



## **Analysis of Islamic Law on The Haijuran Traditions of The Padang Bolak Community in North Padang Lawas Regency**

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### **Abstract**

*The tradition of haijuran is a traditional practice and customary sanction applied when someone intends to undergo a divorce within the Padang Bolak community, particularly in North Padang Lawas Regency. This tradition has evolved into local wisdom aimed at minimizing divorce cases within the Padang Bolak community and continues to persist to this day. The research is conducted to understand the significance and role of the haijuran tradition, as well as analyzing the Islamic legal aspects related to this tradition. The research method used is field research with a qualitative phenomenological approach. The research findings indicate that the haijuran tradition still exists in the community, despite alternative approaches to handling divorce cases through religious courts. This can be attributed to the strong adherence to traditional values by the Padang Bolak community in the North Padang Lawas regency. The role of the haijuran tradition has proven to be quite effective in minimizing divorce rates in the community. Other contributing factors to this reduction in divorces include high family concerns, adherence to customary rules, intermarriage within the same ethnic and regional groups, and the imposition of haijuran fines. The Islamic legal analysis of the haijuran tradition can be divided into two aspects. Firstly, the designation of haijuran to husbands is categorized as a matter of muamalah (interpersonal), with its legal basis drawn from urf (custom), and its implementation considered mubah (permissible). The method employed in this analysis is istishlah (fiqh discussion) or maslahah mursalah (decision), with the rationale of expected benefits, such as minimizing unilateral divorces and providing compensation to divorced women. On the other hand, the designation of haijuran to women seeking divorce from their husbands has a different legal status, in accordance with Islamic law, known as khulu' (divorce).*

**Keywords :** analisis; tradition; haijuran; Islamic law

### **Abstrak**

Tradisi Haijuran merupakan sebuah tradisi dan sanksi adat yang diterapkan ketika seseorang hendak melakukan perceraian di kalangan masyarakat Padang Bolak, terutama di Kabupaten Padang Lawas Utara. Tradisi ini telah menjadi kearifan lokal yang bertujuan untuk meminimalkan kasus perceraian di tengah masyarakat Padang Bolak, dan masih terus berlangsung

hingga saat ini. Penelitian ini dilakukan dengan tujuan untuk memahami urgensi dan peran tradisi haijuran, serta menganalisis aspek hukum Islam yang terkait dengan tradisi tersebut. Metode penelitian yang digunakan adalah field research dengan pendekatan kualitatif fenomenologi. Hasil penelitian menunjukkan bahwa tradisi haijuran masih eksis di masyarakat Padang Bolak, meskipun telah ada alternatif lain dalam penanganan kasus perceraian melalui peradilan agama. Hal ini dapat dimaklumi dari latar belakang masyarakat Padang Bolak yang sangat memegang teguh nilai-nilai adat dan menempatkan adat sejajar dengan agama. Peran tradisi haijuran terbukti cukup efektif dalam meminimalisir angka perceraian di masyarakat. Beberapa faktor lain yang turut berkontribusi dalam menekan perceraian antara lain adalah kepedulian keluarga yang tinggi, aturan adat, pernikahan sesama suku, serta adanya haijuran. Analisis hukum Islam terhadap tradisi haijuran ini dapat dibagi menjadi dua aspek. Pertama, penetapan haijuran kepada suami dikategorikan sebagai masalah muamalah, dengan dasar hukumnya diambil dari urf, dan pelaksanaannya dianggap mubah. Metode yang digunakan dalam analisis ini adalah istishlah atau masalah mursalah, dengan alasan adanya kemaslahatan yang diharapkan, seperti meminimalisir perceraian sepihak dan memberikan kompensasi kepada perempuan yang dicerai. Sementara itu, penetapan haijuran kepada perempuan yang ingin mengajukan cerai kepada suaminya memiliki status hukum yang berbeda, sesuai dengan ketentuan dalam hukum Islam, yaitu khulu'.

**Keywords:** analisis; tradisi; haijuran; hukum Islam

## **Introduction**

The Padang Bolak people are the Batak Angkola tribe who live in North Padang Lawas Regency. In its history, this tribe has experienced various interactions with various other religions and cultures and of course this contact has been embedded and given birth to its own culture (Siregar, 2022). This contact between religion and culture often gives rise to conflict and rejection. In this case, Islam in the early days of its spread in Indonesia was spread through gentle preaching media, and the spreaders of Islam created a wise and appropriate method to accommodate Islamic teachings without ignoring the culture of a society (Siregar, 2023). So that the Islamic religion can develop and society does not lose its identity (Djawas et al., 2024).

