

## CONTRIBUTION OF KERINCI TRADITIONAL INSTITUTIONS IN RESOLUTION OF SYIQAQ DISPUTES

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### **Abstract**

*Kumun Debai has a traditional institution as a judiciary in resolving customary disputes including syiqaq disputes. The Kumun Debai traditional institution has had many successes in resolving disputes peacefully. However, people today who are in the midst of domestic conflicts, such as syiqaq, prefer to take legal action in the hope that a divorce will be granted. The aim of this research is to examine the process of resolving syiqaq disputes through Traditional Institutions in Kumun Debai. This research is qualitative in nature, in this research the data collection technique used is an interview technique which is considered primary data. The results of the research show that the process of resolving syiqaq disputes through traditional institutions is that first, traditional institutions receive complaints from disputing parties to help resolve the dispute, secondly, traditional institutions attend invitations from disputing parties at the specified time, thirdly, traditional institutions request each parties explain the problems that occur, fourth of the problems raised by traditional institutions research, study, draw conclusions and provide direction or advice to the parties in dispute in accordance with customary law, fifth traditional institutions ask for decisions from both parties to the dispute, sixth settlement by apologizing and the parties make an agreement either verbally or in writing.*

**Keywords:** *Traditional Institutions, Dispute Resolution, Syiqaq*

### **Abstrak**

Kumun Debai memiliki lembaga adat sebagai peradilan dalam menyelesaikan sengketa adat termasuk sengketa syiqaq. Lembaga adat Kumun Debai dalam menyelesaikan sengketa telah banyak berhasil dengan damai. Namun, masyarakat pada masa sekarang yang sedang dalam konflik rumah tangga seperti syiqaq lebih memilih menempuh jalur hukum dengan keinginan akan dikabulkannya perceraian. Tujuan dari penelitian ini adalah untuk mengkaji proses dari penyelesaian sengketa syiqaq melalui Lembaga Adat di Kumun Debai. Penelitian ini bersifat kualitatif, dalam penelitian ini teknik pengumpulan data yang digunakan adalah teknik wawancara yang dianggap sebagai data primer. Hasil dari penelitian menunjukkan bahwa proses penyelesaian sengketa syiqaq melalui lembaga adat adalah yang pertama lembaga adat menerima aduan dari pihak yang bersengketa untuk membantu penyelesaian sengketanya, yang kedua lembaga adat menghadiri undangan dari pihak yang bersengketa pada waktu yang ditentukan, ketiga lembaga adat meminta masing-masing pihak memaparkan masalah yang terjadi, keempat dari masalah yang diutarakan lembaga adat meneliti, menelaah, mengambil kesimpulan dan memberi arahan atau nasehat kepada para pihak yang bersengketa sesuai dengan undang-undang adat, kelima lembaga adat menanyakan keputusan dari kedua belah pihak yang bersengketa, keenam penyelesaian dengan bermaaf-maafan dan para pihak membuat perjanjian baik berbentuk lisan maupun tulisan.

**Kata kunci:** Lembaga Adat, Penyelesaian Sengketa, Syiqaq

## INTRODUCTION

In households where there is a husband and wife who have differences with each other, it is not uncommon for the two of them to have differences of understanding which ultimately lead to conflict and quarrels which culminate in the severing of the marriage bond, which is considered the best final option for both parties. The reason for divorce which is caused by continuous disputes and quarrels in Islamic law is called *shiqaq*.<sup>1</sup> There is tension and chaos between husband and wife who are on the verge of divorce, so other family members cannot remain silent. Family members must play a proactive role that leads to *forgiveness*.<sup>2</sup> While internal disputes between husbands and husbands can still be resolved together, both husband and wife are required to normalize domestic affairs, must not share the secret of their injuries with other people or complain about them and ask for help from outside parties and expect interference from other parties. If both of them can no longer cool their boiling anger, then they are allowed to ask for help from outside parties.<sup>3</sup> So that the root of the problem that causes the dispute can be identified and can be corrected, it is very important to ask for help from parties who can help, in the case of *syiqaq* the person who seeks to resolve the dispute is called a hakam.

In this modern era, the Kumun Debai community who have disputes within their household prefer to file for divorce in court, even though mediation can still be carried out outside the court. Even though the courts also carry out mediation, it takes a lot of time and costs a lot. Kumun Debai is one of the sub-districts in the City of Sungai Banyak Kerinci which has a traditional institution as a court in resolving disputes, where in resolving disputes this institution can resolve disputes with a process that is not complicated and also at an affordable cost. So that it can make it easier for the community to resolve disputes that occur.

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<sup>1</sup> Irfan, "Fungsi Hakam Dalam Menyelesaikan Sengketa Rumah Tangga (Syiqaq) Dalam Peradilan Agama," *Edutech* 4, no. 1 (2018): 50–58.

<sup>2</sup> Fiqri, *Dinamika Hukum Perdata Islam Di Indonesia*, ed. Sudirman, 1st ed. (Yogyakarta: Trust Media Publishing, 2016).

<sup>3</sup> Muh. Rizal Hamdi, "Konsepsi Nusyuz Dan Syiqaq Dalam Hukum Perkawinan Islam," *Darussalam* 1, no. 2 (2021): 37–48.

