

## The “Dau Balak” Tradition in Lampung Traditional Marriage Perspective Asy-Syâthibî



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### Abstract

Wedding traditions in Indonesia are very diverse, one of which is the “Dau Balak” tradition in Lampung traditional marriage (pepadun). “Dau Balak” are wedding expenses that must be prepared by the prospective husband before carrying out the marriage contract, these costs must be met and are not part of the dowry. This tradition is interesting to study in more depth because it is not found in the literature on marriage jurisprudence (munakahat). This article was written based on field research using descriptive-qualitative methods using a phenomenological approach. The “Dau Balak” tradition will not be found in the study of marriage jurisprudence, but this tradition can be studied using the approach used by al-Syâthibî. Research data was obtained through observation, interviews and documentation. The research results show that the “Dau Balak” tradition has been carried out for generations by the people of Lampung. They still do it as an appreciation for the cultural heritage of their ancestors. Through al-Muwâfaqât fi Ushûl al-Ahkâm, al-Syâthibî divides tradition into two parts, namely: traditions established by the Shari'a (al-'âdah al-syar'iyyah) and traditions not found in the Shari'a (al-'âdah al-jâriyyah). The “Dau Balak” tradition is included in the al-'âdah al-jâriyyah category, namely a tradition that has been passed down from generation to generation and Islam does not specifically discuss this tradition. This tradition can be accepted by Islamic law because it has a good purpose and brings benefit to humans. The “Dau Balak” tradition is part of the nation's cultural treasures which can be preserved as a typical marriage identity of the Lampung people (pepadun).

### Abstrak

Tradisi perkawinan di Indonesia sangat beragam, salah satunya adalah tradisi “Dau Balak” pada perkawinan adat Lampung (pepadun). “Dau Balak” adalah biaya perkawinan yang harus disiapkan oleh calon suami sebelum melaksanakan akad nikah, biaya tersebut harus dipenuhi dan bukan bagian dari mahar. Tradisi ini menarik dikaji lebih mendalam karena tidak ditemukan dalam literatur fikih perkawinan (munakahat). Artikel ini ditulis berdasarkan penelitian lapangan dengan menggunakan metode deskriptif-kualitatif melalui pendekatan fenomenologi. Tradisi “Dau Balak” tidak akan ditemukan pada kajian fikih perkawinan, namun tradisi ini dapat dikaji menggunakan pendekatan yang digunakan oleh al-Syâthibî. Data penelitian diperoleh melalui observasi, wawancara dan dokumentasi. Hasil penelitian menunjukkan bahwa tradisi “Dau Balak” sudah dilakukan secara turun-temurun oleh masyarakat Lampung. Mereka tetap melaksanakannya sebagai apresiasi atas warisan budaya para leluhur. Melalui al-Muwâfaqât fi Ushûl al-Ahkâm, ia membagi tradisi menjadi dua bagian, yaitu: tradisi yang ditetapkan oleh syariat (al-'âdah al-syar'iyyah) dan tradisi yang tidak ditemukan dalam syariat (al-'âdah al-jâriyyah). Tradisi “Dau Balak” termasuk kategori al-'âdah al-jâriyyah, yaitu tradisi yang berlangsung turun-temurun dan Islam tidak membicarakan secara spesifik tradisi tersebut. Tradisi ini dapat diterima oleh syariat Islam karena mempunyai tujuan yang baik dan membawa kemaslahatan bagi manusia. Tradisi “Dau Balak” merupakan bagian dari khazanah budaya bangsa yang bisa dilestarikan sebagai identitas perkawinan khas masyarakat Lampung (pepadun).

### Keywords:

Tradition, Dau Balak, Asy-Syâthibî

### Kata kunci:

Tradisi, Dau Balak, Asy-Syâthibî

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## Introduction

Humans as social creatures always interact with others; one form of interaction is an attraction to the opposite sex.<sup>1</sup> Religion and the State accommodate these desires through the marriage process. Marriage is a human biological need as a means of channeling sexual needs and having legitimate children.<sup>2</sup> In the psychological aspect, marriage aims to bring inner peace.<sup>3</sup> Islam calls marriage a human sunnah that is worth worship. Marriage is a sacred promise (*mitsaqan ghaliðan*)<sup>4</sup> between men and women to create a happy, harmonious, and loving family. The concept of social life states that a family is the smallest miniature of a nation and state. A humanist and moderate society starts from a harmonious family.