The Batak Angkola tribe is a Batak sub-ethnic group that lives in the southern part of the Tapanuli region. The majority of this tribe is Muslim and is concentrated in four districts in this region. The area that is the focus of this research is the Batak Angkola Tribe who live in the North Padang Lawas area. The North Padang Lawas area is part of the Padang Bolak Ulayat area. The Padang Bolak community in this area is called the Padang Bolak Community, and in their daily lives upholds the philosophy

of life, namely *Hombardo Adat Dohot Ugamo* meaning that religion and custom stand parallel and side by side.

This philosophy describes the role of culture in Padang Bolak society as very vital, so that in this case culture is aligned with religion (Harahap, 2015). When religion comes to a community group, there will be contact with the culture adhered to by that community. This contact produces several attitudes, namely; firstly, rejecting culture if it conflicts with religious teachings, secondly, accepting it if it does not conflict with religious teachings, thirdly modifying culture to suit religious teachings. The contact between Islam and culture also occurs in the Padang Bolak community (Hasan & Bakti, 2022).

The role of culture in the daily lives of the people of Padang Bolak is very vital, this can be seen from the traditional rules that regulate people's attitudes and behavior, both in terms of *siriaon* (joy) and in terms of *siluluton* (sorrow) (Pulungan, 2018). The Padang Bolak people have strict customary rules based on tradition and have specific views and procedures for various traditional processions, both in marriage and divorce. Especially in matters of divorce, as wedding ceremonies are carried out according to custom, this also applies when a husband and wife are going through a divorce.

When talking about the issue of divorce, we cannot ignore the role of religion in the process. Divorce in the Islamic view is a permissible action, Islam does not prohibit divorce, but this act is hated by Allah SWT. This is proven by the message of the Messenger of Allah, that *thalaq* (divorce) is a halal act that is most disliked by Allah SWT. From the explanation above, it can be concluded that divorce is not an absolute prohibition, but is seen as a last option or solution when there is no other possible solution to resolve the problem. The role and position of Islamic and customary law in divorce matters in the Padang Bolak community in North Padang Lawas are placed in equal portions (Siregar et al., 2024). There are religious and traditional processions that must be passed, so this will have a big influence on the decision of the people of Padang Bolak who want and will divorce.

One of the traditions that regulates divorce matters is the existence of a traditional court and the obligation for parties wishing to divorce to pay a fine (*haijuran*) worth the wedding dowry to the divorced party, whether male or female. Without fulfilling the obligation to pay this fine, both parties will not be allowed/recognized to marry another person. So this *haijuran* tradition has become a kind of rule to minimize the divorce rate, and has become a kind of compensation for divorced parties. Even though divorce is permitted in Islamic law and culture, this is where the *haijuran* tradition plays a role in minimizing divorce. So it can be concluded that

the haijuran tradition of the Angkola Batak tribe in North Padang Lawas is an interesting topic to research.

So far, research on the theme of divorce and solutions to minimize it has found at least 7 main studies. Sejauh ini penelitian dengan tema perceraian dan Solusi meminimalisirnya paling tidak ditemukan 7 riset utama. First, research written by Dwi Arini Zubaedah (2022) with the title “*Analisis Hukum Islam Tentang Keabsahan Perceraian Dalam Peraturan Perundang-undangan Di Indonesia* (Analysis of Islamic Law regarding the Legality of Divorce in Indonesian Legislation)” (Dwi Arini Zubaidah, 2022). This research analyzes the principles of Indonesian legislation that make it difficult to divorce as a form of legal protection, by linking it to the concept of al-maṣlaḥah in Islamic law. Divorce is only legal if it goes through court, but many people choose private divorce due to location factors, long procedures, economic limitations and lack of information. The research results show that the rules for the validity of divorce are in line with the principles of al-maṣlaḥah, especially in maintaining *ad-darūriyyât* (the five basic human elements). This regulation is an emergency to protect society and prevent greater social losses.

Second, research written by Robiah Awaliyah (2021) with the title “*Perceraian Akibat Dampak Covid-19 dalam Perspektif Hukum Islam dan Peraturan-undangan di Indonesia* (Divorce Due to the Impact of Covid-19 in the Perspective of Islamic Law and Legislation in Indonesia)” (Awaliyah & Darmalaksana, 2021). This research discusses solutions to prevent divorce which has increased during the Covid-19 pandemic through an Islamic legal approach and Indonesian legislation. Using qualitative methods with literature study, this research examines the phenomenon of divorce during the pandemic, views of Islamic law and related laws and regulations, as well as solutions to prevent it. The research results show that Islamic law and Indonesian law provide the best guidance in dealing with household problems, including the impact of the pandemic which often leads to divorce as a final solution. This research recommends preventing divorce through the active role of government, religious leaders, society, families, as well as increasing individual awareness to maintain household integrity in the midst of a crisis.