There are several previous studies that discuss the same thing, and these studies can be grouped into 2 classifications. *First*, research related to resolving *Shiqaq disputes* in the Religious Courts, conducted by Arne Huzaimah,<sup>4</sup> Hidayat Rahman,<sup>5</sup> and Ridwan Jamal.<sup>6</sup> *Second*, Hakam in resolving *syiqaq cases*, carried out by Pahrizal,<sup>7</sup> Dedi Mulyadi,<sup>8</sup> Irfan,<sup>9</sup> Moh Syamsul Muarif,<sup>10</sup> Lukmanul Hakim,<sup>11</sup> R Tanzil Fawaiq Sayyaf,<sup>12</sup> and Pagar.<sup>13</sup>

The aim of this research is to examine the process of resolving *syiqaq disputes* through Traditional Institutions in Kumun Debai. Based on the presentation of the material above, the research questions of this paper are: How do traditional institutions resolve customary disputes in Kumun Debai, Sungai Full City?; What is the process of resolving *syiqaq* disputes by the Kumun Debai Traditional Institution, Sungai Banyak Kerinci City?;

In the Kumun Debai Traditional Institution, writings are most often found regarding land dispute resolution. However, disputes resolved by this traditional institution are not only limited to land disputes but also family disputes, one of which is disputes *Shiqaq*. The Kumun Debai traditional institution has succeeded in resolving disputes peacefully. However, people today who are in the midst of domestic conflict, such as *syiqaq*, prefer to take legal action in the hope that a divorce will be granted. In fact, asking for help from traditional institutions will help reconcile the disputing parties through families and certain people, so as not to spread the family disgrace that is happening. Therefore, researchers are interested in examining the resolution of *syiqaq* disputes through the role of Traditional Institutions in Kumun Debai, Sungai Banyak City.

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<sup>4</sup> Arne Huzaimah and Nurani, "Urgensi Integrasi Antara Mediasi Dan Hakam Dalam Penyelesaian Perkara Perceraian Dengan Alasan Syiqaq Di Pengadilan Agama," *Kajian Syariah dan Masyarakat* 16, no. 2 (2016): 1–24.

<sup>5</sup> Hidayat Rahman, "The Importance of Hakamain for Shiqaq Reasons in the Samarinda Religious Court," *Of Law* 4, no. 1 (2016).

<sup>6</sup> Ridwan Jamal, "Penyelesaian Perkara Gugat Cerai Yang Di Dasarkan Alasan Syiqaq (Studi Terhadap Proses Penyelesaian Gugat Cerai Syiqaq Di Pengadilan Agama Manado)," *Al Syir'ah* 13, no. 2 (2015).

<sup>7</sup> Pahrizal Nasution, "Kewenangan Hakam Tentang Perceraian Dalam Perkara Syiqaq (Studi Komparatif Pendapat Imam Syafi'i Dan Imam Malik)," 2020.

<sup>8</sup> Dedi Mulyadi, "Peran Dan Fungsi Hakam Dalam Perkawinan Upaya Menanggulangi Syiqaq (Analisis Hukum Islam Dan Perundang-Undangan Di Indonesia)," *Bil dalil* 1, no. 2 (2016): 29–48.

<sup>9</sup> Irfan, "Fungsi Hakam Dalam Menyelesaikan Sengketa Rumah Tangga (Syiqaq) Dalam Peradilan Agama."

<sup>10</sup> Moh. Syamsul Muarif, "Peran Hakam Dalam Perkara Cerai Gugat Dengan Alasan Syiqaq," *Minhaj* 1, no. 1 (2020): 18–34.

<sup>11</sup> Lukmanul Hakim, "Analisis Peranan Hukum Dalam Perkara Syiqaq Di Mahkamah Syar'iyah Banda Aceh," *Syarah* 9, no. 2 (2020).

<sup>12</sup> R Tanzil Fawaiq Sayyaf, "Hakam Sebagai Bagian Dari Alternatif Penyelesaian Sengketa Keluarga (Studi Terhadap Pemikiran Quraish Shihab Dalam Tafsir Al Misbah)," *Ulumuddin* 12, no. 2 (2019).

<sup>13</sup> Pagar, Zainul Fuad, and Muhammad, "Hakam Dan Mediasi Dalam Perkara Syiqaq Di Mahkamah Syar'iyah Bireunten Provinsi Aceh," *Al Mashlahah Jurnal Hukum Islam dan Pranata Sosial* 10, no. 1 (2022): 335–354.

## RESEARCH METHODS

This research is a descriptive qualitative study which aims to clearly describe the role of traditional institutions in resolving syiqaq disputes in Kumun Debai, Sungai Banyak City, Kerinci. In this research, the data collection technique used is an interview technique which is considered primary data. Interviews were conducted with informants who knew the customs of the Kumun Debai community and also informants who held certain positions in traditional institutions. In this case, the informants for this research are the Kumun Debai traditional institution and the Kumun Debai Community. This was done with the aim of obtaining in-depth information regarding the role of traditional institutions in resolving syiqaq disputes in Kumun Debai, Sungai Banyak City, Kerinci. This research also uses secondary data in the form of journals, articles and other documents related to this paper. The data collection techniques used in this research were interviews and document study.

