaining the same functions at the level of Kabupaten/kota; these have different names, and their existence must also be legally acknowledged.

Article 3
Clear
Article 4
Clear
Article 5
Clear
Article 6
Clear
Article 7
Clear
Article 8
Clear
Article 9
Paragraph (1)
Mukim consensus specifically means consensus in the choice of an Imeum Mukim or any other names used, as reached in a meeting attended by the Keuchiks, Imeum Chik, Tuha
Peut Mukim, Mukim Secretary, and other heads of adat institutions within the territory of the relevant mukim.

Paragraph (2)
Clear

Paragraph (3)
Clear

Article 10
Clear

Article 11
Clear

Article 12
Clear

Article 13
Clear

Article 14
Clear

Article 15
Paragraph (1)
Letter K

“Peacemaker” here refers to an individual who functions as a conciliation judge in cases of conflict and dispute.

Article 16
Clear

Article 17
Clear

Article 18
Clear

Article 19
Clear

Article 20
Clear

Article 21
Clear

Article 22
Paragraph (1)

Imeum Meunasah, or any other names used, includes Imeum Masjid Gampong, or any other names used, for those gampons which do not have a Meunasah.

Paragraph (2)

Imeum Meunasah, or any other names used, includes Imeum Masjid Gampong, or any other names used, for those gampons which do not have a Meunasah.

Paragraph (3)

Imeum Meunasah, or any other names used, includes Imeum Masjid Gampong, or any other names used, for those gampons which do not have a Meunasah.

Article 23

Imeum Meunasah, or any other names used, includes Imeum Masjid Gampong, or any other names used, for those gampons which do not have a Meunasah.
Article 27
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Article 28
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Article 29
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Article 30
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Article 31
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Article 32
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Article 34
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Article 36
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Article 43
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Article 44
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Article 45
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Article 46
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Article 47
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ADDITIONAL GAZETTE OF NANGGROE ACEH DARUSSALAM PROVINCE NUMBER