Third, research written by Salwa Nur Asvia (2024) with the title *AI Chatbot as a Divorce Mediator in Indonesia in a Positive Legal Review* (Nur Asvia et al., 2024). This research analyzes the potential and challenges of using AI chatbots as mediators in divorce cases in Indonesia within a positive legal framework. Using a normative juridical method and a qualitative approach, this research examines the opportunities for AI chatbots to increase the accessibility and effectiveness of mediation by providing legal information, guidance on the mediation process, facilitating communication, and negotiations between disputing parties.

However, this research also reveals legal challenges, such as the limitations of AI in understanding the complexity of human emotions, risks to data privacy and security, the potential for bias in algorithms, and the lack of specific regulations regarding AI in mediation. To overcome these challenges, it is recommended to develop more sophisticated and contextual chatbots, implement strict standards for data privacy and security, audit algorithms to ensure fairness, and establish relevant legal regulations. This research concludes that even though it has great potential, the use of AI chatbots in divorce mediation requires careful management to ensure implementation that is effective, fair and in accordance with legal values in Indonesia.

Fourth, research written by Wahyu Saputra (2024) with the title *Judicial analysis of divorce in religious courts in Indonesia and Brunei Darussalam* (Wahyu Saputra, 2024). This research discusses the similarities and differences in divorce arrangements and procedures between Indonesia and Brunei Darussalam, especially through the Religious Courts in Indonesia and the Sharia Courts in Brunei. This research was carried out normatively with descriptive analysis, using secondary data based on primary and secondary legal materials, and analyzed qualitatively with deductive conclusions. The research results show that there are similarities in the divorce process which requires the disputing parties to undergo official legal procedures, however there are significant differences, namely in Brunei Darussalam divorce can be done through the Sharia Court, whereas in Indonesia divorce is only legal if done in court and does not regulate divorce outside the judiciary. This research concludes that divorce law in both countries has two main similarities but also five differences that reflect the characteristics of their respective national laws.

Fifth, research written by Muhammad Sholeh (2021) with the title *Increasing divorce rate in Indonesia; Factors causing khulu' and its consequences* (Efrem Hepi Warman Lase, 2024). This research analyzes the high divorce rate in Indonesia with a focus on divorce cases (khulu') at the Lubuklinggau Religious Court during the 2013-2015 period. By using a qualitative approach and descriptive analysis, this research aims to understand divorce provisions based on Islamic law and statutory regulations, as well as identifying the main factors that cause divorce in the region. The research results show that disharmony in the household is the main cause of divorce, reaching 37.6% (5419 cases), followed by economic factors (25.8%), irresponsibility (22.1%), third party interference (10.1%), violence (3.0%), unhealthy polygamy (0.6%), and jealousy (0.25%). This research confirms that disharmony in the household is the dominant factor that significantly exceeds other causes, providing important insights in understanding the dynamics of divorce in Indonesia.

Sixth, research written by Atika Suri Nur Fauziah (2020) with the title “*Analisis Maraknya Perceraian Pada Masa Covid -19* (“Analysis of the Rise of Divorce During the Covid-19)” (Suri et al., 2020). This research examines divorce in the context of Islamic law and its implementation in Indonesia, with a focus on *thalak* and *khuluq* as forms of divorce initiated by the husband and wife, respectively. In Indonesia, the application of Islamic law regarding divorce can be difficult for both parties because divorce in Islamic law only occurs verbally without any official document stating the divorce is legal. For this reason, Indonesia has established a divorce law to protect the rights of both parties, simplify the remarriage process, and ensure the child's right to receive support from his biological father. This research also notes the impact of the Covid-19 pandemic which has increased the divorce rate by 5%, mainly due to the economic difficulties experienced by many families. This research provides insight into the differences and challenges in implementing divorce law in Indonesia and its impact on family stability.

Seventh, research written by Lili Hidayati (2021) with the title “The phenomenon of high divorce rates in Indonesia between the pandemic and solutions”(Hidayati, 2021). This research discusses Islam's attention to every aspect of human life, including household matters, and how Islam provides the best solution in dealing with problems in family life. Even though divorce is hated by Allah, Islam allows it as a last resort if there is no other solution. This research also highlights efforts to prevent divorce which continue to increase, one of which is by strengthening the role of the Ministry of Religion and related officials such as princes, religious supervisors, as well as *ulama* (scholar) and *kiai* (religious figure). Apart from that, the role of community leaders, families and universities is also very important. It is hoped that all parties can work together to prevent the increasing divorce rate in Indonesia. This research contributes to understanding the importance of collaboration between various parties in efforts to overcome divorce in Indonesian society. The novelty of this research lies in an approach that combines analysis of local traditions (*haijuran*) with an Islamic legal perspective, especially in the context of the Padang Bolak community, North Padang Lawas Regency. In contrast to previous research which focused more on divorce law in the religious justice system or the study of Islamic law in general, this research makes a new contribution by exploring the role of traditional traditions in preventing divorce which is still ongoing among local communities.