The Indonesian Constitution states that marriage is one of the human rights protected by legal regulations in Indonesia.<sup>5</sup> Every citizen has the right to marry, form a happy family, and have children through legal marriage. The definition of a legal marriage is a marriage carried out based on religious provisions and state law. According to religious law (Islam), a valid marriage is a marriage that is approved by the bride and groom and their families, witnessed by two witnesses and a guardian on the part of the woman.<sup>6</sup> Meanwhile, the Marriage Law states that a marriage is considered valid if it is carried out in accordance with the laws of religion and belief, and every marriage must be registered according to Indonesian laws and regulations.<sup>7</sup>

Indonesia is a country that has thousands of islands with diverse cultures, one of these cultures is the typical Indonesian wedding. As is the wedding tradition in East Lampung, the prospective husband takes away the prospective wife and takes her to the house of the prospective groom's relatives. The Lampung indigenous people call this tradition "sebambangan".<sup>8</sup> During the "sebambangan" event, the prospective groom leaves a letter containing his residence address and

<sup>1</sup> Ardhina Shafa Sipayung and Mualimin Mochammad Sahid, "Awakening Women's Agency Through Organizations: Legal Attitude of Muslim Women Victims of Marital Rape," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 15, no. 2 (January 30, 2022): 257–74, <https://doi.org/10.14421/ahwal.2022.15206>.

<sup>2</sup> Abdul Munib, "Kompilasi Tujuan Perkawinan Dalam Hukum Positif, Hukum Adat, Dan Hukum Islam," *VOICE JUSTISIA: Jurnal Hukum Dan Keadilan* 6, no. 2 (2022): 36–48.

<sup>3</sup> Erie Hariyanto et al., "Sakinah Family Empowerment by Optimizing the Role of BP4 and Parents Mental Revolution Perspective," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 2 (December 26, 2021): 619–47, <https://doi.org/10.22373/sjhk.v5i2.10965>.

<sup>4</sup> M. Saeful Amri, "Mitsaqan Ghaliðza Di Era Disrupsi (Studi Perceraian Sebab Media Sosial)," *Ullul Albab: Jurnal Studi Dan Penelitian Hukum Islam* 3, no. 1 (2019): 89–106.

<sup>5</sup> Abdullah Tri Wahyudi, "Universalitas Dan Partikularitas Hak Asasi Manusia Dalam Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan," *Al-Ahkam Jurnal Ilmu Syari'ah Dan Hukum* 1, no. 1 (2016), <https://oldjournal.iainsurakarta.ac.id/index.php/al-ahkam/article/view/82>.

<sup>6</sup> Santoso Santoso, "Hakekat Perkawinan Menurut Undang-Undang Perkawinan, Hukum Islam Dan Hukum Adat," *YUDISIA: Jurnal Pemikiran Hukum Dan Hukum Islam* 7, no. 2 (2016): 412–34.

<sup>7</sup> Pasal 2 ayat 1 dan 2 Undang-Undang No. 1 Tahun 1974 Tentang Perkawinan.

<sup>8</sup> Arsyad Sobby Kesuma, Kiki Muhamad Hakiki, and Bukhori Abdul Shomad, "Negotiation Of Islam And Local Culture In Traditional Lampung Marriage," *Al-Adyan: Jurnal Studi Lintas Agama* 17, no. 1 (2022): 201–19.



the duration of the "sebambangan" to the prospective bride's family. After completing the "sebambangan", traditional elders from the male side come to the female's family with the aim of wanting to continue with marriage. The woman's family proposes marriage conditions that must be fulfilled by the man, one of these conditions is the "Dau Balak" funds, namely the wedding party costs that must be met by the prospective groom's family.<sup>9</sup> Please note that these wedding costs do not include the dowry that the husband must give to his wife as one of the pillars of marriage.

The tradition of giving "Dau Balak" is still carried out by residents of East Lampung Regency, one of the traditional leaders said that the "Dau Balak" tradition is an ancestral heritage that must be preserved and becomes the cultural identity of the East Lampung traditional community.<sup>10</sup> This tradition becomes a dilemma when the nominal "Dau Balak" is too high and the prospective groom's family cannot fulfill it. Even though the prospective groom had already taken the prospective bride away. Based on the above phenomenon, this research aims to explore data about the "Dau Balak" tradition from the perspective of the East Lampung traditional community and analyze this phenomenon from the perspective of asy-Syatibî.

This research deserves to be studied more specifically because there has not been much research on the "Dau Balak" tradition in traditional East Lampung marriage. One of the previous studies was an article written by Suparta,<sup>11</sup> he researched the marriage traditions of the Padangpariaman community which required the prospective bride to give property to the prospective groom. Local people call this tradition "Lost Money or Bajaupik".<sup>12</sup> What this research has in common with previous research is the tradition of giving assets before marriage, these assets are not included in the dowry which is the pillar of marriage. Meanwhile, the difference lies in the research location and the party who received the pre-nuptial money.

Then another wedding tradition in Indonesia is the giving of "panai money" carried out by the Bugis community.<sup>13</sup> Research conducted Miftah Ellyan Anggi Djabbar and Wistita Winaudri analyzed the attitude of Bugis women when

<sup>9</sup> Ani Farichah, "Pernikahan Adat Pepadun Perspektif Pendidikan Islam," *Kamaya: Jurnal Ilmu Agama* 7, no. 1 (April 18, 2024), <https://doi.org/10.1234/kamaya.v7i1.23>.

