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Distribution of *Poh Roh* Assets Due to A Divorce in Gayo Lues Society

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Abstract:

This research was conducted in Kuta Lintang Village, Blangkejeren Sub-district of Gayo Lues District. The aims of the research are to find out about shared-assets distribution after divorce through customary law, to observe the barriers of distributing shared-assets in Gayo Lues and to examine legal consequences of undistributed shared assets after a divorce in Gayo Lues. This research applied descriptive method with a normative juridical approach to obtain secondary data, sociological juridical approach, and field research. There found obstacles of shared-assets distribution in Gayo Lues Regency, such as a vague status of the *Poh Roh* assets, secret diversion of the sharing assets, and lack of knowledge about its distribution. Legal consequences of undivided joint assets after the marriage ended because of divorce are the vague status of the shared assets where the husband and wife can no longer separate between inheritance assets and *poh roh* assets; both of these assets

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might have been mixed. This results in the difficulty to separate inheritance assets and *poh roh* assets. In the cases when the assets actually belong to the wife but the husband holds the ownership paper of the assets, the wealth will be categorized as *poh roh* assets. However, it is quite difficult to determine the status of the assets when the husband has a bad faith and transfer or converse the wealth to the third party, common with movable objects.

Keywords:

Assets Distribution; Poh Roh; Jeuma Opat Institution; Gayo Lues

Abstrak:

Penelitian ini dilakukan di kampung kute lintang kec. Blangkejeren kabupaten Gayo Lues yang bertujuan untuk menjelaskan sistem pembagian harta *poh roh* akibat perceraian menurut hukum adat gayo lues, hambatan terhadap pembagian harta *poh roh* pada masyarakat Gayo Lues. Penelitian ini menggunakan metode deskriptif dengan pendekatan Juridis normatif (*legal research*) untuk mendapatkan data sekunder dan pendekatan *juridis sosiologis* serta juga melakukan penelitian lapangan (*Field research*). Sistem pembagian harta *poh roh* akibat perceraian dapat dilakukan dengan 2 (dua) cara yaitu dilakukan secara musyawarah mufakat dan dilakukan melalui *jeuma opat*. Proses perdamaian yang dilakukan oleh suami-isteri yang bercerai pada umumnya dilaksanakan dengan cara musyawarah yang melibatkan kerabat keluarga dari kedua belah pihak. Sedangkan penyelesaian perselisihan melalui Lembaga *jema opat* lebih menekankan kepada aspek kekeluargaan dengan cara musyawarah untuk mufakat, sehingga tidak ada pihak yang merasa dikalahkan atau dimenangkan dan *jema opat* mengetahui tentang asal usul harta yang diperoleh selama mereka melangsungkan perkawinan, mana harta bawaan, mana harta warisan yang diperoleh dari ahli waris suami isteri dan mana harta *poh roh*, maka dengan mudah *jema opat* dalam hal membagi harta *poh roh*, jika terjadi perceraian karena telah mengetahui asal usul dari harta suami-isteri yang bercerai tersebut. Akibat Hukum Harta *poh roh* tidak dibagi Setelah Putusnya Perkawinan Akibat Perceraian di Gayo Lues yaitu kaburnya status harta *poh roh* tersebut artinya suami isteri tidak dapat lagi memisahkan mana harta bawaan dan mana harta *poh roh*, bahkan antara harta bawaan dengan harta *poh*

roh telah bercampur, sehingga sangat sulit untuk menentukan status harta dalam perkawinan

Kata Kunci:

Pembagian harta poh roh; lembaga jeuma opat; Gayo Lues

Introduction

Marriage is a very important thing for every individual. It facilitates them to form a family to survive until the couple separate each others because of death. Marriage is also a legal relationship between a man and a woman who have fulfilled marital conditions.¹ Meanwhile, the purpose of marriage according to article 1 of Law No. 1 of 1974 concerning marriage is to form a happy and eternal family based on the Almighty God.

A marriage that aims to form a happy and everlasting family requires a harmonious relationship between husband or wife and among family members based on the principle of mutual respect and love with the growth of care and affection. When a marriage has been carried out in accordance with the provisions of Article 2 of Law No. 1 of 1974 concerning marriages, it has been considered legitimate and as a consequence, there is a mixture of wealth. On the other hand, according to customary law in general, marriage in Indonesia is not only a "civil engagement" but also a "customary engagement" and at the same time a kinship and neighborly engagement.²

Based on the Civil Code Article 119,³ since marriage takes place between a husband and a wife, there is a legal consequence of the unity or mixing between both parties' assets as long as it does not deviate on any marriage agreement. This means that a marriage enables the merging assets of husband and wife into one. Thus in a family, there is a wealth of shared property or what is often referred to as the *poh roh* assets.