This research also examines aspects of Islamic law related to the *haijuran* tradition, which have not been widely discussed in previous literature, as well as the application of the concept of *maslahah mursalah* (benefit) in a customary context which is in line with the principles of Islamic law(Asrawijaya, 2022). In addition, this research emphasizes the

synergy between traditional and religious values in maintaining household harmony, which can be an alternative model for reducing the divorce rate in society. Based on the background above, researchers are interested in examining Islamic legal analysis of the *haijuran* tradition in minimizing divorce in the Padang Bolak community in North Padang Lawas. So it is hoped that this research will contribute to society in minimizing divorce cases which have been increasing in the last decade.

### **Research Method**

This research is a type of field research with a qualitative phenomenological approach, (Cresswell, 2014) which focuses on the analysis of the *haijuran* traditions found in the Padang Bolak community as material, as well as the analysis of Islamic law as a formal object. In the data collection process, researchers made observations at the research location and conducted interviews with a number of competent informants to obtain information related to the research theme. Next, the data found in the field was analyzed descriptively. To fulfill the need for secondary data related to Islamic law, researchers conducted a literature study by referring to a number of books and scientific articles.

### **Result and Discussion**

#### **Traditional Practice of *Haijuran* (Divorce Fines) in the Padang Bolak Community**

Divorce fines are an original custom of the Angkola Batak tribe and the implementation of this custom in this tribe depends on the area and geographic location of the tribe's domicile and the extent to which local traditions and customs are kept and maintained by the community. The practice of the *Haijuran* tradition in divorce cases still exists and continues to be implemented in the North Padang Lawas area. This tradition is an integral part of the cultural heritage and local wisdom of the local community. Divorce fines are determined in a customary court, and this traditional court in the course of its history became the judicial institution of the Padang Bolak community before the religious court replaced the position of this traditional institution. The *Haijuran* tradition is a cultural treasure that is still well preserved, and is a symbol of family resilience in the Padang Bolak community.

The *haijuran* tradition is enforced with consideration of the welfare of the couple being sued for divorce. When a couple remains adamant about divorce, the most vulnerable party in this case is the woman. With this *haijuran*, women will still have provisions for life after divorce. Apart from that, with this *haijuran*, the bride and groom will think twice about

divorcing and stay together to avoid paying fines. It is hoped that the threat of fines will encourage couples to stay in the marriage because the costs associated with fines are quite significant. Couples are expected to find ways to overcome problems in their relationship. However, on the other hand, the Haijuran tradition is sometimes less effective and has weaknesses because fines can only be applied when someone gets married using a traditional procession. Marriages that take place without a traditional procession cannot apply for a traditional trial and the application of divorce fines. Apart from that, if someone is no longer able to continue the marriage, a fine will not be able to prevent the desire to divorce (Interview, Mangaraja Ihutan Siregar, Traditional Figure: 27 August 2023).

The existence of haijuran traditions in divorce behavior is very complex and depends on many factors, including the characteristics of the couple, the nature of the problems in the relationship, and social and economic conditions. Therefore, all these factors are closely related to the divorce rate in this area. However, the effect of fines on marital behavior can be described from two sides, one side as a deterrent and the other side as a punishment for the plaintiff.

Meanwhile, if the haijuran tradition is seen as a preventive measure, then the influence of this fine in preventing divorce is quite large. The *haijuran* tradition can be considered a fee that must be paid and must be considered by couples who want to divorce. In some cases, the existence of the haijuran tradition can make couples who want to divorce think twice because they have to pay a fine that must be paid within the time specified in the customary court. In this way, fines can be one of the factors that influence a couple's decision to stay in their marriage even though there are problems in their relationship. Meanwhile, if the *haijuran* tradition is seen as a punishment, the influence of fines on a couple's behavior after a divorce occurs. The haijuran tradition can be considered as a punishment or sanction given to couples who sue for divorce. The practice of applying divorce fines is within the traditional and cultural domain of the Padang Bolak community, its existence can still be found in the Batak Angkola tribe community in North Padang Lawas (Interview, Maulkan Sihombing, Traditional Figure, 27 August 2023).

The *haijuran* tradition in the Padang Bolak community has changed slowly over time. Some communities still maintain this tradition strictly, while other communities have relaxed its implementation. (interview, Rusli Harahap, Traditional Figure: 27 August 2023) In some cases, the practice of divorce fines in the Padang Bolak community customs in North Padang Lawas or in other areas is used to protect the rights of the divorced party. In traditional traditions in North Padang Lawas district, this practice may be designed to ensure that the divorced party does not



experience financial difficulties after the divorce and that their rights are respected and they are not divorced without going through a legal process.