<sup>10</sup> Waliodin, Adat Pernikahan Lampung Timur, May 12, 2023.

<sup>11</sup> Riyen Gusti Suparta, "Tradisi Uang Ilang Sebagai Hukum Adat Dalam Pelaksanaan Pernikahan Di Nagari Campago Selatan," *JURIS (Jurnal Ilmiah Syariah)* 17, no. 1 (2018): 99-115.

<sup>12</sup> Dinda Putri Madhatillah, Saifullah Saifullah, and Adynata Adynata, "Tradisi Bajapuik dalam Perkawinan Adat Minangkabau di Padang Pariaman Sumatera Barat," *Nusantara; Journal for Southeast Asian Islamic Studies* 19, no. 2 (January 9, 2024): 70-78, <https://doi.org/10.24014/nusantara.v19i2.28321>.

<sup>13</sup> Miftah Ellyan Anggi Djabbar and Wistita Winaudri, "Buginese Women's Attitude Toward Uang Panai' as One of the Wedding Cultures in Buginese" (5th ASEAN Conference on Psychology, Counselling, and Humanities (ACPCH 2019), Atlantis Press, 2020), 296-99, <https://doi.org/10.2991/assehr.k.200120.063>.



receiving "*panai money*", the results of the research stated that Bugis women living in Sulawesi were quite happy with large amounts of "*panai money*". What this research has in common with the previous one is regarding the gift of assets from the prospective husband to the prospective wife before the marriage contract. The difference lies in the analysis used, if the previous research wanted to know the response of the prospective wife who would be given "*panai money*", while this research puts forward the analysis of '*urf* in the "*Dau Balak*" tradition in Lampung traditional marriages.

Furthermore, there is a Chinese wedding tradition in Indonesia that gives "*angpao*" filled with money to the future wife. Chinese people call the money in "*angpao*" "*milk money*".<sup>14</sup> What this article has in common with previous research is that it examines wedding traditions in Indonesia in the form of giving pre-wedding money. Meanwhile, the difference lies in the location and analysis used. While previous research explained "*seserahan*" in traditional Chinese marriages, this research analyzes the "*Dau Balak*" tradition in traditional marriages of the East Lampung community from an '*urf* perspective.

Furthermore, there was research conducted by Asrizal Saiin et al., this research analyzed the wedding party traditions held by the Malay community in the Riau Islands. Local people believe that a wedding party is a necessity. What previous research has in common with this research is analyzing marriage traditions in Indonesia. The difference lies in the object of study, if previous research focused on *marriage*, this research emphasizes the "*Dau Balak*" money given before the wedding.<sup>15</sup>

Previous research related to '*urf*' was carried out by Mursyid Djawas who used '*urf*' as a resolution for resolving family disputes in Aceh. What previous research has in common with current research is the use of '*urf*' in wedding traditions in Indonesia. The difference lies in the specifications of the study and research. Previous research used '*urf*' as a tool to analyze marriage traditions in East Lampung, while previous research used '*urf*' to resolve family disputes in Aceh.<sup>16</sup>

The study of '*urf*' was carried out by Darnela Putri, she analyzed the theory of '*urf*' as a source of Islamic law. Previous research was normative in nature by including the conditions for being allowed to use '*urf*' as a source of Islamic law, while this research has an empirical style that examines phenomena in society and

<sup>14</sup> Nadia Novena Stefanie, "Perspektif Generasi Muda Tionghoa Di Solo Terhadap Prosesi Sangjit," *Century: Journal of Chinese Language, Literature and Culture* 8, no. 2 (August 26, 2020): 33–45, <https://doi.org/10.9744/century.8.2.33-45>.

<sup>15</sup> Asrizal Saiin et al., "Urgency of the Malay Wedding Reception in Kepulauan Riau Based on Al-Maṣlahah Asy-Syathibi Perspective," *An-Nida'* 47, no. 2 (December 31, 2023): 142–58, <https://doi.org/10.24014/an-nida.v47i2.25600>.

<sup>16</sup> Mursyid Djawas and Sri Astuti Abdul Samad, "Conflict, Traditional, and Family Resistance: The Pattern of Dispute Resolution in Acehnese Community According to Islamic Law," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 4, no. 1 (June 30, 2020): 65–84, <https://doi.org/10.22373/sjhk.v4i1.5271>.

is analyzed using '*urf* theory'.<sup>17</sup> Furthermore, similar research was carried out by Sulfan Wandi, he studied the existence of '*urf* and customs as postulates of Islamic law.<sup>18</sup> Previous research analyzing marriage was conducted by Jumni Nelli and Nia Elmiati,<sup>19</sup> they analyzed hadiths recommending marriage and correlated them with the age limit for marriage in Indonesia. What this research has in common with the previous one is that it examines marriage. If previous research studied the age limit for marriage, then this research is about marriage traditions.

