

The Authority of *Malim Kampung* and *Hatobangon* in Addressing Household Conflicts in Tanjung Mompang Village Community, Panyabungan Utara District, Mandailing Natal

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Abstract

This study aims to determine the position of the village malim and Hatobangon as rights in divorcing husband and wife who are at odds with the village community of Tanjung Mompang as well as the factors behind this authority in terms of Islamic law. This research is a field research (field research) with a social approach (social approach). The results of this study indicate that the understanding and practice of the Tanjung Mompang community regarding the authority of the village of Malim and Hatobangon as rights is motivated by various reasons, including community adherence to traditions and customs that they have adopted from generation to generation, geographical factors in the village of Tanjung Mompang which are located in the interior and in The mountains cause the development of law to lag, especially in the issue of divorce, the social conditions of society which are closed and do not mingle with other communities and the lack of socialization and guidance carried out by the government towards the community of Tanjung Mompang village. Geographical and sociological conditions such as this make the position of the village malim and Hatobangon as hakam so high and their decisions are obeyed and respected, so that the village malim and hatobangon who act as hakam hakam have the authority to decide the divorce between the disputing husband and wife. In Islamic law, hakam can only reconcile and find a solution that can stop disputes. Both rights must not order the husband and wife to divorce. In other words, the two rights do not have the authority to separate the husband and wife if the husband who is disputing is not asked. Although the people of Tanjung Mompang are a society that adheres to the Sayafi'i mazhab, in terms of the authority of a hakam in deciding a divorce for a husband and wife who is in dispute, it is not in line with the Syafi'i mazhab.

Keywords

Hakam, *Malim Kampung* and *Hatobangon*; divorce



I. Introduction

The family has a very big role in teaching, guiding, determining behavior, and forming a perspective on the values that apply in society. The family is like giving the values that are needed by the child through an appropriate communication pattern so that communication goes well, harmonious relationships are created, and the messages and values to be conveyed can be accepted and practiced properly. (Batubara, 2019)

The basis of a family in Islam is blood ties and marriage. Marriage is a natural need of every human being which gives many important results, including forming a family. Marriage is intended for life and happiness for the married couple. In reality, sometimes the marriage cannot be maintained and ends in divorce, in which case the husband drops the divorce. The word talak is an *isim masdar* from the word *tallaqa-yutalliqa-tatliiqan*, so this

word is synonymous with the word *tahliq* which means "irsal" and "tarku" to let go and leave.

Abul A'la Maududi said one of the principles of Islamic marriage law is that the marriage bond must be strengthened wherever possible. Therefore, every effort must be made so that the fellowship can continue. However, if all hope and affection have been destroyed and the marriage becomes something that is harmful to their interests and the interests of society, then separation between them is allowed. Islam does try to strengthen the marriage bond, but unlike the teachings of other religions, Islam does not teach that a married couple cannot be separated. If the couple has been completely damaged and maintaining it will cause prolonged suffering for both parties and will go beyond Allah's stipulations, the bond must be sacrificed. That means the door to divorce must be opened, although not as widely as Russia, America and some Western countries do.

Even though there is no verse in the Koran that instructs or prohibits doing talak which implies that it is permissible, it is an act that is displeased by Allah SWT. This implies that divorce is permissible. As for Allah SWT's displeasure with divorce, it can be seen in the hadith from Ibn Umar according to the narration of Abu Daud, Ibn Majah and legalized by Al-Hakim, the Prophet's words:

عن ابن عمر رضي الله عنهما قال : قال رسول الله صلى الله عليه وسلم
(رواه ابو داود) أَبْغَضُ الْحَلَالِ إِلَى اللَّهِ تَعَالَى الطَّلَاقُ

Meaning: "Ibn Umar ra., Said: Rasulullah Saw., Said:" The lawful act which Allah hates is divorce "(Narrated by Abu Daud and Ibn Majah and legalized by al-Hakim).

Fuad Said argues that divorce can occur by means of: *talak*, *khulu* ', *fasakh*, *li'an* and *ila*'. Therefore according to Mahmud Yunus Islam gives divorce rights to husbands to divorce their wives and *khulu* rights to wives to divorce their husbands and *fasakh* rights for both parties. Thus, the one who breaks the marriage and causes divorce between the two husband and wife, is *talak*, *khulu* ', *fasakh*.