The traditional court procession in resolving divorce problems in the Padang Bolak community has several stages and variations that depend on customs, *luat* (local law), and the region in North Padang Lawas. Each step in this process is governed by traditions and customary norms that have been passed down from generation to generation. The first stage usually involves mediation efforts by the family, which then, if it cannot be resolved by the family, involves traditional figures or respected community leaders. They act as intermediaries between husband and wife who experience conflict. This mediation aims to reach a peaceful agreement and reconcile the disputing parties (Interview, Kamsir Harahap, Acting Village Head, 27 August 2023),

The traditional trial is carried out if it is confirmed that there is no common ground between the husband and wife who are about to divorce and it is continued to the next stage. If mediation does not reach a point of agreement, the customary trial process can then involve a customary court/trial led by a traditional judge, in this case the king in the village accompanied by a number of traditional figures who have the authority to make decisions. This traditional trial will involve presenting evidence, witnesses, and hearing arguments from both parties. Decisions resulting from customary hearings are final and binding. In many cases, the customary court can determine a divorce fine or other more severe sanctions if the sanctions or fines are not carried out by the party deemed to be at fault. (Interview, Batara Siregar, Traditional Figure: 26 August 2023).

The several stages of implementing a traditional divorce trial are as follows:

1. Attended by the King and Hatobangon from both sides

The first stage in carrying out a traditional divorce trial is to notify the divorce problem to the king and *hatobangon* (traditional leaders) at the residence of the couple who is going to divorce. The presence of kings and respected traditional figures as mediators or mediators in the divorce process is a practice that reflects recognition of the authority and wisdom of traditional leaders in resolving conflicts in society (interview, Mangaraja Ondak harahap, Traditional Figure: 25 August 2023).

2. Determination of Rules in Customary Sessions Procedure

In the traditional trial of divorce cases in the Padang Bolak Community, there are several rules and procedures that must be obeyed by all parties. The rules in question are rules regarding the presentation of issues and defenses as well as witnesses and evidence

presented in customary trials. The traditional council provides an opportunity for husbands and wives to convey reasons and defenses regarding divorce, their hopes or wishes. When the trial takes place, the king and Hatobangon, both parties, will judge who is guilty based on the presentation and evidence presented in the trial. (interview, Mulkan Sihombing, Traditional Figure, 27 August 2023).

As the time known which party is at fault, the divorce fine will be adjusted and imposed on the guilty party. The determination of fines is regulated by the following provisions:

1. The man is obliged to pay a fine when suing his wife for divorce. The divorce tradition in several areas in North Padang Lawas, the basic rule is that the man is the only party who is obliged to pay the haijuran tradition as part of the process of filing for divorce against his wife. Meanwhile, women are exempt from fines if they sue their husband for divorce. The stipulation of fines is considered a form of responsibility or compensation that must be paid by the man as a consequence of filing for divorce;
2. Women are exempt from the obligation to pay divorce fines if they sue a man for divorce. This rule is based on consideration of the social context and cultural norms of the Padang Bolak community. This principle reflects aspects of protection for women who file for divorce, providing recognition of the economic or social limitations that women will face after divorce;
3. Equality between men and women in the obligation to pay fines for divorce plaintiffs. The equality of obligations to pay fines between men and women in the obligation to pay fines for divorce plaintiffs shows the principle of justice and positive developments in efforts to prevent divorce. It is hoped that this rule will be more binding and acknowledge that the man is not always the one at fault in the household and with this equality, it recognizes that both men and women have the same and comparable responsibilities in the context of looking after the household;
4. The man must pay a divorce fine if proven guilty. The determination of this sanction is based on the decision of the customary session when the husband is judged to be the guilty party;
5. The man is exempt from paying the divorce fine if it is proven that the woman is at fault. This rule also describes a principle of justice which provides responsibility for parties who are proven to have violated norms or obligations in the context of divorce. This reflects that this trial also assesses objectively in determining customary law provisions, where every individual, regardless of gender, has equal responsibility in responding to violations in marriage;

6. Both parties are exempt from fines if there is a mutual desire and agreement to divorce. This happens if there is a mutual agreement between the husband and wife to divorce, this rule reflects a peaceful conflict resolution approach and a willingness to complete the divorce process without burdening both of them with the responsibilities of the *haijuran* tradition (Interview, Mangaraja Mulkan Sihombing, Traditional Figure, 27 August 2023 ).

