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## THE PRACTICE OF ESTABLISHING ISLAMIC LAW BY INDIGENOUS PEOPLE: A Study of Five Villages in Kedepatian Semerap, Kerinci Regency

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### HIGHLIGHT

*- The practice of enacting Islamic law by indigenous peoples represents a group with legal authority in five villages in Kedepatian Semerap Kabupaten Kerinci.*

### ABSTRACT

*Every fatwa issued by the ulama for a particular village in Kerinci refers to the adage, specifically in the five towns of the Kedepatian Semerap. In these five villages, the fatwas were issued and legitimized by the adat community. This article aims to determine what decisions are made and how the practice of establishing Islamic law by indigenous peoples in the customary area of the Kedepatian Semerap, Kerinci Regency. This type of research is qualitative field research. The data sources in this study are divided into two, namely, primary sources and data originating from traditional stakeholders, including elements of four types of adat, namely depati ninik mamak, tonggak pemarang, cerdas pandai, and ulama. While secondary data, namely*

*documentation of customary decisions in the Kedepatian Semerap customary area. Data collection techniques were used in the observation, interview, and documentary research. The data analysis technique used is data condensation, data presentation, and conclusion drawing (verification). The study results show that the decisions of Islamic law determined by the adat community are Islamic legal decisions which are furu'iyah (branching), not ushul (principal) issues. The issues of the Islamic law that were decided included marriage (dowry), sunnah worship (terawih prayers and distribution of qurban meat), and once agreed on the issue of ushul (zakat). The practice of establishing Islamic law in the Kedepatian Semerap area was carried out at the gedang house, which was attended by four elements consisting of elements of depati ninik mamak and elements of ulama, elements of tonggak pamarang (post-duty ninik mamak), and elements of cerdik pandai. Determination of Islamic law is carried out by deliberation and consensus, and if no agreement is reached, the depati will use his prerogative rights in making legal decisions.*

## **KEYWORD**

*Islamic Law, Indigenous Peoples, Kedepatian Semerap, Law Enforcement*

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## **A. INTRODUCTION**

*Fiqh* is a product of Islamic law born from *ushul fiqh* reasoning and very strict *fiqh* rules. It is common knowledge that *fiqh* was born from the thoughts of the *ijtihad* of scholars. Ulama have a very important role in determining Islamic legal decisions. The method of determining the law (*istinbath*) has various forms and models. One elastic model is *al-'urf* (good habits). Like *fiqh*, which must go through a strict stage of *istinbath*, *al-'urf* has special requirements to be used as a source of Islamic law. Free from conflicting arguments, they are general truths, not individual truths, and are old traditions that are repeated, not new traditions made up (Wandi, 2018).

The relationship between Islamic law and customary law in the local culture of the Kerinci community is generally strong. Reflected in the adage "*adat bersendi syara', syara' bersendi kitabullah*". This adage is repeated in every opening of the traditional speech of the Kerinci people. So that the strong bond between Islamic

law and customary law has become its version of *al-'urf*. The Kerinci community is an indigenous community that has existed for a long time. The people of Kerinci live by tightly held customary law norms. Traditional ceremonies are often held in parts of the customary area (*kedepatian*). The highlight of the biggest traditional event in the Kerinci area is the *ske* feast (Ramadani & Qommaneeci, 2018).

The uniqueness of the Kerinci area lies in the different customary cultures in each *kedepatian*. Each *kedepatian* has its customary structure covering different customary regions. In the Malay community, for example, in the Jambi region, the community strongly adheres to the traditional adage "*adat bersendi syara', syara' bersendi kitabullah*" (Rahman & Rahman, 2017). This proverb is also used in the *Kedepatian Semerap* customary area. Every community legal decision related to family and community problems cannot be separated from the essence of the adage. So that every *syarak* employee (religious leader) in indigenous peoples always considers two aspects, namely customary law and Islamic law.