In Indonesian Dictionary, divorce means separation or separation. Islam prohibits divorce which can tear down the joints of the family and spread its shame, weaken the unity of the ummah and create feelings of resentment and tear the veil of honor. Islam teaches that if there is a split between husband and wife resulting in enmity which is feared to result in separation and destruction of the household, then a hakam (referee) should be held to examine the case and let this judge try to make peace for the continuity of domestic life and the elimination of disputes. Allah says:

وَإِنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَأَبْعَثُوا حَكَمًا مِّنْ أَهْلِهَا وَحَكَمًا مِّنْ أَهْلِهَا إِنْ يُرِيدَا
إِصْلَاحًا يُوَفِّقُ اللَّهُ بَيْنَهُمَا

Meaning: "And if you are worried about a dispute between the two (husband and wife), then send a peacemaker from a male family and a peacemaker from a female family. (Surah An-Nisa ': 35)".

The problem is whether this hakam has the authority or is it permissible to divorce the husband and wife who are in dispute. Imam al-Shafi'i and his followers argued that the two

rights were not allowed to separate, unless the husband handed over the separation to the two peacemakers.

The statement of Imam al-Shafi'i above can be seen in his book al-Umm:

الشافعي فاذا ارتفع الزوجان المخوف شقا قهما الى الحاكم فحق عليه انيبعث حكما من اهله وحكما من اهله من اهل القناعة والعقل ليكشف امرهما ويصلها بينهما إن قدرا (قال) وليس له ان يأمرهما يفرقان إن رأيا إلا بامر الزوج ولا يعطيا من مال المرءة إلا بإذنها

Meaning: Imam al-Shafi'i said: "If two husbands and wives who are worried about a dispute between the two complain to the judge, the judge's obligation to send a hakam from the woman's family and a hakam from a male family, including those who pious and reasonable / think so that both of them reveal the affairs of the two husband and wife, and both of them reconcile between the two husband and wife if both are able. Think so except with the husband's orders".

This statement by Imam al-Shafi'i indicates that the Hakam does not have the authority to divorce a husband and wife who are in dispute.

Another case with what happened to the community of Tanjung Mompang village, Panyabungan Utara District, the divorce process was mostly carried out under hand. In this case the hatobangon / malim village and also representatives of both family parties who are the rights / mediators in resolving household conflicts have the authority to decide on divorce to the disputing husband and wife if they cannot be reconciled. Legal facts like this are often found in the community of Tanjung Mompang village, North Panyabungan subdistrict, because in general, 70% of divorces that occur in this area are carried out under hand.

The people of Tanjung Mompang village, North Panyabungan subdistrict, are people who obey the customs and culture that they have adopted from generation to generation so that religious and traditional leaders (Hatobangon) are still highly respected. For the people of Tanjung Mompang Village, Panyabungan Utara District, Hatobangon (community leaders in both custom and religious matters) is a person who is capable and wise in deciding problems, especially marriage problems, so that if there is a problem in the household the solution will be done in a customary way.

The people of Tanjung Mompang village are descendants of the Muara Sipongi tribe, the origin of the people of Tanjung Mompang village is the people who moved from the Muara Sipongi area to Tanjung Mompang. At first this community was small, but over time it grew and multiplied to become a community and village. The community of Tanjung Mompang village is a closed society, and uses a different language from the Mandailing language. Almost all marriages are carried out between fellow communities, in other words, none of the people of Tanjung Mompang village have married other villagers except in the last few years and even then in very small numbers.

The position of Hakam in the community of the village of Tanjung Mompang, North Panyabungan sub-district consists of men (husbands) and women (wives) plus *malim kampung* and *hatobangon*. In its implementation, husband and wife disputes are resolved in a deliberation attended by Hakam, the husband and wife will gather with the husband and wife who are in dispute, if no solution is found in the dispute, then Hakam will ask *Hatobangon* to help reconcile it. Will decide on a divorce between husband and wife.