¹Rien G. Kartasoepetra, *Pengantar Ilmu Hukum Lengkap*, (Jakarta: Penerbit Bina Aksara,1988), 97.

²Hilman Hadikusuma, *Hukum Perkawinan Indonesia menurut Perundangan, Hukum Adat, Hukum Agama*, (Bandung: Mandar Maju, 2003), 8

³R.Soetojo Prawirohamidjojo et. aI., *Hukum Orang dan Keluarga*, Airlangga University Press: Surabaya, 2000, 53.

In marriages and households, in addition to the existence of permanent assets recognized as personal property of each, husband and wife generally also own the property from their joint livelihoods and was obtained during the marriage. However, on the way to create a happy and eternal household, events leading to any marriage termination sometimes happens. Based on Government Regulation Number 9 of 1975 compilation of Islamic law as a form of promoting Islamic law, there are 3 causes of divorce namely: The death of the husband or wife, Divorce *thalaq* and divorce due to a lawsuit and Court's decision

Divorce that comes up between a husband and a wife leads to, among other things, the division of *poh roh* assets. The legal consequences of divorce on the *poh roh* assets according to Article 37 of Law Number 1 of 1974 concerning Marriage has stated that "if the marriage is terminated due to divorce, the *poh roh* are regulated according to their respective laws". The respective laws mean religious law, customary law, or other applicable law. In the Marriage Law, it is not explicitly stipulated about how much each part of the husband and wife can get from the *poh roh* assets. Actually, the exact concept of *poh roh* assets in Islamic law is not explicitly found and written in both the Qur'an and the hadith.

In the Aceh community, particularly at the Gayo Lues Regency, marriage is considered a sacred thing because it is the first step for both husband and wife to live a new life. Therefore, it is very proper to find that in the process of carrying out the marriage, very diverse customary norms like what found in every tribe in Indonesia are alive. In the customary marriage of the Gayo Lues community, several forms of marriage are known:

1. *Julèn*. Etimologically, the word *julèn* means "sold", namely the bride has been "sold" to her husband's relatives. The wife seems to no longer belong to her parents and family. She doesn't live with her parents' family anymore. Instead, she moves to and lives in her husband's clan. Therefore, after the dowry is paid off, she can settle in the her husband's village or house. According to a research, this form of marriage is rarely used by the Gayo Lues community.
2. *Angkap* is the contrary of the former. It happens when a husband lives in his wife's clan because he cannot pay off his dowry so that he a very low status in the Gayo Lues

community because he is unable to bring his wife his village or house. However, this may happen because of other causes such as when the wife is the only child in her family so she does not want to be far from her parents. Another possibility is because parents of the girl really like to live with their son in law so that they marry the daughter in *angkap* way.⁴ However, in most of cases, this marital type occurs because of husband's inability to fulfill the traditional demands of his prospective wife's parents out of obligations according to the Islamic provisions. The legal consequences of this marital type are based on the status of of *poh roh* assets possession. In *angkap* marriage in the Gayo Lues community, if the dowry has not been paid off and a divorce occurs between the two, the assets obtained during the marriage automatically become the wife's property.⁵

In a divorce occurring because of a mistake by either husband or wife, the assets obtained during the marriage may not be taken by the husband. Rather, it becomes property of the wife and child (ren). However, if a divorce occurs due to the death of, let say husband, the property automatically belong to his wife and children. On the contrary, if the wife dies, the control of property becomes the property of the children left behind, while the husband only deserve to usufruct it, not to inherit.⁶

Based on the results of interim studies conducted in both *juelèn* and *angkap* marriage, there are several related numbers and percentages recorded in 3 (three) villages in Blangkejeren District, Gayo Lues Regency. More details can be seen in the following table: ⁷

Table 1.

Total Comparison of *Poh Roh* Distribution as a Result of Divorce at 3 (Three) Villages in Blangkejen Subdistrict, Lues Regency

⁴Het Gajoland en Zijne Bewoners. trans, Hatta Hasan AmanAsnah, *Gayo, Masyarakat danKebudayaannya Awal Abad ke-20*, Balai Pustaka, Jakarta, 1996, 29.

