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Hybrid Legal Ordering and Rural Access to Justice: Bounded Proceduralisation of *Mawah* Disputes in Aceh

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Abstract

Rural commercial relationships often operate across state law, religious norms and customary institutions. Their accessibility and social legitimacy can make them effective, but informality may also conceal evidential weakness, unequal bargaining power and inconsistent remedies. This article examines that tension through *mawah*, an Acehnese profit-sharing partnership for livestock, rice fields and plantations, and through the Village Council for Deliberation (*Majelis Duduk Setikar Kampung*, MDSK) in Alue Lhok, Aceh Tamiang. Drawing on a normative–empirical case study involving eight purposively selected participants, the article identifies three recurrent disputes—unverified livestock losses, unauthorised sale of rubber yields and contested reductions in rice shares—and shows that their common cause is not oral contracting alone but an absence of agreed information, verification and accountability rules. The article argues that neither legal centralisation nor uncritical reliance on customary reconciliation offers an adequate response. It develops a model of bounded proceduralisation instead: selective formalization of minimum safeguards while preserving the normative identity, language and relational function of the customary forum. The proposed five-stage model combines pre-contract recording, complaint and fact verification, tiered deliberation, restorative settlement, and registration with monitoring and referral. Its contribution is twofold. It explains how legal pluralism can be organised as an accountable process rather than merely recognised as a social fact, and it specifies safeguards—impartiality, informed consent, a basic evidential record, written outcomes and access to formal remedies—through which community justice may advance rural access to justice without becoming a miniature court.

KEYWORDS: access to justice; Aceh; legal pluralism; *mawah*; sharia economic law

Introduction

Across much of the world, everyday justice is produced in more than one institutional 'room'. Courts and legislation coexist with family negotiation, religious norms, community councils and other forms of private or customary ordering.[1] Legal-pluralist scholarship made this observation foundational: law cannot be understood solely as commands issued by the state when people routinely orient their conduct towards several normative orders.[2] Yet recognition is not endorsement. A forum may be geographically accessible and socially intelligible while remaining vulnerable to elite influence, weak evidence, gendered power, and settlements that depend upon continuing social pressure rather than enforceable obligations. The central regulatory question is therefore not simply whether customary justice exists, but how its legitimacy can be combined with minimum conditions of procedural justice.

This question is especially acute in rural economic relationships. Parties frequently transact through trust, reputation and oral understandings because these devices are inexpensive and sustain cooperation. The same qualities become liabilities when the relationship extends over several harvests or generations, when one party controls the information needed to calculate the other's entitlement, or when an alleged loss cannot be verified. Direct recourse to a court may be legally available but economically irrational: the value of the claim may be modest, the

[1] Marc Galanter, "Justice in Many Rooms: Courts, Private Ordering, and Indigenous Law," *Journal of Legal Pluralism and Unofficial Law* 13, no. 19 (1981): 1–47, https://doi.org/10.1080/07329113.1981.10756257.

[2] Sally Engle Merry, "Legal Pluralism," *Law & Society Review* 22, no. 5 (1988): 869–96, https://doi.org/10.2307/3053638; John Griffiths, "What Is Legal Pluralism?" *Journal of Legal Pluralism and Unofficial Law* 18, no. 24 (1986): 1–55, https://doi.org/10.1080/07329113.1986.10756387.

parties may be neighbours or relatives, and preserving a productive relationship may matter more than obtaining a binary judgment. The resulting justice gap is not an absence of institutions. It is a mismatch between formal adjudication and the needs of a relational transaction, coupled with insufficient safeguards in the local alternative.

This article analyses that problem through *mawah*, a longstanding Acehnese arrangement under which an asset owner entrusts livestock, a rice field or a plantation to a manager in return for an agreed share of the yield.[3] *Mawah* distributes access to productive assets and embeds economic exchange in relationships of mutual assistance. Depending upon its object and allocation of inputs, it may resemble *mudarabah*, *muzara'ah* or *musaqah* in Islamic commercial law.[4] In practice, however, the relationship is usually expressed in local terms and concluded orally. Its durability rests upon *amanah*—trustworthiness—rather than continuous documentation.

Fieldwork in Alue Lhok, a village in Aceh Tamiang Regency, disclosed three disputes: an owner did not receive a share of calves because the manager said successive calves had died; a rubber-plantation manager sold produce without prior notice and attributed part of the proceeds to maintenance; and a rice-field owner received less paddy than expected after the cultivator invoked pest damage. The merits of those claims cannot be reconstructed conclusively from the available record. That is the analytical point. In each relationship, the manager possessed the operational information, the contract did not prescribe reporting or verification, and the forum later asked to mediate lacked an agreed evidential baseline. The disputes were therefore symptoms of a governance deficit, not merely breaches of promise.

The article advances a distinct argument. Effective reform requires bounded proceduralisation: the selective formalisation of process without the wholesale

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[3] Sri Sudiarti, Pangeran Harahap and Nanda Safarida, "Mawah & Cater di Aceh: Studi Peningkatan Kesejahteraan Masyarakat di Ulim—Kab. Pidie Jaya," *Al-Muamalat: Jurnal Hukum Ekonomi Syariah* 3, no. 1 (2017): 135–53, https://journal.iainlangsa.ac.id/index.php/muamalat/article/view/626/392; Azharsyah Ibrahim, "Praktik Ekonomi Masyarakat Aceh dalam Konteks Ekonomi Islam: Kajian terhadap Sistem Mawah dan Gala," in *3rd Aceh Development International Conference: Sustainable Development and Acceleration of Acehnese Welfare—Opportunities and Challenges* (2012), 443–51.