## LITERATURE REVIEW

### Shiqaq

The word *syiqaq* comes from Arabic "*al-syaqq*" which means side, dispute (*al khilaf*), division, enmity (*al-adawah*), conflict or dispute. According to Irfan Sidqan, *Shiqaq*, quoted from the book *Fiqh Munakahat 2*, is a state of continuous dispute between husband and wife which is feared to lead to the destruction of the household or the dissolution of the marriage. Therefore, two peacemakers (*hakam*) were appointed to resolve the dispute.<sup>14</sup> *Shiqaq* linguistically means dispute, quarrel and enmity. The dispute in question is a prolonged dispute between husband and wife. To overcome the escalating domestic chaos between husband and wife, Islam ordered that two *hakam* (peacemakers) be sent. This investigation into *hakam* aims to trace the causes of *shiqaq* and try to find a solution to provide a solution to the domestic crisis faced by the husband and wife.<sup>15</sup>

As quoted by Ridwan Jamal, it is explained that in the Religious Courts Law No. 7 of 1989, part of the general explanation of article 76 paragraph 1, it is stated that *shiqaq* is "a sharp and continuous dispute between a husband and wife."<sup>16</sup> *Shiqaq* means dispute/quarrel, this word is usually associated with husband and wife so it means a quarrel that occurs between husband

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<sup>14</sup> Rusdaya Basri, *Fiqh Munakahat 2*, ed. Sunuwati, 1st ed. (Parepare: Iain Parepare Nusantara Press, 2020).

<sup>15</sup> Rama Dhini Permasari Johar and Hamda Sulfinadia, "Manajemen Konflik Sebagai Upaya Mempertahankan Keutuhan Rumah Tangga," *Al-Ahkam XXI*, no. 1 (2020).

<sup>16</sup> Ridwan Jamal, "Penyelesaian Sengketa Perkara Guagta Erai Yang Di Dasarkan Atas Alasan Syiqaq," *Al-Syir'ah* 13, no. 2 (2015): 1–28.

and wife which cannot be resolved by either of them alone. Shiqaq arises when a husband or wife or both do not carry out the obligations they must bear. If the husband and wife are no longer able to resolve the conflict, then it is the obligation of the Muslim community to prioritize the family obligations of both parties to reconcile it.<sup>17</sup>

When shiqaq occurs between husband and wife in a household and the hostility between the two of them becomes stronger and it is feared that a firqah will occur and their household will appear to be collapsing, the judge sends two hakam to provide insight into the problems faced by both of them, and seek benefits for them, both still or the end of the household. If what is more mashlahah is divorce, then the judge will decide the case as divorce, because there is no other way to get rid of the evil except that way. Because if a talak raj'i is decided, it is possible to reconcile during the iddah period and that means going back to the madhorot that has been experienced.<sup>18</sup>

Shiqaq is an indication of the peak of a household crisis and also the cause of marriage breakdown. This will bring disaster to both parties. There are differences, contradictions, and anger and everything that denies love between husband and wife. If love is lost, the pillars of marriage will change. They both fell into the valley of a difficult life and indecisive thinking because basically unity and cohesion in all things is the key to success and happiness and the source of all pleasure. It's different if there are different characters and hearts that are not united. Then divorce will eliminate misery for both parties. In conditions like that, efforts to improve are the responsibility of Muslims, basically, it is the right of husband and wife. but in its development it is also a family right, judging from its position as one of the pillars of social life, it is an obligation for family members to develop the mission of peace between humans.<sup>19</sup>

The household should be a peaceful place for every family member. The family is a place of return wherever its members go. They feel comfortable in it, and are full of confidence when interacting with other families in the community. With this perspective, every family can be sure that the root of many of the cases that surround household life in society is because the house is no longer a comfortable place to return to. Husbands no longer find a comfortable atmosphere in the house, and neither do wives. In fact, it is now easier for children to find a comfortable atmosphere outside the home. So, sakinah becomes every family's desire. Because,

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<sup>17</sup> Hamdi, "Konsepsi Nusyuz Dan Syiqaq Dalam Hukum Perkawinan Islam."

<sup>18</sup> Basri, *Fikih Munakahat 2*.

<sup>19</sup> Jamal, "Penyelesaian Sengketa Perkara Guagta Erai Yang Di Dasarkan Atas Alasan Syiqaq."

sakinah is a family concept that can provide psychological comfort, even though sometimes physically it seems far below comfortable standards.<sup>20</sup>

### **Conflict Management**

Kusworo in his book states that the definition of management according to GR Terry is a typical process consisting of planning, organizing, mobilizing and monitoring actions carried out to determine and achieve predetermined targets through the use of human resources and other sources. , in line with Dubrin's definition, management is a process of using organizational resources to achieve organizational goals through the functions of *planning, decision making, organizing, leading and controlling*.<sup>21</sup>

Conflict management is the steps taken by actors or third parties in order to direct a dispute towards a certain outcome which may or may not result in an end in the form of conflict resolution. Conflict management is a series of actions between actors and outside parties in a conflict. Conflict management includes a process-oriented approach that focuses on forms of communication (including behavior) from actors and external parties and how they influence interests and interpretations.<sup>22</sup>