Based on previous research data, there are differences and novelty in the research currently being conducted, so it deserves to be studied more seriously. This research is empirical. The approach used in research is qualitative which produces descriptive data in the form of written or verbal data from sources regarding the facts that occurred. Researchers collected research data using a qualitative approach: observation, interviews, and documentation. The data obtained during the research will be classified and verified and analyzed using '*urf* theory.

## Results and Discussion

### ***The Practice of "Dau Balak" Perspective of the East Lampung Indigenous People***

Tradition or culture are the treasures and characteristics of a particular area that have become an identity for generations. The culture of a region becomes non-material wealth and is accommodated by religion, as long as it does not conflict with shari'a.<sup>20</sup> Indonesia as an archipelagic country has diverse cultures, one of which is the traditional marriage tradition of the "*Pepadun*" community in East Lampung. The majority of the traditional "*pepadun*" community live in interior areas or hilly areas in Lampung. History records that the "*pepadun*" community developed in the Way Kanan, Wah Seputih and Abung areas and surrounding areas. The "*Pepadun*" community has existed since the 16th century Banten Sultanate. The traditions of the "*pepadun*" community are patrilineal and the oldest person (traditional leader) is highly respected and has an important role in decision making. They call it "*punyimbang*".<sup>21</sup>

One of the traditional marriage practices of the people of East Lampung is the "*sebambangan*" tradition, namely carrying away the prospective wife by the

<sup>17</sup> Dar Nela Putri, "Konsep Urf sebagai Sumber Hukum dalam Islam," *El-Mashlahah* 10, no. 2 (December 30, 2020): 14–25, <https://doi.org/10.23971/maslahah.v10i2.1911>.

<sup>18</sup> Sulfan Wandi, "Eksistensi '*urf* Dan Adat Kebiasaan Sebagai Dalil Fiqh" 2, no. 1 (May 2018): 181–96, <https://doi.org/10.22373/sjfk.v2i1.3111>.

<sup>19</sup> Jumni Nelli and Nia Elmiati Jaafar, "Contextualization of Hadith on the Recommendation of Marriage and Its Relevance to the Legal Age of Marriage in Indonesia," *An-Nida'* 47, no. 1 (July 1, 2023): 73–90, <https://doi.org/10.24014/an-nida.v47i1.23161>.

<sup>20</sup> Miftahuddin Azmi, "Sejarah Pergumulan Hukum Islam Dan Budaya," *Al-Qanun: Jurnal Pemikiran Dan Pembaharuan Hukum Islam* 13, no. 1 (2010): 53–78.

<sup>21</sup> Abdulah, *Kamus Bahasa Lampung-Indonesia Indonesia-Lampung* (Bandar Lampung: Merdeka, 2008).



prospective husband to his house or to a relative who is still related by blood. By outsiders, the “*sebambangan*” tradition is considered negative because it takes away other people's children. This assumption is because they do not directly understand the “*sebambangan*” tradition.<sup>22</sup> There are several rules that must be implemented during the “*sebambangan*” process, one of which is that each party is an adult and ready to get married, the prospective wife must be accompanied by a female friend (*penakau*), and the prospective husband must leave a letter and money (*penepik*) placed on the table. future wife's bed. During the “*sebambangan*” process, the prospective husband must be responsible for the safety and health of his future wife.<sup>23</sup>

Then the parents of the future husband informed the local traditional leader (*punyimbang*) that their son was carrying out the practice of “*sebambangan*”. After receiving this information, the traditional leader (*punyimbang*) from the prospective husband's family visited the prospective wife's family with the aim of informing them of the whereabouts of their daughter. This procession must be carried out for a day (if the location is close), or 3 days (if the location is far away). This ritual is called “*ngattak salah*”. The traditional leader (*punyimbang*) usually carries a typical Lampung weapon (can be a Keris) which is accepted by the prospective wife.

After the “*Ngattak Salah*” procession, it will be continued with the “*Bebalah*” ritual, where the prospective husband sends two envoys to the prospective wife's family to discuss the continuation of the marriage. This “*bebalah*” tradition discusses an apology from the prospective husband for taking his future wife away and discusses all the needs related to marriage needs, for example the prospective wife's family asks for wedding costs and other traditional costs. All pre-wedding expenses are called “*Dau Balak*”.<sup>24</sup>

The process of completing the “*sebambangan*” tradition at the “*bebalah*” stage gives the prospective wife's family the right and opportunity to submit several marriage conditions to the prospective husband's family, one of which is submitting an application for the fulfillment of “*Dau Balak*”. In accordance with customary law provisions in Melinting District, East Lampung Regency, the minimum amount of “*Dau Balak*” is IDR. 4,800,000.<sup>25</sup> Even so, there are some

<sup>22</sup> Akhmad Riduan, “Tradisi Sebambangan Pada Masyarakat Adat Lampung Pepadun Persepektif Islam (Studi di Kelurahan Terbanggi Besar Kecamatan Terbanggi Besar Kabupaten Lampung Tengah)” (Lampung, UIN Raden Intan, 2016).