⁵*Ibid.*

⁶Interview with Datu (*Eyang*) Salim Wahab, a public figure and a historian of Gayo Lues society in the thesis of Robi Efendi Purba, *Tradisi Pernikahan Angkap Di Gayo Lues*, May 11, 2014.

⁷Safri Wali, *Rege Kampung "Rikit Gaib,"* interview on December 12, 2018.

No	Village Name	Marriage						Divorce						Sp						Inf
		Julen			Angkap			Julen			Angka			Julen			Angkap			
		2016	2017	2018	2016	2017	2018	2016	2017	2018	2016	2017	2018	2016	2017	2018	2016	2017	2018	
1	Kuta lintang	7	6	8	8	9	8	-	1	-	2	-	1	-	1	-	1	-	1	In 2016, there occurred one divorce but there was no division of <i>poh roh assets</i> because there was no asset.
2	Kuta panjang	4	5	4	7	6	6	-	-	1	1	-	1	-	-	1	1	-	1	
3	Rikit Gaib	3	5	7	8	8	7	-	-	1	2	-	-	-	-	1	2	-	-	
Jumlah		14	16	19	23	23	1	-	1	2	5	-	2	-	1	2	4	-	2	

Source: Primary Data

The table above shows that in the District of Gayo Lues, each village namely Kute Lintang, Kuta Panjang and Rikit Gaib carried out marriages both in private and *juelèn* manner. The table also mentions a comparison of the number of shared *poh roh* assets due to divorce in 3 (three) villages from 2016 to 2018. The amount of *poh roh* assets tdistribution due to divorce in the village of Kute Lintang and Rikit Gaib always increased every year. Kuta Panjang village number, on the contrary, decreased every year.⁸

The explanation above focuses on the distribution of *poh roh* assets after a divorce in the community in Gayo Lues Regency. Therefore, if a divorce occurs, there will be determination on which assets to become inheritance to the children and which others to distribute to both husband and wife. Determination of the *poh roh* assets distribution in the community of Gayo Lues Regency is due to the type of marriage, thse who will inherit the *poh roh* assets and its distribution.⁹

Based on description above, it is necessary to conduct a study entitled "*Distribution of Poh Roh assets as a Result of Divorce in Gayo Lues Community (Research Study in Blang Kejeren District Gayo Lues Regency)*". The problem in this study is the obstacles on the distribution of *poh roh* assets after a divorce in the Gayo Lues society.

⁸Safri Wali. *Reje* Kampung Rikit Gaib. Interview on November 26, 2018.

⁹Hurmada, a public figure of Blang Kejeren, interview on December 13, 2018.

This research can be reviewed with a variety of theories. One of which is the theory of legal pluralism which observes the law from various perspectives ranging from those created by the state, social, cultural, economic and political categories. In a limited context, the law is associated with state law, specifically legislation (lawbook). A number of anthropologists interpret the law as a normative reference which has a broad scope, alive and dynamically developing. It is not only limited to the state law, but also the legal system outside, including various relayed processes and figures within. The law does not merely contain normative matters of both permissible and impermissible things, but also cognitive matters.¹⁰

Interaction between the notion of law or even the concept of law between one and another is an interesting discussion of its own and it is often referred to as the study of legal pluralism. In a real life, legal pluralism is very helpful in explaining the existence of legal order made by the state. According to Griffiths,¹¹ the state of legal pluralism is highly developed and is proportional to the development of social pluralism because it is an embodiment of a pluralistic society that will create a plural legal system as well.

On the contrary, the imposition of legal centralism is a useless job because it is asocial. For Griffiths, one of forms of legal pluralism is divided into 2 (two) types, namely strong legal pluralism and weak legal pluralism. A situation can be called strong legal pluralism if each of the diverse legal systems is autonomous and independence from the state law. If the situation of legal pluralism depends on the existence of recognition from the state, it is called weak legal pluralism.¹² Another compatible theory is the dispute resolution theory which is an attempt to restore the relations of parties in a dispute to the original condition. With a good relationship, the parties in dispute can build harmony in both social and legal relations between one another.

¹⁰Benda Beckmann, F & K, in Sulistyowati Irianto, *Hukum Yang Bergerak; Tinjauan Antropologi Hukum*, Yayasan Obor Indonesia, Jakarta, 2006, 13.

¹¹John Griffiths, *Memahami Pluralisme Hukum, Sebuah Deskripsi Konseptual*, in Tim Huma, 2005, 116-118.