[4] Nasrun Haroen, *Fiqh Muamalah* (Jakarta: Gaya Media Pratama, 2000); Noraina Mazuin Sapuan, "An Evolution of Mudarabah Contract: A Viewpoint from Classical and Contemporary Islamic Scholars," *Procedia Economics and Finance* 35 (2016): 349–58, https://doi.org/10.1016/S2212-5671(16)00043-5; Setia Setia and Marium Kamal, "Profit-Sharing in Cattle Cooperation Project: An Analysis of the Mudharabah Contract Model in Islamic Law," *JURISTA: Jurnal Hukum dan Keadilan* 7, no. 1 (2023): 86–105, https://doi.org/10.22373/jurista.v7i1.72.

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juridification of the customary relationship or the conversion of a village council into a court. The relevant safeguards are modest but non-negotiable—a short record of the asset and sharing formula; notice of material events; an impartial decision-maker; an opportunity for each party to respond; simple verification of contested facts; voluntary and informed settlement; a written outcome; monitoring; and referral where the matter is unsuitable for customary settlement. These safeguards constrain how power is exercised while leaving the applicable vocabulary, conciliatory orientation and social legitimacy of *mawah* and village deliberation intact.

Bounded proceduralisation occupies a middle position between two inadequate responses. Legal centralism assumes that certainty follows from transferring disputes to state institutions, overlooking cost, distance, intelligibility and the relational consequences of adversarial adjudication. Romantic informalism assumes that proximity and consensus produce justice, overlooking the possibility that 'harmony' may reflect pressure on the weaker party. The proposed model rejects both assumptions. It treats the local forum as part of a wider justice system whose authority should be recognised, disciplined and connected to formal remedies.[5]

The article makes three contributions. First, it links legal pluralism to institutional design. Much scholarship explains how normative orders coexist; this study asks what process can make their interaction accountable in a concrete class of commercial disputes. Secondly, it reinterprets Islamic commercial norms as governance principles as well as criteria of contractual validity. *Amanah*, transparency, consensual settlement (*sulh*) and protection of property support duties of disclosure, verification and proportionate reparation. Thirdly, it offers a replicable but deliberately limited design for community-based economic mediation. Replication depends on local legal authority, participatory adaptation and safeguards against coercion; the model is not a claim that one Acehnese institution should be transplanted unchanged elsewhere.

The discussion proceeds in nine parts. Section 2 develops the conceptual framework. Section 3 explains the method and its limits. Section 4 locates *mawah* and the MDSK within Aceh's plural legal architecture. Sections 5 and 6 analyse the disputes and existing settlement pathways. Section 7 assesses them against

[5] Working Group on Customary and Informal Justice and SDG16+, *Diverse Pathways to People-Centred Justice* (New York: United Nations Development Programme, 2023), https://www.undp.org/publications/diverse-pathways-people-centred-justice-report-working-group-customary-and-informal-justice-and-sdg16.

sharia economic law and minimum procedural justice. Section 8 sets out the five-stage model. Section 9 identifies limits and conditions of transferability, before the conclusion returns to the implications for legal pluralism and access to justice.

Legal pluralism begins from an empirical challenge to legal centralism. Moore's 'semi-autonomous social field' described social arenas capable of generating rules and inducing compliance while remaining affected by wider legal and political forces.[6] Griffiths similarly distinguished the social reality of plural normative ordering from an ideology that treats state law as the exclusive form of law.[7] Merry later showed both the value and the conceptual difficulty of extending the label 'law' beyond the state.[8] These accounts illuminate Aceh, where national legislation, provincial *qanun*, Islamic commercial norms, village rules and customary expectations may bear upon a single transaction.

Pluralism does not mean that these orders are separate, equal or internally coherent. They are interdependent and structured by power. State recognition may strengthen a customary institution, redefine it or subject it to administrative control. Religious principles may legitimise local practice while also supplying standards by which that practice can be criticised. Parties may move among forums not simply because one body has abstract jurisdiction, but because they expect a more favourable procedure, remedy or audience.[9] A village settlement must therefore be assessed relationally: which rules it invokes, whose account it credits, what remedies it can secure, and what route remains if conciliation fails.

The danger of a purely descriptive pluralism is that the existence of a non-state order can be mistaken for its normative adequacy. 'Living law' may express community values, but it may also reproduce local hierarchies. Contemporary access-to-justice policy accordingly treats customary and informal justice as an integral part of the justice landscape while insisting on the participation and protection of marginalised justice-seekers, especially women and girls.[10] Earlier United Nations guidance likewise recommended engagement that is grounded in

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[6] Sally Falk Moore, "Law and Social Change: The Semi-Autonomous Social Field as an Appropriate Subject of Study," *Law & Society Review* 7, no. 4 (1973): 719–46, https://doi.org/10.2307/3052967.

[7] Griffiths, "What Is Legal Pluralism?" 3–8.

[8] Merry, "Legal Pluralism," 870–74.

[9] Keebet von Benda-Beckmann, "Forum Shopping and Shopping Forums: Dispute Processing in a Minangkabau Village in West Sumatra," *Journal of Legal Pluralism and Unofficial Law* 13, no. 19 (1981): 117–59, https://doi.org/10.1080/07329113.1981.10756260; Franz von Benda-Beckmann, "Who's Afraid of Legal Pluralism?" *Journal of Legal Pluralism and Unofficial Law* 34, no. 47 (2002): 37–82, https://doi.org/10.1080/07329113.2002.10756563.

[10] Working Group, *Diverse Pathways to People-Centred Justice*.

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human rights and attentive to the risks of exclusion, coercion and discriminatory outcomes.[11] The relevant choice is not recognition or abolition. It is the design of principled relationships among forums.