<sup>23</sup> One of the sources strongly disagreed that the “*sebambangan*” tradition was considered a criminal act, because during this process nothing was violated, both from the perspective of Islamic law and Indonesian law. Alamsyah, Falsafah Sebambangan bagi Masyarakat Adat Lampung Timur, May 11, 2023.

<sup>24</sup> Nanang Khoirul Hidayat Sumiyatun, Bobi, “Proses Adat Perkawinan Sebambangan Marga Sekampung Libo Di Jabung Lampung Timur,” *Jurnal Swarnadwipa* 3, no. 1 (2019).

<sup>25</sup> Waliodin, Adat Pernikahan Lampung Timur.



families of prospective wives who can apply for “*Dau Balak*” more than the minimum limit determined by customary law. They think the cost of a wedding reception is higher than the specified minimum amount of “*Dau Balak*”. Proposing “*Dau Balak*” in large amounts sometimes makes the negotiation process difficult and long. Deliberations at the “*bebalah*” stage usually do not end immediately, a follow-up meeting is needed to reach an agreement regarding “*Dau Balak*”.<sup>26</sup>

There are several factors that cause the high demand for “*Dau Balak*” submitted by the families of prospective wives. First, the social status of the prospective wife’s family. The prospective husband must be prepared with a large nominal “*Dau Balak*” if the prospective wife comes from a line of traditional leaders (*punyimbang*), or the prospective wife comes from a respected family. Second, economic status. The family of the prospective wife will ask for “*Dau Balak*” with a high nominal value because the economic status of the prospective wife’s family is already established. They assume that there will be several colleagues invited to the wedding party, so it will require large costs. Third, educational status. When a prospective wife has a high education or degree, usually the “*Dau Balak*” will automatically increase even more. The reason is because the educational costs incurred are quite large and the qualifications of wives with higher education are certainly different from others.<sup>27</sup>

One of the sources said that the high demand for “*Dau Balak*” was understandable due to several reasons, one of which was the role of parents in caring for children until adulthood and paying for their education to a higher level. The “*Dau Balak*” agreement is a form of respect and gratitude for the permissibility of marriage and a manifestation of the seriousness of the prospective husband in marrying his future wife.

The persistence of the prospective wife’s family in setting a high “*Dau Balak*” value will encounter obstacles if the prospective husband’s family cannot fulfill this request. So the “*punyimbang*” of each party will carry out negotiations to find the best solution, this is one of the reasons the “*bebalah*” procession takes a long time.<sup>28</sup> The solutions offered by *punyimbang* usually reduce the “*Dau Balak*” nominal or give the prospective husband a time limit to meet the specified nominal. If the prospective wife does not want to reduce the “*Dau Balak*” nominal, while the prospective husband still wishes to continue the marriage process, then the

<sup>26</sup> Aprilianti and Siti Nurhasanah, “Penyelesaian Kawin Lari (Sebambangan) Pada Masyarakat Adat Lampung Saibatin Di Kecamatan Gunung Alip, Tanggamus,” *Pactum Law Journal* 1, no. 02 (January 2018): 129–36.

<sup>27</sup> Firdha Razak, “Tradisi Sebambangan Masyarakat Adat Lampung Pepadun Dalam Perspektif Islam (Studi Di Desa Terbanggi Besar Kabupaten Lampung Tengah)” (Lampung, UIN Raden Intan, 2018).

<sup>28</sup> One of the sources strongly disagreed that the “*sebambangan*” tradition was considered a criminal act, because during this process nothing was violated, both from the perspective of Islamic law and Indonesian law. Alamsyah, *Falsafah Sebambangan bagi Masyarakat Adat Lampung Timur*.



prospective husband asks for time dispensation to fulfill the "Dau Balak" value that has been determined.

The prospective husband is given the opportunity to propose to his wife first while preparing all the agreed "Dau Balak" funds according to the specified time limit. During the engagement period, the prospective wife is returned to her family and is not allowed to engage in "sebambangan" with other men. If the prospective wife receives "sebambangan" from another man, she will receive sanctions in the form of returning double the agreed amount of "Dau Balak".

### ***The Practice of "Dau Balak" of the East Lampung Indigenous Community from Asy-Syatibî Perspective***

Abu Ishaq Asy-Syatibî was an *ahlussunnah* imam from the Maliki school of thought who lived during the Spanish Islamic era. His full name is Abu Ishaq Ibrahim bin Musa bin Muhammad Al-Lakhmi Asy-Syatibî. Place and date of birth are unknown, he died on Tuesday, 8 Sha'ban 790 H in Granada. Asy-Syatibî said that al-'urf can be made the legal basis is based on the consensus (*ijmâ'*) of the ulama, while for the benefit of humanity. If the Shari'a doesn't consider it the existence of custom as a source of law, then Allah has impose something beyond human capabilities (*taklif bi mā lâ yut} âq*). And that is impossible and will never happen. In Besides, if it weren't for custom, it would never be known the origin of religion, because religion will not be known except by prophethood, prophecy is known as miracles, and miracles are things that occurs outside of human tradition or habits. If customs are not considered In existence, things that are outside of custom will have no value.<sup>29</sup>