¹²Griffiths, J, Abdias et.al, *Potret Pluralisme Hukum dalam Penyelesaian Konflik Sumber Daya Alam; Pengalaman dan Perspektif Aktivistis*, HuMa, Jakarta, 2007, 99

The dispute categorization is the classification of dispute types occurring in the midst of community such as land disputes, local election disputes, stock disputes and marital disputes. Observation on factors causing disputes, meanwhile, is an attempt to reveal things that cause another specific thing to happen as a consequence of the dispute. Another key concept, disputes resolution strategy, is an effort to find and formulate ways to end disputes that between the parties, such as by means of mediation, reconciliation, negotiations and so on. In the context of disputes resolution in the community, it is necessary to rely on laws and regulations governing dispute resolution as follow: Civil Procedure Code, Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution and Law Number 7 of 2012 concerning Handling of Social Conflicts

The dispute resolution theory was developed and put forward by Ralf Dahrendorf in the 1958s. It aimed specially towards social structures and institutions. Dahrendorf believed that society has two faces, namely dispute and consensus. Laura Nader and Harry F. Todd Jr., meanwhile, mentioned 7 (seven) following ways in dealing with dispute:¹³

- a. *Letting everything go*. This alternative is valid for those who get unfair treatment and are failed in seeking justice through any legal demands. He/she makes a decision to just ignore the problem and continues to build good relationships with related parties who treat him/her disadvantageously. This choice may relate to various possibilities, such as lack of information on how the proceed any legal complaint to the Court, lack of access to the judiciary institution or deliberately let everything go because of consideration or prediction that the loss would be greater than the benefits both materially and psychologically.
- b. *Avoidance*. This may be taken also by those who feel disadvantaged. He/she chooses to reduce relationships warmness with those who do the harm u completely quit the relationship, particularly in a business interaction. By choosing this, the problems causing complaints are also ignored. This,

¹³Laura Nader & Harry F. Todd Jr, *The Disputing Process Law in Ten Societies*, New York: Columbia University Press, 1978, 9-11.

therefore, is literally different from the former as in the first solution (letting everything go), relationship continues well and the issue is considered done. While in this case, the disadvantaged party avoids the problem and this affects on the relationship.

- c. *Coercion* (compulsion). This occurs when a party forces a solution to another party in unilateral way. Any coercive or threatening action usually uses violence and generally reduces the possibility of peaceful resolution.
- d. *Negotiation*. This may take place when the two involved parties are the decision makers. Therefore, they decide to solve the dispute without any third party. Both parties try to convince each other, make their own rules and do not solve the problem using the existing rules.
- e. *Mediation*. The prominent feature of this way is the existence of a third party who assists both parties in a dispute to find an agreement. The third party can be chosen by the two parties in the dispute or suggested by authorized party. No matter how the mediator is selected, both parties must agree that the service of a mediator is no other than an effort to find a solution. In a small community, it is very possible that a mediator also serves as an arbitrator and a judge.
- f. *Arbitration*. This happens when both parties in a dispute agree to ask a third party (arbitrator) for an intermediary. Another agreement is that both will accept any decision of the arbitrator.
- g. *Adjudication*. The last way is when a third party with authority to interfere in dispute resolution is out of any party's interest. The third party also deserves to make decisions and enforce for its implementation.

These seven ways can be recategorized into three ways of dispute resolution, namely traditional, alternative dispute resolution (ADR) and court. The traditional way consists of letting everything go, avoidance and coercion. These three first ways cannot be found in legislation. Other forms of dispute resolution using ADR are negotiation, mediation and arbitration. These three last mentioned methods exist in Law Number 30 of 1999 concerning Arbitration and

Alternative Dispute Resolution, while dispute resolution in court is known as procedural law.¹⁴

Another proper theory is the sociological jurisprudence theory. It mentions that the good law is in line with any law living in society. In other word, the law should reflect the values living in society. However, this theory should be distinguished from what we know as the sociology of law. The sociology of law, as described briefly in the previous section, is a branch of sociology that studies law as a social phenomenon. Sociological jurisprudence, meanwhile, is the study of a specific school in the philosophy of law which studies the mutual influence between law and society. As for sociology of law is a branch of sociology that studies the influence of society on law and the extent to which the existing phenomena in that society can affect the law while investigating the reverse effect of law on society. The most important thing is the beginning point of approach. If sociological jurisprudence approach starts from law to society, sociology of law begins its approach otherwise, from society to law.¹⁵

Research Method

This research uses descriptive method with normative juridical approach (legal research) to obtain secondary data. It also engages sociological juridical approach in conducting a field research other than statute, conceptual, and analytical approach . Additionally, it also uses normative legal research methods because the focus of this study comes from the blurred norms. Meanwhile, to trace legal materials, it uses document study techning through qualitative analysis.