Mawah is not well understood as an isolated exchange performed at a single moment. It is a relational contract: performance unfolds over time; complete specification is costly; and cooperation depends upon social norms, adjustment and trust. The owner normally lacks direct knowledge of animal health, maintenance expenditure, crop conditions or sales. The manager has that knowledge but may lack capital and may bear day-to-day labour and environmental risk. The contract therefore combines mutual dependence with asymmetric information.

Research on profit-and-loss sharing in Islamic finance identifies comparable monitoring problems. Where a capital provider cannot readily observe the entrepreneur's effort, revenue or costs, moral hazard and verification costs may discourage genuine risk sharing.[12] That literature concerns institutional finance, not Acehnese village agriculture, and its models should not be transplanted mechanically. The underlying insight nevertheless travels: a sharing rule is incomplete unless the parties also know what counts as revenue, which costs may be deducted, how losses will be evidenced and when information must be disclosed.[13]

The point is not that oral contracts are invalid or that managers should be presumed dishonest. Oral commitments can be socially binding and legally effective. Nor can paperwork prevent livestock disease, pests or opportunism. The narrower claim is that trust cannot perform all three functions commonly assigned to it in *mawah*: constituting consent, recording complex terms and verifying later performance. A short, intelligible record supports rather than supplants trust because it fixes a common baseline when memory, circumstances or personnel change.

'Proceduralisation' here means structuring the steps by which a claim is received, investigated, discussed, settled and, if necessary, referred. It is 'bounded'

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[11] United Nations Development Programme, United Nations Children's Fund and UN Women, *Informal Justice Systems: Charting a Course for Human Rights-Based Engagement* (New York: UNDP, UNICEF and UN Women, 2012), https://www.unwomen.org/en/digital-library/publications/2013/1/informal-justice-systems-charting-a-course-for-human-rights-based-engagement.

[12] Rajesh K Aggarwal and Tarik Yousef, "Islamic Banks and Investment Financing," *Journal of Money, Credit and Banking* 32, no. 1 (2000): 93–120, https://doi.org/10.2307/2601094.

[13] Titi Dewi Warninda, Irwan Adi Ekaputra and Rofikoh Rokhim, "Do Mudarabah and Musharakah Financing Impact Islamic Bank Credit Risk Differently?" *Research in International Business and Finance* 49 (2019): 166–75, https://doi.org/10.1016/j.ribaf.2019.03.002.

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in three senses. First, it formalises only what is necessary to protect participation and accountability; it does not require technical pleadings, lawyers or judicial rules of evidence. Secondly, it limits the village forum's subject-matter reach. Serious criminal allegations, violence, coercion, disputes requiring authoritative title determination and matters involving non-waivable rights must proceed to competent formal institutions. Thirdly, it limits the force of consensus. A settlement is legitimate only if parties understand its terms and are free to refuse it without retaliation.

The approach is thus different from codifying every aspect of customary practice. Comprehensive codification may freeze a flexible institution, privilege one version of custom and exclude legitimate variation. Bounded proceduralisation instead establishes a floor: notice, voice, impartiality, a basic factual record, reasoned options, voluntary consent, a written agreement, monitoring and access to another forum. Above that floor, communities may retain their own terminology, mediators, sequence of deliberation and forms of relational repair.

This framework also distinguishes mediation from adjudication. The MDSK need not pronounce a legally binding winner to be effective. Its comparative advantage lies in convening the parties, clarifying facts, testing proposed compromises against shared norms and supervising performance. Yet describing the process as 'mediation' does not answer whether it is fair. A powerful owner may demand repayment that disregards genuine crop loss; a manager embedded in village networks may resist disclosure; and a party may accept peace to avoid social stigma. Procedural safeguards are therefore not bureaucratic additions. They are the means by which conciliatory justice can remain genuinely consensual.

Data and Method

The study adopts a normative–empirical legal design. The empirical component examines *mawah* and its dispute practices as law in action; the normative component evaluates those practices through Indonesian and Acehnese legal materials, Islamic commercial law and scholarship on legal pluralism and access to justice. This combination is appropriate because neither doctrinal analysis nor field description alone can answer the institutional question. Doctrine identifies authority and normative constraints, while field evidence reveals how obligations are understood, what information is available and why parties select particular forums.

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Alue Lhok in Karang Baru District, Aceh Tamiang Regency, was selected purposively. Livestock, rice-field and rubber-plantation *mawah* were practised there, and disputes had been addressed through family and customary processes. Primary material comprised unstructured interviews, observation and local documentation. The eight participants were the *Datok Penghulu* (village head), the MDSK chair, three asset owners and three managers. The disputes are reported by role rather than personal name. This protects participants from unnecessary exposure and prevents the analysis from treating contested allegations as adjudicated facts. Interview and observation material was coded thematically for contract formation, allocation of information, source of dispute, forum choice, third-party intervention, remedy and compliance.[14]

The doctrinal materials include Law No 11 of 2006 on the Governing of Aceh, Aceh *Qanun* Nos 9 and 10 of 2008, the Compilation of Sharia Economic Law and the National Sharia Council's fatwa on *mudarabah*. They are read alongside the rules and institutional practices described by participants. The analysis uses an iterative form of normative reconstruction: elements that appear effective are retained; observed failures are tested against substantive and procedural standards; and proposed reforms are limited to those compatible with a low-cost village forum.

Several limitations qualify the conclusions. This is a single-village, small-sample case study and does not establish the prevalence of each dispute across Aceh. Unstructured interviews provide contextual depth but do not yield standardised attitudinal measures. The study did not observe a complete MDSK proceeding from complaint to performance, nor did it follow settlements longitudinally. It also contains no independent agronomic or veterinary evidence capable of determining whether the claimed losses occurred. Accordingly, the cases are used to identify process vulnerabilities, not to assign liability. The model is an analytically derived design requiring participatory testing, gender-sensitive assessment and longitudinal evaluation before wider adoption.