Another factor that causes this phenomenon is because this area is an inland area, the village is located in the mountains. Access to this area is through the Mompang Jae village with a distance of 9 km with dirt and stone road conditions while the transportation fleet used to this village is Colt Diesel 100 PS and taff Badak. This condition can be understood by the condition of the road which is still dirt and rocky and has a high climb, so that not all types of cars / transportation can enter this village. Geographical conditions like this are one of the causes of the dissemination of various statutory regulations, especially in marriage, so it is not surprising that many marriages are not recorded and many divorces are carried out under hand.

Based on the description above, it can be seen that there is a gap between the concept of fiqh and the understanding and practice of the people of Tanjung Mompang Village related to the authority of rights in disputing husband and wife disputes, therefore the subject in this study is formulated to examine how the position of *malim kampung* and *Hatobangon* as rights in divorcing husband and wife. Who disagreed with the community of Tanjung Mompang village, a factor behind the authority of the *malim kampung* and *hatobangon* in deciding on a divorce between a disputing husband and wife in terms of Islamic law.

II. Research Method

2.1 Type of Research

Based on the focus of the study, the research is empirical research. Meanwhile, from the data point of view, this research is a field research, which is to collect data by going directly to the field to get more accurate information about the object that is the author's research, and so that it fits what the author wants.

2.2 Research Approach

In terms of the research model (mode of inquiry), this study was conducted using a qualitative research model because this study was to understand the phenomena related to the implementation of marriage law in a natural community setting, to understand a phenomenon based on information data obtained from informants.

2.3 Research Location

This research took place in the community of Tanjung Mompang village, Panyabungan Utara District; Mandailing Natal district based on purposive sampling, namely the sample selected based on certain considerations or based on the author's subjectivity considerations.

III. Result and Discussion

3.1 Location and Geographical Condition of Tanjung Mompang Village

Tanjung Mompang is located at the foot of the Bukit Barisan mountains, so the land structure is not completely flat, but bumpy and hilly. When viewed from the basic model, almost all of this village and its rice fields are at an inclined angle between 10-40 degrees, with steep terrain and hills to almost 80 degrees at an oblique angle, so you can be sure that there are a lot of springs in this village, especially in the rura. (valley) the hills. Based on data from the Madina Regional Government, the area of Tanjung Mompang village is around 367.41 hectares.

Tanjung Mompang Village is an area in the northern part of the city of Panyabungan. The distance between Tanjung Mompang village and the district government center is about

11 km and the distance from the regency city is approximately 23 km. Administratively, Tanjung Mompang Village borders with:

1. In the north is bordered by Bukit Barisan (Dolok Malea)
2. East side is bordered by rubber plantation community in Mompang jae village (Dolok Tonga)
3. South / Southwest by *Dolok Jae*
4. West / Northwest by *Dolok Tuan*

Most of the land is dominated by rubber plantations (35%), villages (40%), rice fields and fields (10%) and the rest is forest and scrub, especially on the hills in Dolok Malea. Even though geographically it is located near the line the equator (01 degrees N), the rainy season is from October-March and dries in April-September, but along with current global warming, the change in seasons is uncertain.

3.2 Population

Based on the data that the author obtained from the Panyabungan Utara sub-district office, the total population of Tanjung Mompang village is 1,811 people, consisting of 878 men and 933 women, so that the number. While the head of the family (KK) amounted to 362 families.

a. Religious Social Conditions

To support religious activities and empowerment of the Tanjung Mompang community, adequate worship facilities are needed in mosques, prayer rooms and langgar as a means as well as a forum for carrying out religious activities which represent a form of community belief in supernatural powers. In Tanjung Mompang Village, there are 3 units of worship facilities consisting of 1 mosque and 2 prayer rooms, so that the existence of a place of worship like this can become a social facility.

Activities that are religious in nature and learning to read the Koran can be found in the homes of residents, including the house of Ustadz Syukran Nasution, Ustadz Sulaiman, while writing Arabic letters and learning religious knowledge can be found at MDA Nurul Hidayah which is located in the front yard of the mosque Nur Al-Muttaqin. These activities are activities carried out continuously for children and adolescents.