The product of Islamic law in the form of a fatwa is generally known to be the result of the *ijtihad* of scholars. According to Yusuf Qardhawi, fatwas are the answer to the problem of sharia law. Furthermore, a mufti should master the texts very well, take *ta'wil*, know the nature of the events that occurred, not follow his passions, not deviate from the wrong understanding of Islam, not be obedient to Western thought, not fanatical about previous fatwas, and always pay attention to the surrounding conditions (Al-Qaradhawi, 1997). Fatwa should contain answers to problems of Islamic law which are usually spearheaded by Islamic jurists (*ulama*) directly (Hooker, 2003b, 2003a). In fact, in the *Kedepatian Semerap* customary area, it is resolved through customary mechanisms.

The relationship between the Kerinci community and Islam has been going on for a long time. Researchers have successfully documented this. Several studies are evidenced by the discovery of *Tambo Kerinci*, which was researched by Voorhoeve (Voorhoeve, 1942). Uli Kozok then refined *Tambo Kerinci* in 2006 (Hoogervorst, 2016). *Tambo Kerinci* is divided into several *Mendapo* (places for associating traditional leaders "*depati*"). *Mendapo Lima Dusun, Mendapo Rawang, Mendapo Depati Tujuh, Mendapo Kemantan, Mendapo Semurup, Mendapo Hiang, Mendapo Seleman, Mendapo Keliling Danau, Mendapo Tanah Kampung*, and *Mendapo Penawar*.

*Kedepatian Semerap*, the place of research, is currently an administrative area of the Keliling Danau District. Now, the area Keliling Danau has different regions of *Kedepatian*. *Tambo Kerinci* is a benchmark for how customary law and all customary instruments have been ingrained in the Kerinci community. A well-maintained writing culture indicates that Kerinci has an intelligent civilization. It is

proven by the script written with horns, bamboo, bark, and paper media (Sunliensyar, 2020). In the Tambo Kerinci script, the relationship between the Kerinci people and the Islamic kingdom has continued since the XVII-XIX centuries.

Studies that carry the theme of 'urf in Indonesia, rich in local culture, are common. Both in national and international research. Researchers found relevant previous research, including *Al-Insijam Baina Al-'Urf Wa Al-Shari'ah Al-Islamiyyah fi Taqlid Ngarunghal Bi-Majalengka* (Taufiki & Badriyah, 2021). Taufiki's study discusses the harmonization of sharia and tradition, where sharia has now accepted customary values and adat has accepted Islamic law principles, as happened in the Majalengka adat community. Another study on the efforts of customary law and sharia law occurred in Nigeria. In Nigeria, these efforts were strengthened but failed due to different classifications between the two types of law (Busari, 2021).

The next research discusses the internalization of 'urf in dispute resolution of indigenous peoples, where the 'urf plays an important role in dispute resolution and family resilience in indigenous peoples in Aceh (Djawas & Samad, 2020). The acculturation of Islamic and customary law, which is also the basis of this research, was once carried out by Erwati Aziz et al. Aziz et al.'s research focused on indigenous peoples in Minangkabau (Aziz, Dzofir, & Widodo, 2020). In the theoretical realm, the status of 'urf has been discussed for a long time, transnationally, by experts in Islamic law in 1988. This research shows that 'urf not only plays a role in Islamic law and customary law, but it has also even arrived at the study of modern positive law (Shabana, 2019).

This research focuses on the "muteih syara" process, namely the termination of the law by traditional leaders and their staff. In the customary area of the Kedepatian Semerap, the indigenous community's territory, 18 traditional leaders shelter. When there are problems in indigenous peoples, traditional leaders make legal decisions that focus on this study. This researcher aims to explain how the customary system applies to indigenous peoples in the Kedepatian Semerap Customary Area and what Traditional leaders decide Islamic law rules. The selection of the research location in the Kedepatian Semerap Territory was considered representative of the indigenous community.

## **B. METHOD**

The research method in this study is qualitative field research (field research). The focus of the law understudy is the realm of Islamic law relating to issues of 'ubudiyah (worship), *munakahat* (marriage), *mawaris* (inheritance), and *muamalah* (commerce and other social relations). The Kedepatian Semerap customary area is very thick with the religion of Islam. The majority of the population in the

Kedepatian Semerap everyday area is Muslim. The ulama (religious leaders) in the Kedepatian Semerap customary area are part of the element regarding the termination of the law. *Urf* becomes a theory in this study because the *urf* theory is used as an analytical knife in studying Islamic law and customary law simultaneously. The location of this research is in the Five Villages of the Kedepatian Semerap Region. Administratively, the area is located in Keliling Danau District, Kerinci Regency, Jambi Province.