[14] Virginia Braun and Victoria Clarke, "Using Thematic Analysis in Psychology," *Qualitative Research in Psychology* 3, no. 2 (2006): 77–101, https://doi.org/10.1191/1478088706qp063oa. Field interviews and observation, Alue Lhok, Aceh Tamiang, June 2024; notes on file with the authors.

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Aceh's Plural Legal Architecture and the *Mawah* Partnership

Mawah predates the contemporary administrative framework. Acehnese-language and historical sources describe arrangements in which cultivation or animal husbandry is undertaken for a share of output.[15] The institution has never been a single standard form. Livestock may be divided by alternating offspring or by a percentage; rice may be shared in local units or proportions; and plantation arrangements may allocate maintenance costs differently. That adaptability is central to *mawah*'s survival, but it complicates any attempt to infer terms merely from the name of the relationship.

Islamic commercial law offers a vocabulary for analysing these variants. Livestock management financed by an asset owner may share features with restricted *mudarabah*; sharecropping with *muzara'ah*; and the tending of productive trees with *musaqah*.[16] Classification matters because it directs attention to the provider of capital or land, the manager's labour, the sharing of realised output and the treatment of loss. It should not, however, erase local agreement. The legal character of a particular *mawah* depends upon its actual object, contributions, risk allocation and terms, not upon a label imposed after a dispute.

The state-law layer is equally important. Law No 11 of 2006 grants Aceh special governmental arrangements and recognises *gampong*, *mukim* and customary institutions within the provincial order.[17] Aceh *Qanun* No 9 of 2008 concerns the development of customary life and traditions, including community-based settlement, while *Qanun* No 10 of 2008 regulates customary institutions.[18] In Alue Lhok, the MDSK operates under a regency decision appointing its members.[19] Its title, which evokes deliberation while 'sitting on one mat', conveys an aspiration

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15 Abu Bakar and Ba'asyir, *Kamus Bahasa Aceh–Indonesia* (Jakarta: Balai Pustaka, 2008), s.v. "mawaih"; C Snouck Hurgronje, *The Achehnese* (Leiden: Brill, 1906), https://digitalcollections.universiteitleiden.nl/view/item/129975; Sudiarti, Harahap and Safarida, "Mawah & Cater di Aceh," 135–53.

16 Haroen, *Fiqh Muamalah*; Wahbah al-Zuhayli, *Al-Fiqh al-Islami wa Adillatuhu*, vol. 4 (Damascus: Dar al-Fikr, 1989).

17 Republic of Indonesia, Law No 11 of 2006 on the Governing of Aceh, State Gazette of the Republic of Indonesia 2006, no. 62, https://peraturan.bpk.go.id/Details/40174.

18 Government of Aceh, *Qanun* No 9 of 2008 on the Development of Customary Life and Traditions, Aceh Gazette 2008, no. 9, https://jdih.acehprov.go.id/dih/detail/c764c4e0-2e30-4d36-b781-539671bddac0; Government of Aceh, *Qanun* No 10 of 2008 on Customary Institutions, Aceh Gazette 2008, no. 10, https://jdih.acehprov.go.id/dih/detail/367007c1-8a25-4a47-8b6a-a0ca40847f55.

19 Government of Aceh Tamiang Regency, Regent's Decision No 100.3.3.2/52.P/2024 on the Appointment of Members of the Alue Lhok Village Council for Deliberation (2024).

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of civic proximity and equal conversation. Functionally, it is a village deliberative body and a potential forum when direct settlement or intervention by an individual customary figure has failed.

Formal recognition supplies institutional space, not an automatic guarantee of capacity or fairness. Research on Aceh's customary bodies has identified persistent questions of resources, role definition and operational procedure.[20] Nor does recognition collapse the normative orders into one hierarchy. National and provincial law define authority and limits; Islamic law supplies substantive standards that participants regard as legitimate; customary practice supplies language, relationships and remedial forms. The MDSK's task is not to declare one order victorious but to coordinate them in a procedurally defensible settlement.

That coordination can be understood through the idea of a semi-autonomous field. The village generates expectations and sanctions of its own, but its autonomy is partial: property rights, judicial jurisdiction and public-law limits remain shaped by the state.[21] Likewise, parties may accept a settlement because it reflects *sulh* and community expectations, yet retain a right to seek formal adjudication. The legal architecture is therefore best represented as overlapping authority with routes of escalation, not as a closed customary jurisdiction.

Three Disputes, One Governance Failure

Table 1 summarises the three field cases. Its purpose is comparative rather than determinative: each 'claim' remains a party's account, not a finding of liability.

Table 1. Comparative matrix of the mawah disputes

Case	Asset and sharing arrangement	Contested event	Missing governance device	Existing response
Livestock	Cow; offspring alternated or divided equally	Owner received no offspring; manager reported repeated calf deaths	Asset identification, birth/death notice, veterinary or witness verification, periodic account	Customary mediation and promise of greater transparency

[20] Fauza Andriyadi, "Reposisi Majelis Adat Aceh dalam Tata Pemerintahan Aceh Pasca Qanun No. 10 Tahun 2008," *IN RIGHT: Jurnal Agama dan Hak Azazi Manusia* 5, no. 1 (2015): 126–52, https://doi.org/10.14421/INRIGHT.V5I1.1292.

[21] Moore, "Law and Social Change," 719–46; Brian Z Tamanaha, "Understanding Legal Pluralism: Past to Present, Local to Global," *Sydney Law Review* 30 (2008): 375–411, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1010105.