Activities for children in learning to read and write Arabic letters and other religious sciences are carried out after midday prayers ± 14.30 to 17.30 WIB. For adolescents in the form of routine recitation activities in the form of reading Surah Yasin, takhtim and tahlil and question and answer discussion activities which are carried out in turns between houses in Tanjung Mompang village.

Activities for parents are recitation of the Maghrib Ba'da which is held every Thursday night with speakers from religious leaders in the Tanjung Mompang area and its surroundings and general recitation, namely recitation of tafsir, fiqh and ahlaq / tasawuf. The material presented in the recitation discusses the content and content of the verses of the al-Qur'an and Hadith. With this recitation, the Muslims of Tanjung Mompang can practice Islamic teachings in their daily lives according to their respective abilities. Activities like this have a social meaning that is quite significant in developing a sense of brotherhood among the members of the community.

b. Educational Social Conditions

The education of the Tanjung Mompang Village Community who graduated / not graduated from SD is ± 45%, SMP ± 25%, SMA ± 18% and Bachelor / Academy less than 2%. After graduating from elementary school, many children continue to junior high school

or to Islamic boarding schools or do not continue at all, but most of them drop out in the middle of the road.

Education in the Tanjung Mompang community generally only reaches the elementary school level (SD). Even though it continues mostly only at the high school level (SMA), it is rare to find people who reach the university level higher education. For this reason, empowerment in the field of education has reach which is very broad to be associated with various aspects of life, because education is a system that supports the birth of empowerment.

c. Indigenous and Cultural Social Situation

The social and cultural situation of the Tanjung Mompang community is the same as the social and cultural situation of the mandailing people. Understanding the Mandailing social situation can be seen in the social and cultural system that has been organized and takes place in society. These socio-cultural values are structurally and functionally found in the Dalihan Na Tolu kinship system (three furnaces) which stand in their respective positions and constitute an inseparable unity. From the Dalihan Na Tolu kinship system, this is the cultural system (cultural system), a social system (social system), and a personality system (personality system) is built and developed.

When the Dutch colonial entered the Mandailing area (1837/1838 AD), there was still social stratification in society. The king as a territorial leader was assisted by anak boru and accompanied by mora as advisor. Na Tolu's shift as a legislative body consisted of kahanggi, anak boru, mora and hatobangon, namely, elders and intellectuals who are wise and wise. In the leadership of the huta (village) that the system of life of the Mandailing traditional community has a social composition of three kinds, namely; 1) forest leadership, 2) type leadership, and 3) demographic status.

At present traditional wedding ceremonies in Mandailing, indeed the Mandailing aristocrats (called: namora-mora) still often perform various kinds of traditional arts as a legacy of their ancestors, such as the use of the traditional Gordang Sambilan music ensemble, traditional Tortor dances and traditional singing. Jeir accompanied by the traditional music ensemble Gondang Dua (Gondang Topap). However, all of these are now seen by the Mandailing people as art (performance art) which functions as "entertainment", although basically another function is still attached, namely to strengthen the sense of brotherhood among Mandailing people. Meanwhile, for the implementation of traditional wedding ceremonies among the common people (called: alak na jaji or si Tuan na jaji), it is not uncommon for them to display Pan-Islamic arts such as Barzanji and Dikir which function as entertainment, and at the same time can strengthen their sense of brotherhood among Muslims.

3.3 The authority of *Malim Kampung* and *Hatobangon* in Issuing Divorce Decisions against the Disputing Husband and Wife

a. Legal Formulation in the Community of Tanjung Mompang Village in Resolving Marital Disputes

Islam prohibits divorce which can tear down the joints of the family. That is why if between husband and wife there is a conflict of opinion and a clash that peaks so that both parties cannot handle it and it is impossible to reconcile it themselves, then a *hakam* from the husband and a *hakam* from the wife can be sent. In terms of fiqh, this culminating household crisis is called *syiqaq*. *Syiqaq* means quarrel, this word can be connected to husband and wife, so that it means the quarrel that occurs between husband and wife that cannot be resolved by both of them alone. This *syiqaq* arises when the husband or wife or both do not carry out the

obligations that must be assumed. If there is a family conflict like this, Allah SWT., Gives instructions to solve it. This is found in His words in Surah an-Nisa (4) verse 35 which reads:

وَإِنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَابْعَثُوا حَكَمًا مِنْ أَهْلِهِ وَحَكَمًا مِنْ
إِنَّ اللَّهَ كَانَ ۖ أَهْلِهَا إِنْ يُرِيدَا إِصْلَاحًا يُوَفِّقِ اللَّهُ بَيْنَهُمَا
عَلِيمًا خَبِيرًا

Meaning: And if you are worried about a dispute between the two (husband and wife), then send a peacemaker from a male family and a peacemaker from a female family. (Surah An-Nisa ': 35) "

It is hoped that the appointment of the rights of the two parties can bring about peace and improvements to resolve disputes between the two parties, husband and wife. If for some reason, the appointed Hakam is unable to carry out his duties, it is tried again by appointing another Hakam. In this case, in Indonesia there is a Marriage Advisory and Divorce Settlement Board (BP4) whose duties and functions carry out arbitrator duties to reconcile the husband. the wife who is in dispute, or in certain matters gives advice to the prospective husband and wife who is planning a marriage.

b. The Authority of *Malim Kampung* and *Hatobangon* to Decide on Divorce for Husbands and Wives who are in Controversy with the Community of Tanjung Mompang Village

The divorce process that occurs in the community of Tanjung Mompang village is generally carried out under hand. In this case, *Malim Kampung* and *Hatobangon* as rights / mediators have the authority to divorce the disputing husband and wife if they cannot be reconciled. Legal facts like this are often found in the village of Tanjung Mompang because in general, 70% of divorces that occur in this area are carried out under hand. Only people who are civil servants divorce at the Religious Court.

The people of Tanjung Mompang village are people who obey the customs and norms that develop in the community so that religious and traditional leaders (*Hatobangon*) are still highly respected. For the people of Tanjung Mompang village, *hatobangon* (community leaders in both customary and religious matters) is a person who is capable and wise in deciding problems, especially marriage problems, so that if there is a problem in the household the solution will be done according to custom.

c. Views of the Village Community in Tanjung Mompang on the Authority of *Malim Kampung* and *Hatobangon* as Hakam in Divorcing Husbands and Wives in Disputes

The divorce process in the community of Tanjung Mompang village is generally carried out under the hands. In this case, for the people of Tanjung Mompang Hakam as a mediator has the authority to divorce the disputing husband and wife if they cannot be reconciled. Legal facts like this are often found in the village of Tanjung Mompang because in general, 75% of divorces that occur in this area are carried out under hand. Only people who are civil servants divorce at the Religious Court.

The people of Tanjung Mompang village are people who obey the customs and norms that develop in the community so that religious leaders (*'Alim Ulama*) and traditional leaders (*Hatobangon*) are still highly respected. For the people of Tanjung Mompang village, *hatobangon* (community leaders in both customary and religious matters) is a person who is

capable and wise in deciding problems, especially marriage problems, so that if there is a problem in the household the solution will be done according to custom.

3.4 Factors Behind the Understanding of the Tanjung Mompang Village Community About the Authority of Malim Kampung and Hatobangon in Resolving Divorces to Disputing Spouses

As explained by Inpun Harahap, the people of Tanjung Mompang village are people who obey the customs and norms that develop in the community so that religious leaders ('Alim Ulama) and traditional leaders (Hatobangon) are still highly respected. So that for the people of Tanjung Mompang village, hatobangon (community leaders in both customary and religious matters) is a person who is capable and wise in deciding problems, especially marriage problems, so that if there is a problem in the household the solution will be done according to custom.

As explained in the previous description, the divorce process in the community of Tanjung Mompang village is generally carried out under hand. In general, 70% of the divorces that occur in this area are carried out under the hand. Only people who are civil servants divorce at the Religious Court. This is because the village of Tanjung Mompang is a village located in the interior and mountains.