After the customary court decides to determine the divorce and *haijuran* fines, the sanctions are determined based on the amount of *boli* money given by the man to the wife. In the Padang Bolak community there are two fees paid by the groom to the groom's family. First, the dowry money, namely the objects or money that will be given to the woman. Second, *boli* money (gifts) given by the man to the woman's family apart from the dowry. This *boli* money is the most money and must be paid by the man to the woman's family (Interview, Rusli Harahap, Traditional Figure: 26 August 2023)

The divorce decree is ratified by recording the results of the traditional court session, which is stated in two letters, namely first, a divorce certificate signed by both the bride and groom and all parties present. Currently, this has been confirmed by attaching a stamp as a form of validation. Second, a letter of agreement containing a deadline for repayment and sanctions that will be imposed on the defendant. This letter is also signed by the guilty party and witnessed by all parties present. In this agreement letter, an agreement on the distribution of assets and child custody is also stipulated.

After the divorce decree is ratified in a customary court, the next stage is to ensure compliance by the party paying the fine and the role of custom in enforcing the rules. To ensure the bride and groom's compliance with the results of the traditional court's decision, a number of sanctions will be determined against parties deemed guilty if they do not pay the *haijuran* fine. These sanctions take the form of social sanctions and state law. Social sanctions are carried out in the form of exclusion from community life and are binding. This social sanction will be implemented by all people in the village both in matters of *siriaon* (joy) such as marriage, birth of a child, thanksgiving, and in matters of *siluluton* (sorrow) such as death and disaster. Meanwhile, legal sanctions will be handed over to the authorities to take action against parties who violate agreements and agreements (Interview, Rusli Harahap, Traditional Figure: 26 August 2023)

### Analysis of Islamic Law Regarding the Haijuran Tradition (Divorce Fines)

The concept of divorce fines is not explained in detail in the Koran or Hadith. Divorce law in Islam is based on the provisions explained in the Koran and Hadith, which provide general guidance regarding divorce. In Islamic law, the concept that is closest to the divorce fine is *khulu'* (Khoiri, 2015). *Khulu'* linguistically is from Arabic *khala'a* (خ-ل-ع) means taking off the clothes (Munawwir, 1997). This understanding is then connected to marriage because in the Koran, the relationship between husband and wife is described as a close and intimate relationship, like the relationship between clothes (Sayyid Sabiq, 1983).

Meanwhile, according to the terminology, *khulu'* refers to a form of divorce in which a wife requests the dissolution of the marriage by giving *iwadh* (ransom money) to her husband (Jaraba, 2020). This *khulu'* process involves an agreement between the husband and wife, where the wife is willing to give a reward or ransom to her husband as a condition for requesting a divorce (Boukhalfi Amel, 2023; Abdurrahman al-Jaziri, 1972).

As for the argument that explains about *khulu'* as:

1. Surah Al-Baqarah verse 229:

الطَّلَاقُ مَرَّتَيْنِ فَمَا سَاكُ مِمَّعْرُوفٍ أَوْ تَسْرِيحٍ مِّمَّ بِإِحْسَانٍ وَلَا يَحِلُّ لَكُمْ أَنْ تَأْخُذُوا مِمَّا  
أَتَيْتُمُوهُنَّ شَيْئًا إِلَّا أَنْ يَخَافَا أَلَّا يُقِيمَا حُدُودَ اللَّهِ فَإِنْ خِفْتُمْ أَلَّا يُقِيمَا حُدُودَ اللَّهِ فَلَا  
جُنَاحَ عَلَيْهِمَا فِيمَا افْتَدَتْ بِهِ تِلْكَ حُدُودُ اللَّهِ فَلَا تَعْتَدُوهَا وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَأُولَئِكَ  
هُمُ الظَّالِمُونَ

Means: Talak (which can be referred to) is done twice. (After that the husband can) hold back well, or let go well. It is not lawful for you to take back something that you have given them, unless both of them (husband and wife) are worried that they will not be able to carry out Allah's laws. If you (the guardian) are worried that both of them are unable to carry out Allah's law, then both of them are not guilty of the payment that (must) be given (by the wife) to redeem themselves. These are God's laws, so do not violate them. Whoever violates Allah's laws, those are the wrongdoers.

2. Hadith of Al Bukhari no 4867

عن ابن عباس أن امرأة ثابت بن قيس أتت النبي صلى الله عليه وسلم فقالت: يا رسول الله، ثابت بن قيس، ما أعتب عليه في حلق ولا دين، ولكني أكره الكفر في الإسلام،

فقال رسول الله صلى الله عليه وسلم : أتردين عليه حديقته؟ قالت: نعم، قال رسول الله صلى الله عليه وسلم اقبل الحديقة وطلقها تطليقة (Al-Bukhari, 1987).