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Rubber plantation	Rubber yield; 60:40 division	Manager sold yield without notice and deducted maintenance expenditure	Sales record, authorised-cost schedule, receipts, reporting date	Direct reconciliation, apology and improved communication
Rice field	Paddy; two local tins per rante	Owner received less than expected; manager attributed shortfall to pests	Harvest record, agreed treatment of crop failure, third-party observation	Complaint to village figure/MDSK

Source: authors' field interviews and observation, 2024.

Livestock: unverifiable loss

The livestock arrangement relied upon a simple distributive idea: the owner provided the cow, the manager provided care, and offspring would be alternated or divided. Over approximately three years, however, the owner received no calf. The manager's explanation—those successive calves had died—was possible but unverifiable. No initial description or photograph identified the animal; there was no birth or death register; and the contract imposed no duty to notify the owner promptly or obtain confirmation from a neighbour or animal-health worker.[22]

The dispute demonstrates why a sharing ratio alone does not govern a long-term relationship. The object changes through reproduction, sale, disease and death. Without event-based reporting, the party entitled to share that change remains dependent upon the manager's account. Yet an automatic presumption against the manager would be equally unjust because animal husbandry entails genuine risk. A defensible process must distinguish unavoidable loss, negligent care and intentional concealment. That distinction requires a modest evidential infrastructure established before suspicion arises.

Rubber: unauthorised sale and ambiguous expenditure

In the rubber case, the manager sold produce without informing the owner and maintained that part of the proceeds had been spent on clearing and maintaining the plantation. Again, two propositions could simultaneously be true: expenditure may have benefited the common venture, while unilateral sale and deduction may still have violated the parties' arrangement. The absence of an authorised-cost schedule meant that the forum could not readily identify which

[22] Interview with livestock owner, Alue Lhok, 20 June 2024. The participant described an oral arrangement in which successive calves would alternate between owner and manager, adopted because writing was perceived as inconsistent with mutual trust.

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expenses were chargeable before division. The absence of sale records prevented a reliable calculation of gross output and net distributable yield.

This case reveals a recurrent category error. Parties may frame the dispute as dishonesty or ingratitude when the prior contract failed to allocate managerial discretion. A rule requiring advance permission for every minor expense could make cultivation impracticable; unlimited discretion invites retrospective justification. The better device is a threshold: routine costs listed in the agreement may be incurred and reported, while exceptional expenditure or disposal of produce requires notice or consent. Proceduralisation thus reduces both opportunism and unfair suspicion.

Rice: production risk and the baseline problem

The rice dispute arose because the amount delivered to the owner was below the agreed measure and the manager attributed the reduction to pest damage. Agricultural risk is intrinsic to sharecropping. A lawful profit-sharing relationship cannot guarantee output that nature may destroy. The critical questions are instead whether the parties agreed a fixed return or a share of actual production; who bore input costs; what cultivation standard was expected; and how a crop failure would be documented.

An agreement expressed as 'two tins per *rante*' may be understood as a fixed landowner entitlement, a formula derived from normal yield or a colloquial ratio. Each interpretation distributes risk differently. That ambiguity should not be resolved after loss by invoking abstract fairness. The parties need an ex ante statement of whether the owner receives a proportion of actual harvest, whether a minimum is intended and how extraordinary loss alters the division. A neutral witness at harvest or a simple yield record may then establish the relevant baseline.

The shared mechanism

The cases vary in asset, risk and alleged conduct, but their causal sequence is consistent. An incomplete oral agreement leaves control of operational information with the manager; a material event occurs; the owner receives an outcome below expectation; and the dispute becomes a contest of narratives. The evidential deficit then narrows the mediator's options. Because no reliable baseline exists, settlement tends to depend upon apology, reputation and a forward-looking promise rather than an account of past entitlement.

Such settlement is not necessarily defective. Reconciliation may be the remedy the parties value most, and exact quantification may be impossible or socially costly. The problem is that a process designed only to restore harmony

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can externalise the loss to the party with less bargaining power. The same uncertainty may also encourage a powerful owner to impose liability for an unavoidable loss. The structural failure is therefore symmetrical: missing information can harm either party. An accountable customary process must protect both the owner's property and the manager's legitimate exposure to productive risk.

Existing Settlement Pathways and Their Limits

Disputes in Alue Lhok move through three overlapping pathways. The first is direct, family-oriented negotiation. Parties or relatives discuss the grievance privately and seek forgiveness, correction of the sharing arrangement or continuation on revised terms. This pathway is rapid, inexpensive and least disruptive. It is especially appropriate where communication, rather than contested facts or serious misconduct, is the principal problem.

The second pathway introduces a respected intermediary—a customary figure, religious leader or village official. The intermediary translates accusation into a problem capable of compromise, reminds the parties of reciprocal obligations and may inspect the asset or consult witnesses. Trust in the individual mediator is often more important than formal designation. Studies of mediation similarly show that perceived neutrality and relationship-building are central to parties' willingness to disclose information and accept an outcome.[23]

The third pathway is deliberation through the MDSK. Participants described it as the final village-level forum when earlier efforts fail. A collective body can reduce dependence upon a single mediator and connect settlement to village administration. It can also preserve a record and supervise compliance. At present, however, these functions are potential rather than consistently institutionalised. Complaints may enter informally; evidential expectations are not standardised; recusals for conflicts of interest are not governed by a clear rule; and outcomes may not specify deadlines or consequences of non-performance.