The people of Tanjng Mompang village, North Panyabungan subdistrict, are people who obey the customs and culture that they have adopted from generation to generation so that religious and traditional leaders (Hatobangon) are still highly respected. For the people of Tanjung Mompang Village, Panyabungan Utara District, Hatobangon (community leaders in both custom and religious matters) is a person who is capable and wise in deciding problems, especially marriage problems, so that if there is a problem in the household the solution will be done in a customary way.

The people of Tanjung Mompang village who are descendants of the Muara Sipongi tribe, the origin of the people of Tanjung Mompang village are people who moved from the Muara Sipongi area to Tanjung Mompang. At first this community was small, but over time it grew and multiplied to become a community and village. The community of Tanjung Mompang village is a closed society, and uses a different language from the Mandailing language. Almost all marriages are carried out between fellow communities, in other words, none of the people of Tanjung Mompang village have married other villagers except in the last few years and even then in very small numbers.

Based on the description above, it can be seen that there are several factors behind the existence of the kewengang malim village and Hatobnagon in breaking up divorce for disputing husbands and wives, among other things:

1. Geographical factors. The geographical location of the village of Tanjng Mompang which is in the mountains and inland makes the community accustomed to solving all problems that occur according to the understanding and capacity of the community.
2. Closed nature. The closed nature of the village community in Tanjung Mompang has resulted in the slow development of the law, this closure of the community has also hampered the development of information related to laws and regulations, especially in the issue of divorce.
3. Hereditary customs. Hereditary customs which are still practiced until now make the position of the village malim and Hatobangon in the people of Tanjung Momopang Village even higher, so that their words, behavior and decisions made by the village malim and Hatobangon are considered the best solutions.
4. Lack of government attention. Geographical location and difficult access as well as other social factors contribute to the lack of attention, supervision and socialization from the

government regarding the implementation of marriage and divorce regulations against the people of Tanjung Mompang Village, so that this results in the backwardness of the Tanjung Mompang community in carrying out marriage and divorce in accordance with the laws on marriage and divorce

3.5 Analysis of the Authority of Malim Kampung and Hatobangon in Deciding on Divorce for Husbands and Wives who are in Controversy with the Community of Tanjung Mompang Village in terms of Islamic Law

As has been explained in the previous chapter that in Islamic law when a husband and wife disputes, while neither husband nor wife wants to give in, so that if the dispute situation is allowed to prolong it does not rule out the possibility of divorce and even enmity that creates mutual hatred and revenge, then there should be a hakam as the referee who reconciled the two parties.

These two rights are, of course, rights from the husband's family and hakam from the wife's family. Hakam can only be reconciled and find a solution that can stop the dispute. Both rights must not order the husband and wife to divorce. In other words, the two rights do not have the authority to separate the husband and wife if the husband who is disputing is not asked.

Hakam acts as a mediator who investigates and looks for the nature of the problems that cause disputes between husbands and wives, looks for the causes that cause disputes, then tries as much as possible to reconcile the two husband and wife. If this matter is impossible to be reconciled, then the two rights have no right to take the initiative to divorce him. When the Hakam is unable to reconcile the Siti husband who is syiqaq, the two rights must present the problem to the judge and judge who will decide and determine the divorce.

Al-Qur'an surah An-Nisa (4) verse 35, juz 5 which is used as an excuse by Imam al-Shafi'i above in based on his opinion about the absence of the right to divorce husband and wife if it is related to the interpretation of commentators, in including Ismâ'îl ibn Kasîr al-Qurasyî al-Dimasyqî in the Tafsîr al-Qur'an al-Azîm, there is a statement that the fiqh scholars say, if there is a dispute between a husband and wife, then the judge intervenes the two of them as the mediator who considers the case. both and prevent the persecuted person from both committing his ani deeds. If the two cases conflict as well and the dispute gets longer, the judge calls a trusted person from the woman's family and a trusted person from the male, then both of them gather to consider the case of the two conflicting couples. Then the two of them did things that were more beneficial for him in their view, between separating or remaining united as husband and wife. However, the appeal of the Sharia recommends remaining intact as husband and wife. Because that's what it says in His words:

دَائِرِيْ اِنْ ۙ اٰبِلٰهَا مِّنْ حَكَمًا وَّ اٰبِلِهٖ مِّنْ حَكَمًا فَاَبْعَثُوْا نِهْمَايِبِ شِقَاقَ خِفْتُمْ اِنْ وَّ رِيْحِدِ مَايَعِدِ كَانَ اللّٰهُ اِنَّ ۙ نِهْمَايِبِ اللّٰهُ وَّقِيْ اَصْلَاحًا

Meaning: If the two hakam intend to make improvements, surely Allah will give taufik to the husband and wife. (Surah An-Nisa: 35).