Izzatur Rusuli in his journal states that the definition of conflict according to Robbin in Organization Behavior is an interaction process that occurs due to a discrepancy between two opinions (points of view) which influence the parties involved, both positive and negative. Meanwhile, according to Luthans, conflict is a condition that arises from the existence of conflicting forces. These powers originate from human desires.<sup>23</sup> From these two definitions, conflict management is the process of resolving problems or disputes effectively and efficiently. In conflict resolution, emotions or feelings cannot be used as a basis for constructive problem solving because the conflict itself can trigger strong emotions. If the conflict occurs continuously, then this is not beneficial for a relationship, especially if one of the partners wants to win alone, is stubborn, does not want to give in or does not want to admit mistakes and withdraws from the relationship. Conflict will get worse if it results in physical disputes and

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<sup>20</sup> Amrul Muzan et al., "Mitigasi Konflik Rumah Tangga Dalam Upaya Menjaga Keutuhan Keluarga Sakinah," *Hukum Islam* 22, no. 2 (2022): 52–72.

<sup>21</sup> Kusworo, *Manajemen Konflik Dan Perubahan Dalam Organisasi*, ed. Adnan Abi Wildan, 1st ed. (Jatinangor: Alqaprint Jatinangor, 2019).

<sup>22</sup> Johar and Sulfinadia, "Manajemen Konflik Sebagai Upaya Mempertahankan Keutuhan Rumah Tangga."

<sup>23</sup> Izzatur Rusuli et al., "Peran Lembaga Kampong Dalam Manajemen Konflik Keluarga Di Kabupaten Aceh Tengah," *Media Syari'ah* 19, no. 2 (2017).

violence. Therefore, there is a need for management or an effort to resolve conflict so that it does not continue and obtain a constructive resolution.<sup>24</sup>

According to the Big Indonesian Dictionary, a dispute is anything that causes a difference of opinion, dispute or dispute. Disputes or conflicts are a form of actualization of differences in interests between two or more parties. A situation where two or more parties are faced with differences in interests will not develop into a dispute if the party who feels disadvantaged only harbors feelings of dissatisfaction or concern. A situation changes or develops into a dispute if the party who feels disadvantaged harbors feelings of dissatisfaction or concern, directly or indirectly, towards the party causing the loss or another party.<sup>25</sup>

Disputes can be caused by various factors, including differences in interests or disputes between one party and another. It can also be caused by the existence of rigid rules which are considered as obstacles and obstacles to achieving the goals of each party. Because each party will make every effort to achieve its goals, the potential for disputes is large. Disputes that occur must of course be resolved by the parties.<sup>26</sup> The dispute resolution method in Indonesia can be done in two ways, the first can be carried out by litigation (settlement of disputes resolved through judicial institutions) and the second by non-litigation (settlement of disputes outside the court).<sup>27</sup> Dispute resolution through the courts is guided by the Procedural Law which regulates the requirements that must be met in order for a dispute to be submitted and the efforts that can be taken. Meanwhile, out-of-court dispute resolution is dispute resolution carried out based on the agreement of the parties and the pressure for settlement or a dispute is left entirely to the parties in dispute. Dispute resolution outside of court can be done through various methods, including negotiation, mediation, consolidation and arbitration.<sup>28</sup>

Family conflict can be caused by a variety of factors, including:

*First* , differences of opinion or views: each individual has a different view or opinion about how something should be done. This can lead to conflict if no agreement can be reached. *Second* , Differences in values or habits: families can consist of people with different values or habits, which can cause conflict. *Third* , Dissimilarity of expectations or goals: families can have different hopes or goals for the future, which can lead to conflict if there is no agreement

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<sup>24</sup> Ibid.

<sup>25</sup> M Yusuf and Gina Nabilah Effendi, "Eksistensi Pemangku Adat Dalam Pengambilan Keputusan Desa Di Kerinci," *Jurnal Tanah Pilih* 1, no. 1 (2021): 11–19.

<sup>26</sup> Jimmy Joses Sembiring, *Cara Menyelesaikan Sengketa Di Luar Pengadilan*, ed. Zulfa Simatur (Bandung: Visimedia, 2011).

<sup>27</sup> Azzuhri Al Bajuri, "Rekonstruksi Proses Mediasi Keluarga Indonesia," *Hukum Islam* 20, no. 1 (2020): 139–151.