The strength of the three pathways is graduated proportionality. Minor misunderstandings need not be transformed into cases, while persistent or complex disputes can receive more structured attention. Their weakness is that escalation adds people without necessarily adding process. A larger meeting

[23] Joan Albert Riera Adrover, María Elena Cuartero Castañer and Juan José Montaño Moreno, "Mediators' and Disputing Parties' Perceptions of Trust-Building in Family Mediation," *Negotiation and Conflict Management Research* 13, no. 2 (2020): 151–62, https://doi.org/10.1111/ncmr.12167.

cannot cure the absence of a contract record, and the authority of elders cannot establish whether calves died or how much rubber was sold. Without a shared sequence for notice, verification, option-building and recording, the forum risks converting uncertainty into a compromise whose fairness cannot be assessed.

There is a further concern. Community proximity can facilitate compliance, but it can also intensify pressure. The wish to avoid shame, preserve kinship or defer to office-holders may produce apparent agreement. An MDSK settlement should not be treated as consensual merely because no party openly objects in a public meeting. The process must allow private consultation, an explanation of alternatives and a meaningful possibility of referral. These safeguards do not undermine *musyawarah*; they distinguish deliberation from acquiescence.

Normative Evaluation: Sharia Economic Law and Minimum Procedural Justice

Islamic commercial law supplies both substantive standards for *mawah* and a normative basis for its procedure. The first standard is genuine consent (*taradin*). Consent concerns more than the initial willingness to entrust an asset. It requires intelligible agreement on the object, contributions, sharing formula, permitted expenditure, duration and material risks. A settlement likewise requires consent to specific obligations, not general submission to community authority.[24]

The second standard is clarity. Classical doctrine scrutinises excessive uncertainty (*gharar*) because it can make exchange speculative or produce avoidable conflict.[25] Not every future event can be specified, and agriculture necessarily involves uncertainty. The relevant distinction is between productive risk, which the parties may legitimately share, and contractual obscurity that they can reasonably remove. Recording the asset, division formula, reporting duty and treatment of extraordinary loss reduces the latter without pretending to eliminate the former.

The third standard is *amanah*. In a profit-sharing relationship, the manager is entrusted with another's property and ordinarily does not guarantee business results absent misconduct, negligence or breach. This protection is normatively important: imposing every loss on the manager would convert risk sharing into disguised debt. But *amanah* is reciprocal. The manager must disclose material

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[24] Rahmani Timorita Yulianti, "Asas-Asas Perjanjian (Akad) dalam Hukum Kontrak Syari'ah," *La_Riba* 2, no. 1 (2008): 91–107, https://doi.org/10.20885/lariba.vol2.iss1.art7.

[25] Al-Zuhayli, *Al-Fiqh al-Islami wa Adillatuhu*, vol. 4.

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information and account honestly, while the owner must not use superior status to shift agreed risks after the event. The National Sharia Council's *mudarabah* fatwa and Indonesia's Compilation of Sharia Economic Law provide relevant guidance on capital, management, profit and responsibility, although the classification of each *mawah* arrangement remains fact-sensitive.[26]

The fourth standard is proof and verification. Qur'anic encouragement to record deferred transactions and obtain witnesses is not a command to bureaucratise all village exchange; it expresses a legal ethic in which documentation protects testimony and reduces doubt.[27] The cognate principle of *tabayyun*—careful verification before acting on contested information—supports notice to the responding party, examination of available evidence and restraint in attributing dishonesty. In the field cases, the absence of verification exposed owners to concealment and managers to unprovable accusations.

The fifth standard is *sulh*, or consensual settlement. *Sulh* is valuable because it can preserve relationships and tailor reparation, but agreement cannot validate what substantive law prohibits or extinguish rights through coercion.[28] The mediator must therefore test both the voluntariness and the content of a proposed settlement. Where parties differ markedly in status or knowledge, equal speaking time alone is insufficient; the weaker party may require a support person, separate consultation or referral.

The sixth standard is protection of property (*hifz al-mal*) pursued through proportionate repair. Depending on the facts, remedies may include delivery of an outstanding share, repayment by instalments, the allocation of the next offspring, correction of future ratios, return of the asset, reimbursement of unauthorised expenditure, apology or termination. Restorative justice scholarship is useful here because it emphasises acknowledged harm, responsibility, participation and repair rather than punishment alone.[29] Its optimism must nevertheless be bounded: restoration is not achieved by preserving a relationship at the expense of a party's unacknowledged loss.

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[26] National Sharia Council–Indonesian Council of Ulama, Fatwa No 115/DSN-MUI/IX/2017 on the *Mudarabah* Contract (2017); Supreme Court of the Republic of Indonesia, Regulation No 2 of 2008 on the Compilation of Sharia Economic Law, https://jdih.mahkamahagung.go.id/dokumen?page=10&pengadilan=439.

[27] Qur'an 2:282; see also Qur'an 4:29 and 49:9–10.

[28] Abd Rahman, "Pendekatan Sulh dan Mediasi sebagai Alternatif Terbaik Penyelesaian Sengketa Ekonomi Syariah," *Jurnal Ilmiah Ekonomi Islam* 7, no. 2 (2021): 961–69, https://doi.org/10.29040/jiei.v7i2.2488.

[29] John Braithwaite, "Restorative Justice: Assessing Optimistic and Pessimistic Accounts," *Crime and Justice* 25 (1999): 1–127, https://doi.org/10.1086/449287.

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These Islamic principles converge with minimum procedural justice. Both require intelligible rules, a fair opportunity to be heard, impartial facilitation, reasoned treatment of disputed facts, consent and accountable performance. The convergence does not erase differences among state, customary and religious norms. It provides an overlapping normative basis for reform that local actors can recognise. Bounded proceduralisation is consequently neither an external technical template nor a claim that sharia itself dictates one administrative form. It is an institutional translation of shared constraints into a practicable village process.