Finding and Discussion

Obstacles on Distribution of *Poh Roh* Assets as a Result of Divorce at Gayo Lues Lues Community

The problems in any society are very diverse ranging from the simplest to the most complex. This cannot be separated from the role of the customary institution in solving citizen's problems. Any dispute handled by the customary institution will involve a variety of

¹⁴ *Ibid.*

¹⁵ Pound, Roscoe in Lili Rasjidi, *Dasar- Dasar Filsafat dan Teori Hukum*, Citra Aditya Bakti, Bandung, 2012, 32.

both supporting and obstructing factors. The same happens in the context of *poh roh* assets distribution in the Gayo Lues community in which *Jema Opat Institute* plays a role as the institution to solve the dispute. As for the supporting and obstructing factors are as follow:

1. Supporting factors

- a. Good faith from divorced husband and wife.
- b. The clear status of the *poh roh* assets.
- c. The implemented system based on deliberation.
- d. Low cost and short time.

The following table shows more detail information about the supporting factors in:

Tabel 3.
Supporting Factors for the Distribution
of *Poh Roh* Assets through *Jeuma Opat*

No	Supporting factors	Respondents	Percentage
1.	Good will from divorced husband and wife	19	31,7
2.	The clear status of the <i>poh roh</i> assets	15	25
3.	The implemented system based on deliberation	14	23,3
4.	Low cost and short time	12	20
Total		60	100

Source: Primary data

The table above shows that the good faith of divorced husband and wife does determines distribution of *poh roh* assets process through the customary institution numbering 31.7%. Meanwhile, the clear the status of *poh roh* assets numbers 25% and the implemented system by *Jeuma Opat* reaches 23.3%. The factor of cost and short time onlu numbers 20%. This implies that the *poh roh* asset distribution through *Jeuma Opat* can only be done if the both divorced husband and wife agree to rely on the *Jeuma Opat* for the asset distribution without any coercion. It becomes impossible to divide the *poh roh* assets through *Jema Opat* if the divorced husband and wife do not

want the institution to solve their dispute. More complete information about those supporting factors are as follow:

a. **Good Will from Divorced Husband and Wife.**

Disputes resolution through traditional judiciary institution in Aceh has been practiced since the existence of Aceh Kingdom until today.¹⁶ The existence of the institution is an urgent necessity for Aceh people as it grows and develops well in the area. It makes sense, therefore, to find Aceh people generally rely on it in dealing with any legal problems as an effort for getting justice. The same condition happens at Gayo Lues community where its people rely the dispute resolution on *Jeuma Opat*.

When it comes to the case of *poh roh* asset distribution through *Jema Opat*, good will from the divorced husband and wife is crucial to succeed the resolution process as quick as possible. Without the good will of two parties, the congregation cannot do much. The absence of good will, among others, is clear when either husband or wife do not attend the meeting. This will make it hard for *Jema Opat* to hold a discussion Jemaah one of the parties did not attend the meeting so that the Opat Jemaah could not hold a discussion particularly to determine how much each of both will get percentage of the total asset.¹⁷

Based on it, to make distribution of *poh roh* assets run well and quickly without too much time and money consumption, both parties must be cooperative in every step of the process. This becomes important because after the distribution of *poh roh* assets done, there is no more bound between them both marital tie and *poh roh* assets.

b. **The Clear Status of *Poh Roh* Assets.**

According to the meaning and purpose of marriage as clearly mentioned in Law No. 1 of 1974 concerning Marriage, the aim of marriage is not merely an agreement between a woman and a man to fulfill their life's needs. Likewise, it is not only a physical bond between a woman and a man, but also a psychological ones. Therefore, every marriage must come up with the agreement of both.

¹⁶Taqwaddin, Nurdin. "Pedoman Penyelenggaraan Peradilan Perdamaian Adat di Aceh," *Jurnal Ilmu Hukum Qanun*, 2010, 110.

¹⁷Reje Mude Gemasih, *Reje* Kampung Kuta Lintang Kecamatan Blang Kejeren, interview on December 2, 2018.