<sup>28</sup> Sembiring, *Cara Menyelesaikan Sengketa Di Luar Pengadilan*.

on the best way to achieve them. *Fourth*, communication problems: poor communication can cause family conflict due to misunderstandings or not being able to understand each other. *Fifth*, financial problems: Financial problems can cause family conflict for various reasons, such as disagreeing about how money should be spent or not having enough money to meet the family's needs. *Sixth*, Health problems: Health problems can cause family conflict for various reasons, such as not agreeing on how to handle health problems or not having enough money to pay for necessary health care. *Seventh*, Personal problems: Personal problems such as addiction, domestic violence problems, or personality problems can cause family conflict.<sup>29</sup>

Here are several ways you can deal with family conflicts:

*First*, identify and understand the source of conflict: it is important to try to find out what causes family conflict, so that the right solution can be found. *Second*, look for a fair solution: if a conflict occurs, try to find a solution that is fair for all parties involved. *Third*, be a good listener: avoid blaming or criticizing others when conflict occurs. Try to listen carefully to what other people have to say and try to understand their views. *Fourth*, avoid taking a defensive attitude: avoid being defensive or too emotional when conflict occurs. Try to stay calm and be open to the solutions offered. *Fifth*, seek professional help: if family conflicts continue and cannot be resolved on your own, try to seek help from a therapist or counselor. They can help families to manage emotions and find appropriate solutions to resolve conflicts. *Sixth*, applying family principles such as mutual respect, understanding and supporting each other can help resolve family conflicts.<sup>30</sup>

*shiqaq* occurs between husband and wife is by each party proposing a hakam, from the husband's side and the wife's side. These two hakam are called *Hakamain*. The rights of each party try to find a solution or improvement by taking into account the interests of the party who appointed them.<sup>31</sup> The Al-Quran also regulates the process of resolving disputes through court or outside court. The process of resolving disputes through non-court channels can be carried out, among others, by a judge.<sup>32</sup>

According to the language, *hakamain* means two hakam, namely a hakam from the husband's side and a hakam from the wife's side to resolve *shiqaq* cases. The term hakam is also

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<sup>29</sup> "Penyebab Konflik Keluarga Dan Cara Mengatasi Konflik Keluarga," *Uin An-Nur Lampung*, last modified 2022, accessed March 8, 2023, <https://an-nur.ac.id/penyebab-konflik-keluarga-dan-cara-mengatasi-konflik-keluarga/#>.

<sup>30</sup> Ibid.

<sup>31</sup> Hamdi, "Konsepsi Nusyuz Dan Syiqaq Dalam Hukum Perkawinan Islam."

<sup>32</sup> Irfan, "Fungsi Hakam Dalam Menyelesaikan Sengketa Rumah Tangga (Syiqaq) Dalam Peradilan Agama."



found in the Qur'an Surah An-Nisa' verse 35 which can also be used as a legal basis, which means: "And if you are worried that there will be a dispute between the two, then send a hakam from the male family and a hakam from the woman's family. If the two hakam intend to make improvements, Allah will surely give taufik to the husband and wife. Indeed, Allah is All-Knowing, All-Knowing." This verse recommends the existence of a third party or mediator who can help the husband and wife in finding a way to resolve their family dispute. This third party consists of representatives from the husband and wife who will act as mediators.<sup>33</sup>

Ibnu Rusyd explains in the book *Bidayatul Mujtahid in chapter fi ba'ts al-Hakamain*, according to Jumhur the ulama agree that the hakamain must come from the husband's family and the wife's family, if there is none it can come from the other party, both of them try to reconcile and unite the disputing parties. They differ in their opinions regarding the right of the hakamain to separate husband and wife, who disagree about whether the husband's permission is required or not. Imam Malik allows the two hakams to separate or unite without receiving the consent of the husband or wife, they assume that the hakam is the judge who has the right to decide; bringing both husband and wife together or divorcing the two by talak or khuluk without permission from both husband and wife. Imam Syafi'i and Abu Hanifah said that the hakamain does not have the right to separate, because the one who has the right to divorce is the husband or his representative and the one who has the right to pay i'wadh khuluk is the wife or his representative.<sup>34</sup>

### **Traditional Institutions**

Based on the Minister of Home Affairs Regulation Number 5 of 2007 concerning Guidelines for Structuring Community Institutions, it is explained in Article 1 Paragraph 15, "Traditional Institutions are Community Institutions, whether deliberately established or which have naturally grown and developed in the history of society or in a particular customary law community with jurisdiction and rights to property in certain customary law, as well as the right and authority to regulate, manage and resolve various life problems related to and referring to applicable customs and customary law."<sup>35</sup>

Dispute resolution carried out through legal legitimacy is the best option for society. Because legal legitimacy is one of the recognition of law in the eyes of society, and is part of a

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<sup>33</sup> Ibid.

<sup>34</sup> Dedi Mulyadi, "Peran Dan Fungsi Hakam Dalam Perkawinan Upaya Menanggulangi Syiqaq," *Bil dalil* 1, no. 2 (2016): 29–47.

<sup>35</sup> Menteri dalam Negeri, *Pedoman Penataan Lembaga Kemasyarakatan*, 2007.

valid legal act and also valid legislation, where this includes formal legal regulations, ethnic law, customary law, and social law existing in society. itself and is legally recognized, so that legitimacy is considered very important in the life of the wider community. In practice, resolving disputes in village communities or areas where the customary legal system is still a concern, the community considers resolving disputes through customary institutions to be the best and easiest way and does not require a long time. In customary law, this occurs when the community decides something through deliberation and consensus is the way. Every decision that concerns the interests of many people can be tested for truth and is free according to law that reflects the principles of justice and propriety. So that traditional leaders do not lose the trust of the community, a leader who is fair and appropriate in making decisions is mentioned in the customs.<sup>36</sup>