The source of this research data comes from primary data and secondary data. The primary sources used are the customary holders, which include elements of four types of adat. Depati ninik mamak, *tonggak pamarang*, *cerdik pandai*, and ulama. Data collection techniques used include interviews, non-participant observation and documentation. The data analysis technique is in the form of reducing data that is not needed, then presenting primary and secondary data with an analysis of the theoretical framework of *urf* and *instinbath* Islamic law, and then drawing conclusions (Miles & Huberman, 1984).

The position of *urf* as an analytical tool is needed in the basic theory step. Several theories that will be used as operational theories are contextual *instinbath* methods. The theory of *fiqh* as a solution to social problems was introduced by KH. MA. Sahal Mahfudz and KH. Ali Yakfi in social *fiqh* theory. On the other hand, the discussion of *urf* also gave rise to a new theory, namely the theory of *receptie a contrario*, in which customary law can be recognized if it follows Islamic law principles. Methodology explains what research method was used, how the data was collected, and proceed quantitatively or qualitatively to present and discuss.

## C. RESULT AND DISCUSSION

### Kedepatian Semerap Customary Area

Kedepatian Semerap is located in Keliling Danau District, Kerinci Regency. The Kedepatian Semerap Customary Area is an area that houses five villages, including Semerap Village, Koto Patah Village, Koto Baru Village, Pasar Semerap Village and Koto Tengah Semerap Village. The Indigenous Peoples of Kedepatian Semerap have a variety of jobs, including State Civil Apparatus, Indonesian National Army or Indonesian Republic Police, Farmers, Fishermen, Hunters, Traders and so on. The Kedepatian Semerap area is on the edge of Lake Kerinci and under the Bukit Barisan. The word Semerap comes from the Javanese Kromo, which means knowledge. However, the word Semerap in the history of the Kedepatian Semerap region means "seeing from afar". This is due to an oral story passed down from generation to generation that tells of Semerap's ancestors who saw this area from afar, namely the Sanggaran Agung Village area. Kedepatian Semerap came from Minangkabau land named Grandmother Sanggodirajo, located on Sangkar Island. Once upon a time, Grandma Sanggodirajo sought a new place to live. After stopping at Sanggaran

Agung, you can see an area on the lake's edge and under the hill from afar. At that time, the Kedepatian Semerap area was already inhabited by a community (Kamar, 2020).

Grandmother Sanggodirajo to the area would later establish the Kedepatian Semerap area in the early 18th century. Before that, the government in the Semerap area was under the supervision of the customary government of Pulau Sangkar. The increasing population in the Kedepatian Semerap area expands the demographic scope, which children lead from Sanggodirajo:

1. Dusun Koto Lebu at Batu Anggit ruled by Rio Sengajo;
2. Dusun Koto Patah at Hilir ruled by Rio Temenggung;
3. Dusun Paroh at ruled by Rio Jayo; and
4. Dusun Satudung at ruled by Rio Dapsah.

The socio-cultural conditions of the Kedepatian Semerap community are homogeneous, namely that community members still have lineage linkages, so relationships between community members are still well established. Any problems or disputes will be resolved employing deliberation between families in the customary term of *unding dupiak*, if not resolved, it will also be determined by *ninik mamak* as the one responsible for the male child and female child of Kedepatian Semerap if it is also not resolved it will be discussed at the before the *kaum empat jenis*, and if it is still not resolved, then it is determined according to the provisions of the law of the Unitary State of the Republic of Indonesia.

The Kedepatian Semerap Territory has two governments. Village government and customary government in the Kedepatian area. The village government plays an important role in the implementation of government programs. Government programs cannot run properly without good village government management because the village government is the spearhead of governance (Khudri, 2020).

The running of the village government in the Kedepatian Semerap cannot be separated from the role of traditional institutions, especially in terms of village government policies that are directly related to the community because the policy must obtain prior approval from customary institutions. With all the limitations in the Kedepatian Semerap, village officials' division of tasks and authority has begun, although there are still many obstacles.