Means: From Ibn Abbas that the wife of Tsābit bin Qais came to the Prophet, peace be upon him, and said; O Messenger of Allah, I do not criticize Tsābit bin Qais because of his religion or morals, but I just do not want to (fall into) disbelief in Islam. Then the Messenger of Allah, peace and blessings be upon him, said, Are you ready to return the garden that belongs to him? He replied, O Messenger of Allah, peace be upon him, said (to Thabit): Accept the garden, and divorce it with one divorce.

This hadith informs that the wife of Thabit bin Qais r.a. (where Thabit was one of the best friends of the Prophet) went to Rasulullah saw., and told him that although he did not deny the goodness of Thabit r.a.'s morals and religion, a friend who was very good in his morals and religion, he did not want to continue living with him because that would make him disobedient by neglecting his rights. Disobedience to one's husband is considered contrary to Allah's law. The factor of his wife's dislike of him was due to Thabit's physical shortcomings, as mentioned in several narrations, and because he was not a handsome man. The Messenger of Allah, peace be upon him, offered Thabit to take back the garden he had given her as a dowry, and to give her a divorce so that they could divorce. Thabit r.a., then carried out what he was ordered to do. This hadith is the main basis for *khulu'* matters for *fiqh* experts (Zuhaili, 2016). *Khulu'*, also known as ransom, refers to the act in which a wife redeems herself from her husband by returning what she once received. According to *fiqh* experts, as expressed by Sayyid Sabiq, *khulu'* is an action in which a wife separates herself from her husband by providing compensation to him (Sayyid Sabiq, 1983).

The opinions of four *mazhab* (schools of thought) of *fiqh* have their own formulation of definitions regarding *khulu'*. In the view of *mazhab* Hanafi, *khulu'* is explained as the loss of ownership of a marriage that has been agreed upon by a woman's acceptance of the *lafazh khulu'* or other words that have a similar meaning. *Mazhab* Malikiyah defines *khulu'* as *thalaq* with ransom according to sharia. Meanwhile, *mazhab* Syafiiyah are of the opinion that *khulu'* is a *lafazh* which indicates a divorce between husband and wife with the payment of a ransom that meets specified conditions. Meanwhile, for *mazhab* Hambali, *khulu'* is the separation of a husband and his wife using *iwadh* taken from the wife or from someone other than the wife, with a special pronouncement. The wisdom of this *khulu'* is that it makes the wife independent of the husband in the form that the husband does not have the possibility to refer to the wife except with the wife's consent (Suhendra, 2016).

Regarding the position of *khulu'*, the majority of scholars think that the position of *khulu'* is the same as *talaq*. Abu Hanifah equates *khulu'* with *talaq* and *fasakh* simultaneously, while Imam Al-Syafi'i only equates *khulu'* with *fasakh*. However, in *al-Qawl al-Jadid* (a new opinion) Imam As-Shafi'i states that *khulu'* is included in *talaq* (Abdurrahman al-Jaziri, 1972). *Khulu'* as a form of marriage dissolution is not regulated at all in the Marriage Law. However, the Compilation of Islamic Law (KHI) regulates it in two places, namely in Article 1 paragraph (I) and Article 124 with the following (RI, 2011).

**Article 1**

*Khulu'* is a divorce that occurs at the request of the wife by giving ransom or *iwadh* to and with the consent of her husband.

**Article 124**

*Khulu'* must be based on the reasons for divorce in accordance with the provisions of Article 116.

It can be concluded that *Khulu'*, has the aim of helping wives avoid difficulties and disadvantages that may arise in married life. In other words, if the wife feels that she can no longer live with her husband, and is worried that continuing the marriage will have a bad impact on him, and she is unable to fulfill her husband's rights which could violate God's laws, then the wife is allowed to separate from her husband through the *khulu'* process. As for *khulu'*, it is stipulated that there is *iwadh* or ransom. *Iwadh* in *khulu'* is a form of divorce ransom in Islam where a wife requests a divorce from her husband by giving a ransom (*iwadh*). In the context of *khulu'* this ransom can include the dowry given by the husband to the wife as a condition for recognizing the divorce. In the *khulu'* process, the amount of *iwadh* or ransom can vary and depends on the agreement between the husband and wife or can be determined by religious authorities.

The ulama have differences of opinion, as stated by Sayyid Sabiq which can be described in two views:

1. The first opinion states that it is not a problem to return all or part of the dowry to the husband, in other words, the *iwadh* payment may be less or more than the dowry price.
2. The second opinion states that the husband may not receive *iwadh* from the wife more than the dowry he has previously given.

### **Determination of Urf as the Legal Basis for the Haijuran Tradition**

The majority of Ushul Fiqh (ushuliyyun) scholars are of the opinion that there are 2 (two) sources/foundations/postulates of Islamic law, namely the source of *naqli* (the Holy Quran and sunnah) and *aqli* (reason). Legal sources/postulates based on reason, in Ushul Fiqh, are constructed

by ulama with the term *Ijtihad* (Khoiri, 2015). One method of *ijtihad* is '*urf*' (legal determination based on local habits/traditions/customs)(Dahwal & Fernando, 2024)dial. This legal determination based on local customs ('*urf*') certainly must not conflict with the basic principles of sharia and is only used in the field of *muamalah* outside of matters of *mahdhah* (ritual worship).