## **RESULTS AND DISCUSSION**

### **Kerinci Traditional Institution as Traditional Dispute Resolution**

In the Kerinci region, especially in Kumun Debai, dispute resolution outside of court is usually carried out in the village. These disputes occur with traditional institutions as the dispute resolution authority. Kerinci is the oldest tribe on the island of Sumatra and has had civilization and culture since ancient times. This tribe has many cultural characteristics that are tied to the local population.<sup>37</sup> The Kerinci tribe or called Uhang Kincai, as well as other Sumatran tribes, are Austronesian speakers. Based on language and customs, the Kerinci tribe is included in the proto-Malay category, and is closest to Minangkabau deotro Malay and Jambi deotro Malay. The Alam Kerinci area clearly has a connection with the State of Jambi, because Alam Kerinci is part of Jambi, namely the area of the Jambi Sembilan Village Headquarters.<sup>38</sup> Jambi itself is the province of Kerinci.

As quoted by Irzal Amin from Gusti in the Language Journal, as a remote area, the Kerinci language has its own dialect. The Kerinci dialect is very different from the dialects of other tribes in Sumatra. This is a characteristic of the Kerinci language that is not found in other regions in Indonesia. Kerinci dialects differ as much as the number of villages (native hamlets, traditional community associations) in Kerinci Regency, which altogether number

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<sup>36</sup> Syahrul Silmi and Sukirno, "Upaya Penyelesaian Sengketa Jual Beli Tanah Melalui Putusan Adat Depati IV Kumun Debai," *Notarius* 13, no. 20120 (2015): 14–28.

<sup>37</sup> Yusuf and Effendi, "Eksistensi Pemangku Adat Dalam Pengambilan Keputusan Desa Di Kerinci."

<sup>38</sup> Asyhadi Mufsi Sadzali, Yusdi Anra, and Benny Agusti Putra, "Menjadi Minangkabau Didunia Melayu Keirnci: Identifikasi Akulturasi Budaya Minangkabau Di Keirnci Ditinjau Dari Tinggalan Arkeologi Dan Sejarah," *Ilmu Humaniora* 03, no. 02 (2019): 276–293.

approximately 177 dialects. With their language, the people in the Kerinci area have also given birth to their own literature which is also called Kerinci literature. Some of this literature is in the form of written literature that uses Incung script and Malay Arabic script, there is also oral literature which is Kerinci folklore.<sup>39</sup>

In general, Kerinci has a form of community group leadership headed by a hamlet head. In the history book of the Kerinci people's struggle, it is stated that the hamlet head, apart from functioning as the hamlet leader, also functions as the traditional head or traditional elder. The customs of the hamlet community are fostered by Depati and Ninik Mamak, under Depati there is the role of Permentri, which consists of Rio, Datuk and Pemangku. The Minister of Agriculture has the task of resolving all disputes experienced by his family. The traditional adage states that the task of the Ministry of Ministers is to be murky and clear, it is difficult to complete it, those who are far away are approached, and those who are close to them are served. The Minister of Agriculture has an important role in resolving problems that result in disturbing the peace of members of the community.<sup>40</sup>

The Ninik Mamak government sector is an informal actor that has the power to determine policy. Strong authority in social society makes ninik mamak able to resolve conflicts, inheritance issues and traditional events. Furthermore, the ninik mamak's authority extends into formal government affairs within the government structure and does not become part of the government. The ninik mamak is elected openly with candidates having to be willing to take care of the members (*male and female children*) so that the ninik mamak has power which is chosen based on *qolbu*. Next, the elected ninik mamak is confirmed by taking a sacred oath from the religious leader which makes his power strong and dominating because it is based on requests and *qolbu*, imperatives and sacred customary decisions in the village. The domination of ninik mamak power is symbolized through the inheritance of previous traditional elders in the form of heirloom objects (*pusako*) and its legitimacy is sacred at village traditional events which explain the application of local wisdom values tied to the ideology and values of traditional advice or messages. The domination of custom over society is due to the open space for customary institutions to express themselves as informal actors capable of existing side by side with the state. Moreover, the ninik mamak has legitimacy from the community through

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<sup>39</sup> Irzal Amin, R Syahrul, and Ermanto, "Cerita Rakyat Penamaan Desa Di Kerinci," *Bahasa, Sastra dan Pembelajaran* 1, no. 1 (2013): 31–41.

<sup>40</sup> Deria Sepdwiko, "Upacara Adat Kenduhai Sko Pada Masyarakat Kerinci Provinsi Jambi," *Besaung* 1, no. 1 (2016): 49–55.

sacred rituals which make the *ninik mamak* a legitimate authority in the community's social life.<sup>41</sup>

### **Efforts to Settle Syiqaq Disputes in Kumun Debai, Sungai Full City**

Efforts to resolve disputes carried out through customary institutions are one of the efforts to reconcile and resolve a case that occurred in a customary community in the Depati IV adjunct (direction) area. In the Kumun Debai customary law community, Sungai Banyak Kerinci City, dispute resolution efforts have become a habit for resolving disputes among members of the customary law community, through alternative three-level dispute resolution efforts.