The physical bond becomes the build a happy and eternal family. In other words, a marriage should last a lifetime and it should not be easily broken because the marriage itself is based on a religious and divine teaching of The Only One God.¹⁸

In a process of creating a happy marriage family, the matter of property is unseparable both in the form of inheritance and *poh roh* assets. Therefore, separation among assets is important to facilitate the distribution process of *poh roh* assets in any unexpected condition, such as a dispute or divorce. However, in the Gayo Lues community, no one records and separates the assets they obtain during marriage.

The separation of assets is still clear at the beginning of a marriage. However, for an old marriage, status of their property sometime becomes blurred. This is different from any couple who, during their family life in harmony and peace, had made clear separation of their property, including the legal documents mentioning the name of husband or wife as the owner of certain assets. In fact, determination and separation of the property ownership status are very important to obtain clarity on the status of property when death of each or divorce happen at the future.

The clear status of property/asset in marriage is an important factor which can significantly help *Jeuma Opat* in the dispute resolution or distribution process of the *poh roh* assets belonged to a divorced husband and wife. This aims to make *Reje Kampung* knows in detail about properties of each divorced husband and wife because it is *Reje Kampung* who get involved in signing the transaction of assets obtained by the divorced husband and wife.

If a couple had already separated the assets between inheritance and *poh roh* since the beginning of their marriage and not mix them into one, the dispute can be quickly resolved. Furthermore, two meetings for the settlement of *poh roh* assets division can be enough and this will make a divorced couple able to immediately manage the *poh roh* assets. It becomes more urgent when one of

¹⁸ Verse 1 in Law No. 1/ 1974 mentions that marriage means physical and mental bond between a man and a woman. It means to create a happy and eternal family based on the Oneness of God. Eternal means that the end of marriage is death.

divorce couple relies his/her economic survival on the *poh roh* assets because of the absence of other income sources.¹⁹

c. The Implemented System based on Deliberation

The distribution of *poh roh* assets in Gayo Lues community through *Jeuma Opat* is based on the principle of deliberation. In other word, distribution does not always mean the same portion in number between a divorced couple. Sometimes, the portion received by an ex-husband is not the same as those of ex-wife and vice versa. This is based on certain considerations and resulted from serious deliberations. If, for example, an ex-wife suffers an illness and requires a lot of money while she does not have another income, she will get more from her ex-husband.²⁰

In dealing with distribution of *poh roh* assets or other social problems, *Jeuma Opat* always holds serious deliberation for the sake of village development. This system makes any decision made by *Jeuma Opat* considered fulfilling justice values criteria. In resolving *poh roh* distribution, for example, *Jeuma Opat* involves relatives of both divorced parties. This made the whole parties accept the decision willingly as clear from the following examples:

AD and NN were a couple who had fostered household for 15 years but it could not last longer. In 2013, they got divorced illegally. During the marriage, they had obtained *poh roh* assets consisting of a car, a motorcycle and household equipments. In the distribution of *poh roh* assets, both parties agreed to resolve it through *Jeuma Opat*. At the *Jeuma Opat* meeting, it was decided that the car became property of the ex-husband while others belonged to the ex-wife.

As happened at the mentioned case settlement process, *Jeuma Opat* always involves relatives of both sides to make win-win decision so that each party can accept it willingly. This procedure can also recover broken family relations after the divorce. Thus, the settlement through *Jeuma Opat* is not merely to obtain portion of each divorced parties, but to also to rebuild a broken relationship like before the divorce.

¹⁹Safri Wali. *Reje Kampung Rikit Gaib. Interview on November 26, 2018.*

²⁰Zulfikar, a local public figure at *Kampung Rikit Ghaib, interview on December 01, 2018.*

d. Low Cost and Short Time.

Resolving the problem of *poh roh* assets distribution through the Syar'iyah Court takes relatively long time and big cost. The long period of inspection process the big amount of costs to pay make a divorced couple reluctant to choose Shariah Court. Additionally, the whole parties will loose much energy during the process. The *poh roh* assets, meanwhile, become displaced because no one takes care of it during the settlement process.

According to Duski, the settlement of this case through the Syar'iyah Court must take at least 6 months. Related parties who live far from the area which the Syar'iyah Court lies must pay a lot of money. Meanwhile, the settlement through *Jeuma Opat* takes 2 weeks at maximum. The meeting place, on another hand, is at the house which a husband and wife lived in before the divorce. This can significantly decrease the cost. Therefore, the settlement through *Jeuma Opat* is better than the Syar'iyah Court particularly because both ex-couple can save costs, time and energy. Besides that, it removes hostility between them two because the decision of *Jeuma Opat* reflects a sense of justice.