### **Kedepatian Semerap Traditional Leader**

The traditional leaders in the Kedepatian Semerap customary area are selected people with customary titles. The previous *adat* leader gives the title of *adat*. People with *adat* titles have the authority to decide on *adat* law in the *adat* area of the Kedepatian Semerap. The traditional leaders consist of eight *depati* and 10 *ninik mamak*. Currently, traditional leaders are held by the following community leaders, namely:

1. Depati
  - a. Ismail titled Depati Mudo;
  - b. Rahimi titled Depati Payung;

- c. Abu Kasim titled Depati Telago Putih;
- d. Ahmadi titled Depati Telago Hitam;
- e. Sulaiman titled Depati Nanggalo;
- f. Mhd. Daulai titled Depati Kecil;
- g. Zul Fahmi titled Depati Lipan; and
- h. Mat Talibin titled Depati Simpan Negeri.

## 2. Ninik Mamak

- a. M. Nasir titled Pemangku Adat;
- b. Mashuri titled Rio jayo;
- c. Saidina Umar titled Rio Sangajo;
- d. Khairi titled Rio Dapsah;
- e. Inal titled Rio Temanggung;
- f. Jailani titled Rio Bentang;
- g. Al Hudaia titled Rajo Mudo;
- h. M. Daud titled Rajo Batuah;
- i. Abd. Malik titled Rajo Pati; and
- j. Irwandi titled Menggung.

*Depati* and *ninik mamak* are the most influential people in the Kedepatian Semerap customary area. *Depati* and *ninik mamak* are included in the four types of leadership elements in the Kedepatian Semerap. In addition, there are also ulama, *cerdik pandai* and *tonggak pamarang* (*purnatugas depati* and *ninik mamak*). The four types of parts of the leadership of the Kedepatian Semerap area are also called the *kaum empat jenis*.

In the Kedepatian Semerap customary area, there are rituals of *panen* feast (*padi tuai*) and *pusako* feast (*kenduri sko*). *Panen* feast is usually held once a year. At the same time, the *kenduri sko* is held when the traditional leadership shifts. During the *kenduri sko*, there are many sacred heirlooms. In the implementation of the *kenduri sko*, there are four types of elements that give the task. *Kenduri sko* is usually held every five years. There is also a special feast called *kenduri rio*, organized by the *depati ninik mamak*. The ritual is in the form of eating together and reading prayers in a special place.

## Islam in the Kedepatian Semerap Area

Tracking the entry of Islam into the Kedepatian Semerap of Region is difficult to determine when and how the process will take place. According to Qodi Raja, at least during his lifetime, there were three influential religious figures in the Kedepatian Semerap, namely:

1. Haji Ilyas;
2. Haji Karim; and
3. Tengku Sultan

The religious education background of the ulama in the Kedepatian Semerap customary area comes from Islamic boarding schools (*surau-surau*) in West Sumatra and Malaysia. One of the pieces of evidence found was a yellow book that reads Padang Panjang in the 1950s. The Yellow Book, owned by one of the scholars in the Kedepatian Semerap, consists of the knowledge of *nahwu sharaf*, *tasawuf*, and *fiqh* and Malay Arabic books published in Johor and Malaka.

The influence of Islam in the Semerap traditional area was influenced by religious education in the Semerap customary area and then continued school in Padang Panjang, West Sumatra. The habit of people working and studying religion in Malaysia also affects the Islamic style in Semerap. In fact, according to the story, some scholars made pilgrimages to Mecca while studying there in the past. The Kedepatian Semerap area has a nuanced religious-traditional pattern and is influenced by Islamic religious culture with a Minangkabau scientific and cultural style. No wonder "*adat bersendi syara', syara' bersendi kitabullah*" is often heard and has grown as a value firmly held in the Semerap region.

Islam is the religion of most people living in Kedepatian Semerap. Relics in the Grand Mosque built around the 1800s AD are clear evidence of the development of Islam in the Kedepatian Semerap Adat area. According to Qodi Raja's confession, the Semerap Region had become a centre for learning Islam in the land of Kerinci. Several ulama held recitations in their homes, and many students came from various regions. The elders in the Kedepatian Semerap Territory who had recited the Koran with the scholars in the past had many yellow books in Malay. A feature of the Malay Islamic civilization in the traditional land of Kedepatian Semerap.