Islam is a religion that was passed down to a society that already had a cultural reality. Authentic evidence can be seen in the Al-Qur'an which uses Arabic and was distributed by Muhammad SAW, who in fact was a human being.<sup>30</sup> Discourse about the Qur'an recognizes the term *asbab an-nuzûl*, which shows that the verses of the Koran were revealed due to the problems experienced by the companions of the Prophet Muhammad. This fact strengthens the dialogue between Shari'a and local culture. The discipline of Hadîth science recognizes the term *asbab al-wurûd*, one proof that the Prophet's hadith is related to social realities in society.<sup>31</sup>

These two terms confirm evidence that Islamic law is correlated with the situation and culture of certain communities. That is not enough, the characteristics of the verses of the Qur'an that were revealed in Mecca are different from the verses of the Qur'an that were revealed in Medina. The concepts of *makkiyah* and *madaniyah* are basically built on the basis of information (history). Al-Qadî Abû Bakr al-Baqillânî

<sup>29</sup> Abû Işhâq İbrâhîm ibn Musâ ibn Muhammâd al-Syâtîbî, *Al-Muwâfaqât Fî Usûl al-Âhkâm* (Beirût: Dâr al-Fikr, 1986), 245–46.

<sup>30</sup> QS Ibrahim [14]: 10 and QS Yasin [36]: 15

<sup>31</sup> Muhammâd 'Ajâj al-Khâṭîb, *Usûl Al-Hadîts: 'Ulûmuh Wa Muṣṭalaḥuh* (Damaskus: Dâr al-Fikr, 1975), 89.



stated that to know *makkiyah* and *madaniyah* one must refer to the history of the Prophet's companions and *tabi'in*. Because they are the ones who witness and know where and under what conditions a verse or letter was revealed.<sup>32</sup>

There are three theories in determining the criteria for verses or letters that fall into the *makkiyah* and *madaniyah* categories.<sup>33</sup> *First*, the geographical aspect (*mulahazat makān an-nuzūl*). This first aspect emphasizes the place where the Qur'an was revealed. Every letter that was revealed in the city of Mecca and its surroundings is called *makkiyah* and every letter that was revealed in the city of Medina is called *Madaniyah*. *Second*, the aspect that explains the interlocutor (*khitab*). This opinion is based on the history of 'Abdullah bin Mas'ūd, who stated that every verse in the Qur'an which contains the redaction: "O people..", then that verse was revealed in Mecca, and every verse which contains the redaction: "O people believer.." then the verse was revealed in Medina. *Third*, aspects based on history and the period when the Qur'an was revealed (*Mulahazat zaman an-nuzūl*). If we follow this guideline, the letters revealed before the hijrah are called *makkiyah* and the letters revealed after the hijrah are called *madaniyah*. Based on this third definition, all letters in the Qur'an can be included in *makkiyah* or *madaniyah*.

The construction of Islamic law (*Fiqh*) cannot be separated from this dialectic, which is why Malik bin Anas mentioned the actions of the people of Medina as one of the references in establishing Islamic law.<sup>34</sup> Muhammad bin Idris asy-Syafi'i (one of Malik bin Anas' students) followed in his teacher's footsteps in adopting local treasures. He had a collection of Islamic legal fatwas while in Baghdad known as *Qaul Qadīm*. Then, when he was domiciled in Egypt, he issued a fatwa on Islamic law known as *Qaul Jadīd*.<sup>35</sup>

He is one of the schools whose opinions are still followed to this day. Muhamad bin Sulaiman Al-Kurdi<sup>36</sup> stated that asy-Syafi'i was the person who first compiled the science of *Ushūl Fiqh*. Asy-Syafi'i experienced a change in the dynamics of thinking. He withdrew most of his legal opinions and replaced them with new legal findings. These changes cannot be separated from the influence of changing social conditions in society and the arguments found. There are at least three phases of the formation of asy-Syafi'i law. First, when he lived in Baghdad (Iraq). Asy-Syafi'i's knowledge in the field of hadith was recognized by Baghdad scholars, this was because Asy-Syafi'i studied with Malik bin Anas in Medina. Shihab al-Dīn Abū al-'Abbas Ahmad ibn Muhamad ibn 'Alī ibn Hajar al-Haytamī al-Makkī al-Ansārī<sup>37</sup> (one of the famous

<sup>32</sup> Abū Bakar al-Baqillānī, *I'jāz al-Qur'ān Wa al-Balaghah an-Nawāwiyyah* (Mesir: Maktabah Mesir, 1994), 299.

<sup>33</sup> 'Abd ar-Razzāq Ḥusayn Ahmad, *Al-Makkī Wa al-Madani Fī al-Qur'ān al-Karīm; Dirāsah Ta'shiliyyah Naqdīyyah Li as-Suwar Wa al-Āyāt*, vol. I (Mesir: Dār ibn 'Affān, 1999), 37–38.