A Five-Stage Model for the MDSK

The proposed model treats the MDSK as a process steward rather than a miniature court. It combines prevention, facilitated settlement and connection to formal institutions. Table 2 sets out the sequence, outputs and safeguards.

Table 2. Bounded-proceduralisation model for mawah disputes

Stage	Core activity	Minimum output	Principal safeguard
1. Pre-contract recording	Identify parties and asset; state contributions, share, authorised costs, reporting, risk and exit	Short agreement and asset handover record	Comprehension, copies for both parties, no denial of valid oral custom
2. Complaint and verification	Register claim; notify respondent; identify agreed and contested facts; preserve evidence	Issue-and-evidence sheet	Timely notice, confidentiality, no presumption of fault
3. Tiered deliberation	Direct negotiation; independent mediator; MDSK panel where needed	Tested settlement options	Impartiality, recusal, voice, support person and freedom to refer
4. Restorative settlement	Match remedy to risk, negligence or intentional breach	Written settlement with duties and dates	Informed consent, proportionality, no waiver of non-negotiable rights
5. Registration, monitoring and referral	Record outcome; review compliance; refer unsuitable or unresolved matters	Compliance entry or referral record	Data protection, defined jurisdiction and continuing access to formal justice

Stage one: a short pre-contract record

The village administration and MDSK should offer, not impose as the sole source of validity, a one- or two-page *mawah* form. It should identify the parties;

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describe ownership and condition of the asset; record contributions; state the sharing formula and duration; list ordinary costs; specify who may sell output; establish reporting intervals; allocate foreseeable risks; identify events requiring immediate notice; provide for termination; and name the preferred first mediator. Each party should receive a copy, with a third held in a restricted village register.

Asset-specific schedules make the form intelligible. A livestock schedule may include a photograph, colour, age, health, identifying mark, births, deaths and sales. A rice schedule may record plot, area, inputs, harvest measure and crop-loss treatment. A plantation schedule may identify authorised maintenance, sale procedure and receipts. The form should use Acehnese or Indonesian language familiar to participants; technical Arabic classifications can be added only where helpful.

This stage must not create a new exclusion. A party who lacks literacy should hear the terms read aloud, be able to ask questions and confirm agreement through a mark and witness. An unregistered oral *mawah* should not automatically become invalid. The consequence of non-recording should instead be evidential: the forum will reconstruct the agreement from testimony and practice, while explaining the additional uncertainty. In this way, documentation operates as a protective service rather than a gatekeeping device.

Stage two: complaint, notice and verification

A complaint may be made orally, but an MDSK officer should reduce it to a standard record: parties, asset, alleged event, requested remedy, urgency and available evidence. The respondent must receive intelligible notice and reasonable time to answer. Immediate protective measures—such as an agreement not to sell an animal or distribute a harvest—may be proposed where the asset is at risk, but coercive orders remain a matter for competent formal authority.

Verification should produce two lists: facts accepted by both parties and facts genuinely contested. Available material may include the pre-contract record, photographs, witnesses, sales receipts, input costs, harvest measurements and observations by locally knowledgeable persons. The MDSK need not apply judicial admissibility rules, but it should identify the source and limits of each item. Where specialist judgment is decisive, for example the probable cause of animal death, the forum should seek neutral technical assistance or acknowledge that the fact cannot be resolved.

For remedy design, contested events should be provisionally classified as ordinary productive risk, negligent management or intentional breach. The classification is not a criminal verdict. It structures the questions: Was the event

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foreseeable? What standard of care was agreed or customary? Was timely notice given? Did the party benefit from unauthorised conduct? What loss can be shown? A claim should not move to settlement until the parties understand which category remains disputed.

Stage three: tiered and safeguarded deliberation

The first tier is direct negotiation using the issue sheet. The second involves a single mediator selected by both parties. The third is an MDSK panel for persistent, repeated or higher-value disputes. The progression should remain proportionate; it should not be used to exhaust a weaker party or pressure acceptance at successively more public meetings.

At each tier, the facilitator explains the process, confirms confidentiality and identifies any conflict of interest. A mediator who is related to a party, witnessed the transaction, has an interest in the asset or has already advocated one account should recuse. Each party receives uninterrupted time to explain the case and may bring a trusted support person. Separate meetings are permissible to explore options, but factual assertions material to settlement must be disclosed and answerable.

The MDSK panel should not begin by proposing a compromise. It should first confirm the agreed terms, contested facts and relevant principles. Only then should it help generate options. Each option is tested against four questions: Does it protect both parties' recognised entitlements? Does it allocate ordinary risk according to the agreement rather than hindsight? Is the remedy proportionate to proven conduct and loss? Can performance be monitored? A short reasons section in the final record should explain why the selected option meets these questions.

Stage four: restorative and proportionate settlement

The settlement record should state the accepted factual basis, obligations, amount or form of repair, deadlines, method of performance, continuation or termination of *mawah*, review date and consequence of non-performance. The record should be read aloud before signature. Each party should be asked separately whether the terms are understood and voluntary. A reflection period may be appropriate where land use, a substantial asset or long-term obligations are involved.

Remedy must correspond to the category of event. Ordinary productive loss may justify shared loss, revised procedures or consensual termination, not damages against a manager who exercised agreed care. Negligence may justify

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proportionate compensation or allocation of a future share. Intentional concealment may require return of proceeds, an account and termination. Relational measures—apology, clarification before relatives or restoration of reputation—may accompany material repair but should not replace it where economic loss is established.