Information obtained from parties involved in the syiqaq dispute, as well as several related communities and traditional institutions. The following is an excerpt from an interview the author conducted. AL explained that the efforts to resolve disputes in Kumun Debai were to resolve the *Sko Tigo Takah dispute*, the first was *Sko Tenganai*, the second was *Ninik Mamak* and the third was *Sko Depati*. The highest traditional institution in Kumun Debai is Depati IV.<sup>42</sup> The MK said that Kerinci has its own Depati in each sub-district, and in Kumun Debai it is called Depati IV. This depati has the smallest unit in each village called *ninik mamak* which consists of *Depati Balam*, *Depati Nyampai*, *Stakeholder for Adat* and *Stakeholder for Religious Pillars*.<sup>43</sup> Below is an explanation of the syiqaq dispute cases that occurred in Kumun Debai between 2021 and 2022. There were six cases found here, but four were successfully resolved in traditional institutions and two cases went to court. Below, only cases are described that were resolved through traditional institutions.

The first case of shiqaq was caused by infidelity, DF (husband) explained that this dispute started with him often going out at night. He did this to relieve fatigue after working all day. At that time his wife had an Android cellphone and often spent time playing on social media. One time his wife was not at home and his wife's cellphone was used by his son to play games, after playing his son left his cellphone with him. When he accidentally opened his wife's social media, he found out that his wife was cheating on him, because of this they had an argument and he left the house, which was his wife's parents' house, and he went back to his parents' house.<sup>44</sup>

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<sup>41</sup> Yusuf and Effendi, "Eksistensi Pemangku Adat Dalam Pengambilan Keputusan Desa Di Kerinci."

<sup>42</sup>AL, Wawancara dengan masyarakat Kumun Debai, Maret 05, 2023

<sup>43</sup>MK, Wawancara dengan masyarakat Kumun Debai, Maret 05, 2023

<sup>44</sup>DF, Wawancara dengan pihak yang bersengketa, April 26, 2023

AM (wife) said that after her husband left home she was advised by her parents, after realizing that her actions were wrong and remembering that their child was still small, she asked for help from Tengganaï to solve the problem.<sup>45</sup> In this case, the hakam who resolved the dispute was Tengganaï, namely the elder of the woman's side, where Tengganaï received a complaint from AM and asked to come, after receiving the complaint, Tengganaï asked both parties to come. In this case, the meeting place was at the wife's house, Tengganaï asked the husband why he had left the house and the husband explained that it was because the wife was cheating, then Tengganaï asked the wife whether what the husband said was true, the wife stated that it was true and explained that the cheating was just for chatting. on social media and never met at all. Then the wife was given advice by Tengganaï that what she had done was wrong, the wife apologized to her husband and promised not to repeat the same thing, after the husband forgave his wife's mistake, the two of them returned to peace. This is in accordance with NS's statement that after being given advice and the wife realizing her mistake and apologizing to her husband, they reconciled.<sup>46</sup>

The second case of shiqaq occurred between R (husband) and I (wife), who had often quarreled. One day, when the two of them had a big fight, I wanted to leave the house to go to my grandmother's house, but was stopped by my mother's brother. When the wife returned, the husband, who was still emotional, asked if the wife wanted a divorce, but the family stopped him and the two were separated and the husband returned to his parents' house. After the incident the next day, the family and the wife's family gathered to calm the wife down. After calming down, the family called the husband to meet. When the two parties to the dispute were asked for information, it was discovered that the dispute was because the wife was jealous of her husband. Then the Tengganaï gave advice to both of them and after being given advice, the two of them made peace by apologizing to each other.<sup>47</sup>

The third case of syiqaq was motivated by a misunderstanding between A (husband) and J (wife). This case started with the husband who often worked in the rice fields and the wife who worked as a stall guard. When the husband came home from the rice fields he saw a man shopping at their stall, a man he had met several times shopping while talking to his wife. Seeing this, he thought that his wife was having an affair with the buyer, after several conflicts between the two of them, one day the husband's domestic violence occurred against his wife. The

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<sup>45</sup>Am, Wawancara dengan pihak yang bersengketa 28, 2023

<sup>46</sup>NS, Wawancara dengan tengganai, April 28, 2023

<sup>47</sup>RM, Wawancara dengan keluarga, Maret 05, 2023

neighbors who heard this took the wife to her mother's house which was not far from their house. This is in accordance with what YN said that he heard a commotion then went to the parties' house and saw the husband slapping his wife.<sup>48</sup>

In the case above, the hakam is the ninik mamak. When his wife was taken to her parents' house, the wife's mother called Tengganaï and asked A to also gather at J's parents' house. After Tengganaï heard the statements of both parties and found that it was just a misunderstanding, and Tengganaï asked A to apologize to J, but because J was still emotional about refusing the apology even though he had been advised by the Southeast. J, who did not accept Tengganaï's decision, came to Ninik Mamak with a request to divorce A. J invited Ninik Mamak to come the following night. At the meeting, both parties from each party were also present. Ninik Mamak asked the woman about the problem and then asked the husband whether what the wife said was true and the husband confirmed what the wife said. The wife was asked to explain what really happened, because it was not proven that the wife was even able to swear. Then, Ninik Mamak gave advice to the two of them and asked the husband to apologize to his wife and make a statement not to repeat the same thing (as a sign of peace). The husband was also asked to pay a fine. According to what AK said as the ninik mamak, they were successfully reconciled and the husband was asked to pay a fine because the dispute had reached the ninik mamak amounting to *Bereh Sepingga Aya Siko* (Rice for a Plate of One Chicken is a term for carrying out a small thanksgiving by inviting the ninik mamak back at the specified time ) and paid IDR 200,000 to Ninik Mamak.<sup>49</sup>