<sup>34</sup> Wahbah al-Zuhailī, *Ushūl Al-Fiqh al-Islāmī* (Damaskus: Dār al-Fikr, 1986).

<sup>35</sup> Ahmad bin 'Umar al-Syātharī, *Al-Yāqūt al-Nafīs Fī Madhhab Ibn Idrīs* (Beirut: Dār al-Tsaqāfah al-Islāmiyyah, 1990).

<sup>36</sup> Muhamad bin Sulaimān Al-Kurdī, *Al-Fawā'id al-Madaniyah* (Kairo: Dār al-Farūq, 2008), 109.

<sup>37</sup> Shihab al-Dīn Abū al-'Abbas Ahmad ibn Muhamad ibn 'Alī ibn Hajar al-Haytamī al-Makkī al-Ansārī, *Tuhfah Al-Muhtāj* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1987), 118–19.



Baghdad scholars) called asy-Syafi'î the savior of hadîth (*Nâshir as-sunnah*). Several books written by asy-Syafi'î in the Medina period include: *ar-Risâlah* and *al-Hujjah*, while asy-Syafi'î's students included: Ahmad bin Hanbal, az-Zâ'farânî, and al-Karâbîsî. The opinion of Islamic law when asy-Syafi'î lived in Baghdad was called *qaul qadîm*.

Second, when asy-Syafi'î lived in Mecca. This period was only one year, however asy-Syafi'î often issued Islamic legal fatwas. Muhammad ibn Mûsâ al-Khwârizmî said that asy-Syafi'î wrote parts of the books *al-Imlâ'* and *al-Umm* in the city of Mecca (later completed in Egypt). Asy-Syafi'î's Islamic legal opinion in this phase is the status of which is disputed by the ulama. There are that his opinion in the city of Makkah included *qaul qadîm*, because this opinion emerged before asy-Syafi'î entered Egypt. Others stated that asy-Syafi'î's opinion between Baghdad and Egypt could not be directly categorized as *qaul qadîm*, but had to be detailed. Third, when asy-Syafi'î lived in Cairo (Egypt). Muhammâd bin Muhammâd Al-Khâthîb Asy-Syarbinî Al-Qâhirî Asy-Syafi'î<sup>38</sup> (one of asy-Syafi'î's students) said that all Islamic legal products presented by asy-Syafi'î were in the form of fatwas and collections of Islamic legal books when in Egypt they were called *qaul jadîd*. Several books written by asy-Syafi'î in the Egyptian period include: *Al-Umm*, *Muhtashar al-Buwaithî*, *Muhtashar al-Muzânî*, *al-Imlâ'* and *al-Amâlî*. Meanwhile, several of asy-Syafi'î's students who narrated *qaul jadîd* were Al-Buwaithî, Al-Muzânî, Ar-Rabi' al-Murâdî, ar-Râbî' al-Jizî, Abdullâh bin Zubâr Al-Makkî, and ash-Syarbinî. The life history of asy-Syafi'î who changed the fatwa of Islamic law when he moved from Baghdad to Egypt shows that Islamic law is always dynamic and developing and closely linked to culture.

There are religious practices (horizontal or vertical) that adopt Arab culture and are reconstructed by Islamic law. The Hajj, Umrah, punishment for thieves, the prohibition of intoxicating drinks, and the tradition of polygamy are among the discourses of worship that have a correlation with the dialectic between tradition and Islamic law. Islamic Shari'a adopts custom as a source of Islamic law through three stages.<sup>39</sup> First, Islam accepts some traditions and discards others. Second, Islam accepts some traditions and reconstructs others. Third, Islam fully accepts tradition without reconstructing that tradition. Islamic legal literature recognizes the term tradition as '*urf*. Asy-Syâthibî interpret '*urf* as:

العرف هو ما يتعارفه الناس و يسيرون عليه غالباً من قول أو فعل

"Everything that humans know and carry out continuously, whether in the form of words or deeds."

Asy-Syâthibî adopting tradition as a source of Islamic law as long as it does not conflict with Islamic law. This step is almost the same as that taken by his teacher (Malik bin Anas). Asy-Syâthibî interpreting tradition as '*adah*, not '*urf*, these

<sup>38</sup> Muhammâd bin Muhammâd Al-Khâthîb Asy-Syarbinî Al-Qâhirî Asy-Syâfi'î, *Mughnî Al-Muhtâj*, vol. I (Damaskus: Muassasah al-Risâlah, 2004), 78–79.