### **Islamic Law Establishment Procedures in Indigenous Area**

The existence of Islamic and customary law in Indonesia is a material object of the law. As well as being part of social ethics in Indonesian society. The existence of Islamic law and customary law in Indonesia, there are at least six theories that have found typological patterns of customary law and Islamic law (Muzamil & Mashdurohatun, 2014), namely:

#### **1. Kredo or Syahadat Theory**

The kredo theory is the oldest theory which states that all Muslims are a *mukalaf* (a person subject to Islamic law) since someone took the *syahadat*. The theory of the kredo has existed since the origin of the theory in Islamic politics, namely the theory of territoriality and non-territoriality. Territoriality theory states that a Muslim must obey Islamic law if an area adheres to Islamic legal regulations. At the same time, the theory of non-territoriality is a theory that says that Muslims are always obliged to implement Islamic law wherever they live. Until now, it can be said that all Muslims in Indonesia embrace the theory of non-territoriality.

#### **2. Receptio in Complexu Theory**

The inventor of this theory was Lodewijk Willem Christian van den Berg (1845-1925). The receptio in complexu theory was adopted in Stbl. 1882 No. 152, which states that the



indigenous people apply their religious law. VOC regulations for natives first adopted Islamic marriage and inheritance laws at that time. Until the Daendels era, there was an assumption that the original law was Islamic, and the law used by the Javanese at that time was Islamic.

### 3. Receptie Theory

The receptie theory was born after the receptie in complexu theory. In this theory, the VOC was considered to want to reduce the power of Islamic law in the society that existed earlier. None other than the birth of the receptie theory is the anticipation of the growing influence of the Muslim community. Receptie theory says that Islamic law only applies if it has been received by and has become their custom. The existence of the receptie theory wanted to fortify the Dutch East Indies government from the great influence of the Islamic movement in Africa. It is feared that the Indonesian people will do the same. The elimination of Islamic law material from the Dutch East Indies Law for the Indonesian people was pioneered by Chirstian Snouck Hurgonje and then adopted by Van Vollenhoven and Ter Haar. The application of the receptie theory until the independence of the Republic of Indonesia.

### 4. Receptie Exit Theory

The first time the receptie exit theory, was introduced by Professor Hazairin to falsify the previous receptie theory. Receptie theory is considered inappropriate for use in Indonesian society, which is predominantly Muslim. Hazairin thought that the 1945 Constitution was very contrary to the receptie theory. Because the Unitary State of the Republic of Indonesia is based on Pancasila and the 1945 Constitution, which is based on the Belief in One God. In essence, the receptie exit theory attempts to remove the receptie theory from its influence in Indonesia.

### 5. Receptie a Contrario Theory

The receptie a contrario theory was first introduced by Professor Hazairin to provide a counter receptie theory. This theory suggests that customary law can apply if acceptable and follows Islamic law. Evidence of this theory can be seen in Islamic marriage and inheritance law. Islamic law must take precedence over customary law. Customary law can only be accepted by Islamic law if it does not conflict with custom.

### 6. Existence Theory

The theory of existence is a theory that reveals that Islamic law is contained in the national law of the state. The existence of Islamic law can be seen from the applicable laws and regulations. The existence of Islamic law can be seen through several things:

1. The existence of Islamic law is recognized as part of national law;
2. The existence of Islamic law is recognized for its independence, authority, the power so that it is given a national legal status;
3. The existence of Islamic law is made the legal norm of the state; and,
4. The presence of Islamic law is the main ingredient and main element of national law.

Departing from the theories above, it can be seen that in the Kedepatian Semerap area, there are two opposing theories, sometimes customary law has a higher position than

Islamic law (*receptie theory*), and there are times when Islamic law has a higher position than customary law on certain issues, especially the issue of '*ushuliyah* (worship (*the theory of receptie a contrario*)).

Customary law has a higher position than Islamic law, which is illustrated by the frequent occurrence of customary decisions binding on the Semerap people. For example, in the Kedepatian Semerap area, if you want to slaughter a four-legged animal, you must first ask permission from the *depati ninik-mamak* (traditional leaders). In addition, marriages in the Kedepatian Semerap customary area must go through the knowledge and permission of traditional leaders. If not, the marriage is not legally valid, likewise with the election of village heads in the Kedepatian Semerap area. The election of village heads in the Kedepatian Semerap customary area was carried out by deliberation by the leaders of four types of customs, namely *depati*, *ninik mamak*, *ulama* and *cerdik pandai*. As for those who may nominate as village heads, the *depati* and *ninik mamak* are still alive (Efyanti, 2017).