The MDSK should refuse to certify a settlement produced by threats, one that purports to resolve serious violence or criminality beyond lawful customary competence, or one that extinguishes the rights of an absent third party. Where gender, disability, age, dependence or social status creates a material power imbalance, additional support and private consent checks are required. Human rights are not an external exception applied after custom; they are constraints on the legitimacy of the settlement process itself.[30]

Stage five: registration, monitoring and referral

The settlement receives a number and is stored with access limited to authorised persons. The register should capture only what is necessary: type of asset, date, process tier, outcome and compliance status. Public disclosure of detailed allegations would deter use and could intensify stigma. Aggregated, anonymised information may nevertheless help the village identify recurrent problems and improve the standard form.

A named MDSK member should check compliance on the agreed date. If performance is incomplete, the forum may clarify obstacles and record a revised schedule where both parties consent. Repeated or deliberate non-performance should trigger referral rather than endless renegotiation. Unresolved sharia economic disputes may be directed to the competent *Mahkamah Syar'iyah* or another authorised forum; urgent property protection and matters outside customary competence should be referred immediately.

Referral is not institutional failure. It is a constitutive safeguard of bounded authority. The MDSK should give parties a copy of the agreement, evidence sheet and compliance record so that earlier deliberation does not disappear if formal proceedings follow. Conversely, formal institutions and village authorities should communicate the types of case suitable for return to consensual settlement. The resulting relationship is one of coordinated pathways rather than jurisdictional competition.

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[30] United Nations Development Programme, UNICEF and UN Women, *Informal Justice Systems*; Working Group, *Diverse Pathways to People-Centred Justice*.

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Implementation and evaluation

Implementation requires a village guideline, simple forms, secure record-keeping and practical training in mediation, conflict checks, basic evidence and sharia contract principles. A pilot should be co-designed with owners, managers, women's representatives, customary figures, religious scholars and relevant agricultural or animal-health officers. Inclusion at the design stage is critical because a form devised only by officials may encode assumptions that disadvantage those who provide labour.

Evaluation should test both efficiency and fairness. Suitable indicators include the proportion of new *mawah* relationships recorded; time from complaint to outcome; compliance at three and six months; recurrence of the same dispute; party understanding; perceived voluntariness; distribution of outcomes by gender and role; and the number and reason for referrals. Settlement rate alone is an unsafe measure: a forum could produce a high rate through pressure. Qualitative follow-up is needed to determine whether relationships and livelihoods were actually repaired.

Transferability, Risks and the Boundaries of the Claim

The model is transferable as a set of design principles, not as an institutional blueprint. Other Acehnese villages use different customary bodies and may allocate authority among the *keuchik*, *tuha peut*, *mukim*, religious figures or sector-specific officials. Outside Aceh, the legal basis and religious vocabulary will differ. The portable elements are narrower: establish a shared factual baseline; distribute information duties; preserve impartiality and voice; distinguish productive risk from culpable conduct; record consent and performance; and maintain a route to competent formal institutions.

Three implementation risks require particular attention. The first is bureaucratisation. If registration becomes costly, technical or a condition imposed upon people without assistance, parties will avoid it and continue privately. Forms must remain short, free and available orally. The second is institutional capture. Record-keeping can consolidate the power of village elites unless recusal, confidentiality, diverse participation and complaints about mediators are addressed. The third is false finality. A stamped village agreement may appear authoritative even when consent was defective or the matter exceeded customary competence. Referral rights and review must therefore be stated on the document itself.

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There is also a risk of doctrinal overreach. Mapping *mawah* onto *mudarabah*, *muzara'ah* or *musaqah* can clarify obligations, but a rigid classification could delegitimise useful local variations or obscure state property rules. Sharia analysis should ask functional questions—who contributed what, what output was shared, which risk materialised and whether conduct breached trust—before assigning a doctrinal category. Likewise, the MDSK's moral authority should not be confused with judicial power that the governing law does not confer.

Finally, the case study cannot demonstrate that bounded proceduralisation will improve outcomes. It establishes why a particular set of safeguards responds to observed failures and how those safeguards can be operationalised. Causal claims require comparative pilots and longitudinal study. Future research should examine whether documentation changes participation, whether women and less powerful managers experience the process differently, whether compliance improves, and whether formal institutions recognise records produced by village forums.

These qualifications strengthen rather than weaken the central claim. The objective is not maximal formality. It is a deliberately incomplete institutional settlement in which custom retains its relational function but is no longer insulated from standards of accountable process. The model should be revised or abandoned where local evidence shows that it entrenches hierarchy, increases exclusion or displaces more effective pathways.

Conclusion

The *mawah* disputes in Alue Lhok expose a general problem in plural legal orders. Informal economic relationships may distribute opportunity efficiently and sustain social cooperation, yet the trust that initiates them cannot by itself record terms, verify performance or guarantee fair settlement. When output and operational information are controlled by one party, an unrecorded sharing agreement leaves both owner and manager vulnerable: the former to concealment, the latter to liability for genuine productive loss.

The answer is neither to compel every modest rural dispute into court nor to presume that customary harmony is justice. This article has argued for bounded proceduralisation: a minimum procedural floor combined with restrained institutional form. Applied to the MDSK, that floor comprises a short pre-contract record, notice and verification, tiered deliberation with impartiality safeguards, a voluntary written settlement, monitoring and defined referral. The

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framework preserves the accessibility, language and restorative orientation of village justice while disciplining the exercise of authority.

The larger contribution concerns the governance of legal pluralism. Recognition of customary institutions is analytically incomplete unless law also structures their relationship with justice-seekers and formal remedies. Conversely, procedural safeguards need not be equated with the reproduction of a state court. Properly bounded, they can translate shared commitments—*amanah*, *tabayyun*, *sulh*, property protection and voluntary agreement—into an accountable local process. Legal pluralism then becomes more than coexistence among norms: it becomes a design problem in which legitimacy, rights and practical access to justice must be held together.

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