<sup>39</sup> Abû Ishâq Ibrâhîm ibn Musâ ibn Muhammâd al-Syâthibî, *Al-Muwaffaqât Fî Usûl al-Âhkâm* (Beirût: Dâr al-Fikr, 1986), 87.



two terms are just different names.<sup>40</sup> The implementation of a tradition can be accepted as long as it is an act that is understood and accepted by society and does not conflict with the Shari'a, and the tradition is ongoing, not temporary.<sup>41</sup>

He differentiates traditions that occur in society into two types. *First, al-'âdah al- syar'iyyah*, namely traditions that are ordered or prohibited by Islam. *Second, al-'âdah al-jâriyyah*, namely a habit that has become commonplace in society, while shari'a Islam does not respond (neither rejects nor accepts). The custom in the first point is accepted by Shari'a Islam because it has the same spirit as Islamic legal regulations. Meanwhile, the second type of habit is non-binding and is given leeway to implement it or not.<sup>42</sup> The concept of "*Dau Balak*" in the East Lampung indigenous community is included in the category *al-'âdah al-jâriyyah*, namely traditions that are not regulated and not prohibited by Islam. This tradition is intertwined with changes in time and the socio-cultural conditions of the local community. All traditions gain religious legitimacy, as long as they do not conflict with Islamic law. The practice of "*Dau Balak*" which sets a certain nominal value aims to maintain the dignity of women and show the seriousness of their prospective husband.

Prospective husbands who have not been able to meet the nominal "*Dau Balak*" are given a certain time limit to make it happen. This reality is proof of good communication, so that no party is superior or intimidated in this tradition. Some sources said that the "*Dau Balak*" given could be returned to their children as wedding supplies.<sup>43</sup> Therefore, the goal of "*Dau Balak*" can be accepted by Islam because it brings goodness and avoids damage (*jalb al-mashâlih wa dar'u al-mafâsid*). Asy-Syâthibî divides the application of tradition into two parts,<sup>44</sup> *First, Al-'Awâid al-Âmmah*, namely a tradition that is known to the wider community and is not limited by time and space. Eating, sleeping and recreation are one example of *Al-'Awâid al-Âmmah*. *Second, Al-'Awâid al-Khâssah*, namely traditions that are characteristic of certain regions, according to differences in place and time. One example is songs reading the Koran, forms of clothing, and even wedding traditions. Thus, "*Dau Balak*" is part of *Al-'Awâid al-Khâssah*.

Asy-Syâthibî confirmed that a custom accepted by Islam is a sign that religious teachings cannot be separated from social culture. Because the dynamics of Islamic law will always bring benefits to humans, this indicator can be seen in the traditions that have become part of human life. That is why Asy-Syâthibî

<sup>40</sup> Mansur Mansur, "'Urf Dan Pembentukan Hukum Islam Menurut Al-Shâtibî," *LISAN AL-HAL: Jurnal Pengembangan Pemikiran Dan Kebudayaan* 9, no. 2 (December 9, 2015): 349–78, <https://doi.org/10.35316/lisanalhal.v9i2.94>.

<sup>41</sup> al-Syâthibî, *Al-Muwaqqât Fî Uṣûl al-Âhkâm*, 101.

<sup>42</sup> al-Syâthibî mentioned the second 'Awâid He called it *al-'Awâid al-Mustamirrah*. al-Syâthibî, 142.

<sup>43</sup> Radiyah, Praktek Penggunaan Dana Dau Balak, May 15, 2023.

<sup>44</sup> Abû al-Ishâq Ibrâhîm bin Mûsâ bin Muhammad al-Lakhmî al-Syâthibî, *Al-I'tishâm* (Beirut: Dâr al-Kutub al-'Ilmiyyah, 1995), 282–83.



accepts and uses customs as syar'i evidence in establishing laws. A universal custom expressly recognized by *Nash* serves as a medium for understanding and translating the law *Islam* in explaining social problems faced by society. The best effort is to maintain the validity of these various customs as legal considerations and a basis for enforcing Islamic law based on regulatory principles based on the spirit of the Qur'an and the Hadith of the Prophet.

## Conclusion

Marriage culture in Indonesia is very diverse. This research emphasizes the "Dau Balak" tradition in the East Lampung traditional community. Further research on various marriage traditions in Indonesia is necessary. Scientific studies related to traditions in Indonesia from various perspectives will legitimize the application of these traditions, ensuring that traditions as national identity can be well maintained. The use of tradition as a source of Islamic law is divided into two parts. First, Islamic law is sacred law par excellence, perfect, and eternal. This concept shows the characteristics of Islamic law, which does not accept culture and does not adapt to change. Second, Islamic law can adapt to change and accept tradition as a reference for Islamic law. This is proven by legal principles that refer to benefits, the flexibility of Islamic law at the applicable level, and the emphasis on *ijtihâd* carried out by madzhab imams when providing answers to every problem they face.

It seems that asy-Syâthibî adheres to the second point of view: tradition can become the legitimacy of Islamic law as time, places, and circumstances change. However, the only laws that can change are those built on the foundation of custom ('urf). In this case, the "Dau Balak" tradition practiced by the indigenous people of East Lampung is a tradition that falls into the second realm, can be practiced, and does not conflict with Islamic law.

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