In line with Ibn Kathir's interpretation, Ahmad Mustafâ Al-Maragî in Tafsîr al-Maragî states by this it can be seen how much Allah pays attention to the laws of family and household order. Why didn't God mention divorce? It is because Allah hates it and because He wants to make the Muslims realize that it is not right to happen.

The above verse is sufficient to indicate the importance of hakam. Islam prohibits divorce which can destroy the future of the child and both parties. That is why if between

husband and wife there is a conflict of opinion and a clash that culminates in that it is impossible for both parties to handle it and it is impossible to reconcile it themselves, then a hakam from the husband and a hakam from the wife can be sent.

In relation to the opinion of Imam al-Shafi'i, that according to him, the two rights must not order the husband and wife to divorce. In other words, the two rights do not have the authority to separate the husband and wife if the husband who is disputing is not asked. The data or information that supports the opinion of Imam al-Shafi'i is the opinion of Imam Abu Hanifah. According to Imam Abu Hanifah and his followers, the two peacemakers are not allowed to separate or divorce, unless the husband gives up the separation or divorce to the two peacemakers.

Although the people of Tanjung Mompang are a society that adheres to the Sayafi'I mazhab, in terms of the authority of a hakam in deciding a divorce for a husband and wife who is at odds with the Syafi'I school, it does not mean that the understanding and culture of the Tanjung Mompang people are against the law.

In relation to this, the culture of the Tanjung Mompang community regarding the author's rights, the author tries to approach it with one of the ijtiḥad methods which the ulama use as an instrument to insist on law. The rules related to that are:

العادة المدكمه

Meaning: "customs are defined as law"

The ulama's reasons regarding their use (acceptance) of these customs are based on a hadith that comes from Abdullah ibn Mas'ud issued by Imam Ahmad in his musnad, namely:

حسن الله عند في هو ح سنا الم سلمون رآه ما

Meaning: "What is seen by Muslims as something good, then it is good with Allah."

Based on the above rules, the author concludes that the Tanjung Mompang culture regarding the authority of Malim Kampung and Hatobangon as rights in deciding to divorce is a customary law / law that has no legality and does not conflict with a number of provisions and laws and regulations.

IV. Conclusion

In the understanding and culture of the people of Tanjung Mompang, Malim, Kampung and Hatobangon, which are the rights, have the authority to decide on divorce against disputing husbands and wives if they cannot be reconciled. The understanding and practice of the Tanjung Mompang community regarding the authority of the Kampung Malim and Hatobangon as rights is motivated by various reasons, including the obedience of the community to traditions and customs that they have adopted from generation to generation, the geographical factors of the village of Tanjung Mompang which are located in the interior and in the mountains causing the development of law to lag especially in the matter of divorce, the social condition of the community which is closed and does not mingle with other communities and the lack of socialization and guidance carried out by the government towards the community of Tanjung Mompang village. Geographical and sociological conditions such as this make the position of the village malim and Hatobangon as hakam so high and their decisions are obeyed and respected, so that the village malim and hatobangon who act as hakam hakam have the authority to decide the divorce between the disputing

husband and wife. In Islamic law, hakam can only be reconciled and find a solution that can stop disputes. Both rights must not order the husband and wife to divorce. In other words, the two rights do not have the authority to separate the husband and wife if the husband who is disputing is not asked. Although the people of Tanjung Mompang are a society that adheres to the Sayafi'i mazhab, in terms of the authority of a hakam in deciding a divorce for a husband and wife who is in dispute, it is not in line with the Syafi'i mazhab.

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