The determination method applied in the *mazhab* Shafi'i is based, among other things, on rules *الأصل في الأشياء الإباحة* which means that the original law in everything is permissible (Nasution, 2001). Meanwhile, in the *mazhab* Hanafi school of law, the method of determining law that they use is the opposite rule, namely *الأصل في الأشياء التحريم* which means that the original law in everything is prohibited. In subsequent developments, these two contradictory rules were still used by dividing the scope of their respective study areas. There is a rule that states *الأصل في الأشياء الإباحة* placed in the *muamalah* (social) study. Then appeared a new method namely *الأصل في المعاملة الإباحة إلا أن يدل الدليل على التحريم* which means that the original law in matters of *muamalah* is permissible, unless there is an argument showing that it is haram (forbidden). While the rules *الأصل في الأشياء التحريم* placed in the area of study of *mahdhoh*/ritual worship. Then, the rules appear *الأصل في العبادة التحريم إلا أن يدل الدليل على الإباحة* which means that the original law in matters of worship is haram, unless there is an argument showing that it is permissible or *mubah* (Nasution, 2001).

So as a reference material we will refer to the first principle, whether divorce fines are included in the *muamalah* (social) area. The Islamic legal analysis of the Haijuran tradition is divided into two aspects. First, setting fines as an effort to prevent divorce from husbands can be categorized as a *muamalah* or social problem (*Urf Sahih*), and the law is permissible. Therefore, if there is a real benefit even though it does not have an explicit argument, then it can be categorized as *maslahah murlah*. Meanwhile, the determination of fines or *iwadh* for women who want to divorce their husbands has a different study, because there is already a provision in Islamic law, namely *khulu'*, and the legal status varies depending on the urgency of the wife's application for *khulu'*.

Therefore, the existence of the Haijuran tradition which is adhered to by the Batak Angkola tribe community in North Padang Lawas district, does not conflict with Sharia law and there is no text argument that prohibits its implementation. Sometimes this tradition can even be used as local wisdom to limit divorce cases that are carried out without problems that could be a reason for divorce.

Apart from that, one of the barometers in assessing the legal status of a tradition in society is seen in terms of the benefits caused by that tradition. If the tradition has benefits/advantages or does not result in harm (negative effects), then the minimum law set is permissible.

However, it needs to be underlined that there is a basic standard in determining these traditions/customs, namely as long as the traditions/habit/customs are not related to worship or included in the worship system/technique, and as long as there are no *qath'i* texts that forbid it (Zubir & Bustamam-Ahmad, 2022). One of the other important principles used in establishing the traditional law of the Haijuran tradition is because of the expected benefits, namely minimizing divorce and the compensation received by women when they are unilaterally divorced by their husbands. This method in Islamic law is called *istishlah* or *maslahah mursalah*.

So, based on the analysis above, it can be concluded that the haijuran tradition of the Batak Angkola tribe in North Padang Lawas is permitted with the determination of *urf* as the basis for its legal status because the haijuran tradition does not conflict with Islamic law. It is a man's right to give divorce or divorce to a woman, but the issue of divorce is the right of the husband and wife. This right is also limited by a divorce fine to avoid men's arbitrariness in divorcing their wives. Meanwhile, the application of divorce fines to wives who sue for divorce is categorized as *khulu'* and its legal status can be permissible, forbidden, suggested and obligatory.

## Conclusion

The *haijuran* tradition is a tradition that still exists and is still carried out today in the North Padang Lawas area. This tradition is an important part of the cultural heritage and local wisdom of the local community and has become a unique identity in the implementation of traditional divorce trials as an institution that existed before the establishment of religious courts in this region. The Haijuran tradition is one of Indonesia's cultural treasures that is still preserved. With the continued implementation of the tradition, the *haijuran* tradition not only maintains its cultural roots, but also becomes a symbol of the family resilience of the Padang Bolak community. The Islamic legal analysis carried out on the Haijuran tradition is categorized as a *muamalah* or social problem and the law is *mubah*. The method used in determining traditional law is called *istishlah* or *maslahah murlah*. Meanwhile, the determination of fines for women when they want to divorce their husbands has a different study because there is already a provision in Islamic law, namely *khulu'* and the legal status assigned to women has been regulated and varies depending on the urgency of applying for *khulu'* by the wife, namely *mubah* (permissible), *haram* (forbidden), *sunnah* (suggested) and *wajib* (must).



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