2. Obstructing Factors

As explained earlier, the function of *Jema Opat* is to solve every problem in the community, including the settlement process of dispute on *poh roh* assets distribution. In serving this specific role, there are still some obstacles that *Jeuma Opat* copes with. Those are, among others, as follow:

- a. Unclear status of *poh roh* assets.
- b. Secret transfer of *poh roh* assets ownership.
- c. Lack of knowledge about the distrubution of *poh roh* assets.

More detail information is availale at the following table:.

Tabel 4.

Obstacles for Settling the Distribution of *Poh Roh* Assets.

No	Obstacles	Respondent	Percentage
1.	Unclear status of the <i>poh roh</i> assets.	18	30%
2.	Secret transfer of <i>poh roh</i> assets ownership	25	41,7%

3.	Lack of knowledge about the distrubution of <i>poh roh</i> assets	17	28,3%
Total		60	100

Source: Primary data

The table above clearly shows that the most dominant factor in resolving disputes by *Jeuma Opat* is the secret transfer of *poh roh* assets numbering 41.7%. It is far much higher than the unclear status of *poh roh* assets with 30% and the lack of knowledge about the distribution as much as 28.3 %. More detail explanation is available below:

a. Uncelar Status of the *Poh Roh* Assets

In normal condition when a married couple live in harmony and peace, the ownership of any property, including *poh roh* assets is generally never questioned. Both parties never wonder on who gets the *poh roh* assets or whose name is mentioned at the ownership legal document even though there has been a mixture of inheritance with *poh roh* assets. In the Gayo Lues community, legal ownership status is usually attached to a husband's name. A new problem will arise when households begin to split or even into a divorce either through the Syar'iyah Court or outside of it.

In most of cases of this condition, the distribution of *poh roh* assets becomes a difficult problem which possibly lead into any conflict because each of the divorced couple claims their rights to *poh roh* assets. Even in a few cases, the status of asset is totally unclear and this makes it very hard to divide the assets through Customary Institutions or those conducted by families or relatives of both sides. Another almost same condition is when the *poh roh* assets have been mixed with assets from inheritance. For example, sometimes, the wife's inheritance asset has been administred in the name of the husband because her parents gave it before the marriage took place and the ownership document is made after the marriage. Other common cases is on the inheritance assets which was sold to buy other assets. In this condition, the newly purchased assets look like *poh roh* assets because it was purchased during the marriage as it becomes more obvious in this following case:

A.W. got married to M Z. in 1998 and was officially divorced in 2012 with divorce deed No. 057/A/2012/MS-Bkj dated February 16,

2012. During the marriage, the couple had collected *poh roh* assets ranging from movable objects to fixed objects (landfield). However, according to the ex-wife, the property was a *poh roh* asset and on the contrary, the ex-husband claimed it as an inherited asset because it came from his parents' grant. The land in dispute is not only spacious because a house had been built on it. Dispute resolution of the asset status does become a problem for the divorced couple husband and wife and this potentially obstruct the settlement process.

Another problem happens when one of both had owned any asset before the marriage took place or so called *beru* or *bujang* assets. After the marriage, the asset was sold to purchase other assets and therefore, the newly purchased asset is partially derived from the *bujang* assets as well as from *Poh Roh* assets. This makes the asset status unclear and certainly can make it difficult for *Jeuma Opat* to formulate decision of *poh roh* assets distribution. All the explanation and case studies above show that the clear status of property in a marriage is very important. This aims to avoid disputes over the distribution of *poh roh* assets in a case of divorce.

b. Secret Transfer of *Poh Roh* Assets Ownership

In any case when a couple has failed to build and maintain a household so that it leads to a split or divorce, a husband might secretly transfer the *poh roh* assets to other types, especially movable objects or uncertified land. In other words, he wants to get more control on the *poh roh* assets by setting the object excluded at the objects to share between two.²¹

Otherwise, he might secretly made the *poh roh* assets as a collateral for getting a debt from a third party without the consent of his wife and this happened before the household broke up. Therefore, at the time of the marriage breakup due to divorce, the debt was charged to the divorced husband and wife.²² Some of the *poh roh* assets ownerships are deliberately made attached to other names (other than the couple) without the consent of his wife although they both know that the asset was obtained during the marriage. Setting this, the husband always

²¹Iskandar, *Reje Kampung Kute Panjang Kecamatan Blang Kejeren, interview* on December 04, 2018. He shared the same statement with those delivered by Safri Wali, *Reje Kampung Rikit Gaib, Rikit Gaib Sub-District*.