In everyday matters, apart from issues of Islamic religious worship, customary law is held in high esteem as the law that regulates all aspects of the life of the Semerap community. The procedure for determining Islamic law in the Kedepatian Semerap customary area is through a deliberation stage involving traditional leaders. Deliberation aims to provide legal decisions that are beneficial to the general public.

### ***Muteih Syara'* (Islamic Law Decision): Establishment of Islamic Law for the Indigenous People of Semerap**

The changing times that are happening at this time have had a lot of impact on human life (Achmad, 2013). The survival of culture and traditions in the Kedepatian Semerap area is no more due to the strong role of customary. The existence of *adat* is proven by the integrity of the indigenous peoples and their traditional leaders, who trust each other. The selection of *depati ninik mamak* went through a very well-maintained procedure. Some of the conditions are never to steal, both in the eyes of the public, never to deal with state law and not to commit disgraceful acts. After taking office, there are rules of values and norms if you go out of the house, you are not allowed to wear shorts or razor t-shirts, must use a head covering and don't hang out installs. It could be said that the 18 *depati ninik mamak* were all like kings.

If a case occurs in the community, the *depati ninik mamak* may not go down directly but send a male child (*pesuruh depati ninik mamak*) to investigate the head of *hulu balang*. In carrying out their duties, the *depati ninik mamak* is assisted by a *jantan* child and a *betino* child (*traditional gedang house assistants*), the village *hulu balang* (maintains the security of the customary land), the *dukun negeri* (performs traditional rituals), the *bidan negeri* (the traditional birth attendant who is legalized by custom) and *juru tulis* (which records all kinds of administration *ninik mamak*). In the case of *depati ninik mamak* as king, he cannot be called by his real name, he must have his customary title, even by their parents (Hudaya, 2020).

In a traditional event, the *perno adat* (*adat* speech) must be carried out in every event attended by the *depati ninik mamak*. The contents of the *perno adat* are always preceded and pay attention to the traditional values of the Kedepatian Semerap, namely: “*adat bersendi syara’*, *syara’ bersendi kitabullah*”. The value is very high for the Semerap indigenous people. At this point, it can be said that the indigenous people of Kedepatian Semerap are a concrete manifestation of the reality of the *receptie a cantrario* theory.

In Kedepatian Semerap, every religious problem must be resolved at the big house. Gedang House is the house occupied by Depati Mudo. The top leadership of the *depati ninik mamak*. In the *gedang* house, everything is determined or commonly known as the plenary session. Before the final determination, small meetings are usually held. Especially for *syarak* employees, it is carried out at the house of Qadi Raja, the highest leader of the ulama in the Kedepatian Semerap. Small meetings were held before gathering at the *gedang* house.

In determining Islamic law, a *muteih syara’* procession is carried out. The *muteih syara’* customary event is the process of determining Islamic law carried out by four elements, namely *depati ninik mamak*, ulama, *tonggak pamarang* (*purna tugas ninik mamak*), and *cerdik pandai*. Islamic law that is decided covers everything related to religious issues other than *fardhu* worship (*ushul/principal*). *Muteih syara’* decides Islamic law cases that are *furu’* (branches). If an agreement is not found in the deliberation, then according to custom, the duties are taken over by the *depati*, which is chaired by the *depati mudo* totalling eight people. All levels of the indigenous people of Kedepatian Semerap must follow all decisions.