The fourth case between S (husband) and D (wife) started with S who migrated leaving his wife and two children in Kumun Debai where his wife was not a native of Kumun Debai. S had been away for years and only came home a few times, D and his children lived in their house not far from S's parents' house. One day the husband's mother died, a few months after the mother left, the husband contacted his wife in annoyance. said that the wife did not help her mother when she was sick, she found out about this from her brother, but the wife denied it. For some time they continued to argue and one day the husband wanted to divorce his wife and said that he had a new woman. This case was stated by RY, who is S's family member.<sup>50</sup>

EW said that because D was a foreigner, he didn't have a village and didn't want to ask for help from S, so he asked for help from Ninik Mamak. When the meeting happened because

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<sup>48</sup>YN, Wawancara dengan masyarakat Kumun Debai, Maret 09, 2023

<sup>49</sup>AK, Wawancara dengan ninik mamak, Maret 09, 2023

<sup>50</sup>RY, Wawancara dengan masyarakat, Maret 06, 2023

D was already hurt by her husband's family, she didn't want to make peace and asked to just separate from her husband. The husband was only present by telephone and continued to say that he also didn't want to make peace because he already had a new woman overseas, because it couldn't be resolved at ninik mamak. The case reached the highest institution, namely the Depati in the District.<sup>51</sup> This is in accordance with US's statement that they both had their own desires so they no longer received advice from Ninik Mamak, therefore this case reached Depati.<sup>52</sup>

After a settlement was held at the ninik mamak level, the dispute could not find a resolution, so the ninik mamak wrote a letter to the Depati IV traditional institution to resolve the dispute. After receiving a letter from Ninik Mamak, Depati formed a team, the team was taken from each *Qolbu* (Luhah Perfect Bumi Putih Real Negoro, Poronegoro, and Galang Negeri). This team resolved disputes by collecting data and facts that actually happened in the field, and collecting The parties to the dispute, at the depati meeting, ask the wife what happened and ask the husband again whether what the wife said is true. The data that was collected found that the husband who stated that he had another woman was lying, he did this because he felt hurt by his wife's behavior, but the fact that was found that the wife was taking care of her mother was confirmed by neighbors and other family members. The depati team then carried out an investigation and came to the conclusion that this was not true, then the parties in the dispute were asked to forgive each other in accordance with the traditional saying *such as pulling hair in flour, hair does not break, flour does not spill* (neither party is harmed) . Then those in dispute paid a court fee of Rp. 4000,000 (four million rupiah) in accordance with the agreement of the Depati IV Kumun Debai institution.<sup>53</sup>

From some of the case resolutions above, it can be seen that the Traditional Institution in resolving syiqaq disputes acts as a mediator or third party to provide explanations and advice to disputing couples, but the decision remains in the hands of both parties. As explained, if one party does not accept the results of sitting tengganai, then one party can ask for help from the ninik mamak in an effort to resolve the dispute, and if it is still not resolved then the dispute will be brought to the highest traditional institution, namely Depati IV. However, in reality it is very rare for marriage disputes to reach the highest institutions because marriage disputes can usually be resolved in Tengganai and Ninik Mamak, unlike other disputes such as land disputes

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<sup>51</sup>EW, Wawancara dengan masyarakat, Maret 06, 2023

<sup>52</sup>US, Wawancara dengan ninik mamak, Maret 09, 2023

<sup>53</sup>Amiruddin, Wawancara dengan mantan Ketua Lembaga Adat Depati IV Kumun Debai, Mei 27. 2023

which involve many parties and require a lot of data, they will quickly reach the highest traditional institutions.

Many parties choose to resolve disputes through traditional institutions because the costs are relatively cheap, such as resolving disputes in Tenganai without fees, then resolving disputes in Ninik Mamak with just a small thanksgiving, except in Depati which costs quite a lot, this is because it involves many parties in the process. the completion process, the implementation process is also relatively fast, as whenever a customary institution receives a report, it can come right away without having to register first like in court, this can be seen from the cases that have been described. Many people have also succeeded in resolving disputes in traditional institutions peacefully, as has been explained. Of the six cases that occurred, four cases were successfully resolved peacefully in traditional institutions.

## CONCLUSION

Based on the previous explanation or description, it can be concluded that the process of resolving syiqaq disputes through traditional institutions is that *first*, traditional institutions receive complaints from disputing parties to help resolve the dispute, secondly, *traditional* institutions attend invitations from disputing parties at the specified time, *thirdly*, traditional institutions request each -Each party explains the problems that occur, *fourth* of the problems raised by traditional institutions research, study, draw conclusions and provide direction or advice to the parties in dispute in accordance with customary law, *fifth* traditional institutions ask for decisions from both parties to the dispute, *The sixth* resolution is by apologizing and the parties making an agreement both verbally and in writing.

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