²²Iskandar, *Reje Kampung Kute Panjang, interview* on December 05, 2018

avoids to say that the asset is a part of *poh roh* in order it would not be shared between two. In other words, he does not recognize that the asset is *poh roh* putting the reason that all *poh roh* assets obtained during the marriage comes from his business.²³

This mode of *poh roh* asset secret transfer is another obstacle faced by *Jeuma Opat* in settling the distribution of the assets. Therefore, it cannot be immediately completed before *Jema Opat* conducts an investigation.²⁴ Moreover, it also becomes more complicated as the secret transfer is sometimes done by a jobless ex-wife considering that she must fulfill her economic needs.

For various reasons, the secret transfer of *poh roh* assets by one of both parties possibly happened before the distribution had occurred. In this condition, if the one who transfers or sells it confesses what he/she did, then the sold/transferred asset will be considered as his/her portion.

To sum, the good will of both parties will significantly determine either the success or failure of *Jeuma Opat* in settling the asset distribution. In other words, divorced husband and wife must honestly admit which asset comes from inheritance which others come from *poh roh* assets. If the original status of each asset can be clear, it will be easy for *Jeuma Opat* to complete the distribution of *poh roh* assets so that divorced husband and wife can quickly manage and use their respective parts, particularly if one of parties relies heavily on the *poh roh* assets for economic life.

c. Lack of Knowledge about *Poh Roh* Assets.

Each party of a divorced husband and wife sometimes emphasizes their ego to take ownership of *poh roh* much more than those shared to another. For example, a husband works as a civil servant while a wife is a housewife. Because the *poh roh* asset is mostly obtained from salary of working as a civil servant, the ex-husband feels like he deserves much more than his ex-wife to control and

²³Safri Wali, *Reje Kampung Rikit gaib*, interview December 12, 2018.

²⁴*Sidik Sasat* is such a local investigation on any problem in the society. This makes it easier for *Jema Opat* to solve any problem because it gives accurate information on the origin of problem. *Sidik sasat* is done by *Petue* (a member of *Jema Opat*) who serve to investigate what goes in the society (*jirim kisim*). *Petue* needs to know the problem in detail from the perspective of customary law or local people law

manage the asset.²⁵ At the time of deliberation through *Jeuma Opat*, those who feel this way usually deliver their willingness in front of the *Jeuma Opat* to get what they want.²⁶

It is another obstructing factor that *Jeuma Opat* deals with in settling the distribution of *poh roh* assets. Furthermore, this might also cause failure of *Jeuma Opat* effort for the settlement. If one of the parties stubbornly does not want to put aside his wishes in the settlement process, *Jeuma Opat* will usually delegate the process to the Syar'iyah Court.

So far, Gayo Lues people never refuse or complain the decision made by *Jeuma Opat* particularly the divorced husband and wife. Therefore, this problem was never submitted to the the Syar'iyah Court. In other words, every settlement of the distribution of *poh roh* assets through *Jeuma Opat* can be completed. Whereas, those proposed to the Syar'iyah Court are the cases when settlement through deliberation among relatives of the two parties can not work well.

In addition to the obstacles mentioned above, it is important to note that decision of *Jeuma Opat* cannot be used as a basis to change the ownership name from a party to another at the administrative document especially for properties like certified land. Transfer of ownership rights on certified land must be made through an authentic deed issued by a notary or PPAT (land deed certificate maker; *Pejabat Pembuat Akta Tanah*). Therefore, decision of the customary institution must be set forth in the authentic deed by a notary.

Conclusion

Obstacles to the distribution of *poh roh* assets in Gayo Lues community are unclear status of *poh roh* assets, the secret transfer of *poh roh* assets and lack of knowledge about it. These factors obstruct *Jeuma Opat* to deal with the distribution of assets. Moreover, any effort of *Jeuma Opat* on this sometimes fails.

²⁵Safri Wali, *Reje Kampung Rikit Gaib*, Rikit Gaib Sub-district, *interview* on December 13, 2018. The same thing was mentioned by *Taratan Uhra Mukim* Kuta Lintang, Kecamatan Subdistrict. See Al Makin, "Unearthing Nusantara's Concept of Religious Pluralism: Harmonization and Syncretism in Hindu-Buddhist and Islamic Classical Texts," *Al-Jami'ah: Journal of Islamic Studies* 54, no. 1 (2016)

²⁶Safri Wali, *Rege Kampung Rikit Gaib*, *interview* on December 13, 2018.

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