### Products of Islamic Law by Indigenous People

The main elements in the Kedepatian Semerap area consist of *syarak* officers, namely the managers of the Kedepatian Semerap Grand Mosque, including:

1. *Qodi Raja* is the head of the ulama element and the *syarak* officer. Selected based on their ability and experience in the field of religion. The term of office is not limited in time..
2. *Imam* is a person who is considered to read the Al-Qur’an more fluently than others and has a term of office of three-year calculated from Eid al-Adha.
3. *Khatib* is a person who is good in delivery and language skills and is considered to have the adequate ability in the field of religion.
4. *Bilal* is a person who is appointed from the *qori’* of the Al-Qur’an and has a good voice. Usually, younger people are given a three-year term starting from Eid al-Adha.
5. *Tuan Shaykh* is in charge of managing the household of the Great Mosque of Kedepatian Semerap, from cleanliness and equipment and his role as a substitute for the Imam, Khatib, and Bilal if they are unable. Therefore, *Tuan Shaykh* must also have a capable mastery of Islamic religious knowledge and his position is also attached to the wife of *Tuan Shaykh* for the needs of cleaning the mosque and others. *Tuan Shaykh’s* term of office is also three years.

The *syarak* officers are selected through a forum of four types. The *syarak* officer is stationed at the Grand Mosque. The Grand Mosque has become a symbol of Islamic civilization in the Kedepatian Semerap area. Almost all Islamic religious activities in the Semerap area are carried out at the Grand Mosque of the Kedepatian Semerap region. In addition to *syarak* officers, the ulama also consists of teachers in the *majelis taklim* in the Kedepatian Semerap area. In the practice of establishing Islamic law, the involvement of the ulama plays an important role. However, the top decision rests with the *depatis*, who are chaired by the *depati mudos*. Becoming a *depati mudo* at Kedepatian Semerap. It is not just anyone. The basic requirement is to have the bloodline of the first *depati mudo*.

The following are the results of the *muteih syara'* procession carried out by all elements of the indigenous people involved:

#### 1. Marriage Dowry

Perkawinan merupakan salah satu peristiwa penting dalam kehidupan manusia (Sukardi, 2016). In Kedepatian Semerap, the marriage dowry is not determined by the prospective bride and groom but by elements of four types by deliberation at the gedang house. The amount of the dowry for 2021 is IDR 50,000. If the bride wants an additional dowry, it is allowed as long as it is not in the form of money, such as goods, gold and so on.

#### 2. Tarawih Prayer Procedures

In Kedepatian Semerap, the determination of the procedure for the *tarawih* prayer is also determined through deliberation at the gedang house. Thus, all *tarawih* processions at the Kedepatian Semerap, both at the Semerap Grand Mosque and the Mushalla-Mushalla, must be uniform, i.e. the number of *raka'ats* is 20 (twenty) carried out two *raka'ats* of one *salam* (greeting), every two *raka'ats* reading a prayer of shalawat. Every four *raka'at* recites a prayer. *Witr* pray is three *raka'at* with two greetings. At the end of the *tarawih* prayer, read *tahlil* and pray *jahr*.

#### 3. Distribution of Qurban meat

In the Kedepatian Semerap area, every slaughter of the four-legged *depati ninik mamak* must be invited and notified. Then, *depati ninik mamak* must eat the food from the massacre. If one of the residents cuts a four-legged animal and does not invite the *depati ninik mamak*, he can be subject to customary sanctions. *Depati ninik mamak* not can be present, all are only representatives. Likewise, with the slaughter of the sacrificial animal, because the animal being slaughtered is four-legged, the elements of four types stipulate that each *depati ninik mamak* gets one share from each procession of slaughtering the sacrificial animal. If there are 10 *depati ninik mamak* cows, they are only entitled to one share.

The *depati ninik mamak* once determined the distribution of qurban animals for the *depati ninik mamak* by way of each *depati ninik mamak* getting one share for each person who qurban (sacrificed). So that if 100 people participate in qurban, then one *depati ninik mamak* will get 100 shares. At that time, this was strongly opposed by the *syarak* officers. Finally, the *depati ninik mamak* admitted that they were wrong about the decision, and the *depati ninik mamak* was "fined" with "one goat, ten rice".

#### 4. Determination of Amil Zakat Fitrah

In the Kedepatian Semerap area, amil zakat officers are selected through a four-type element meeting. Including the amount of zakat fitrah. There are five villages in the Kedepatian Semerap area with five amil zakat officers. Once this happened, the four elements negate the amil zakat fitrah officers due to several things. But instead, it creates confusion for the community. Then the decision is only valid for one year.

#### 5. Marriage Contract

The new marriage contract is valid and can be carried out if attended by representatives of the *depati ninik mamak* and married by Qadi Raja. Not from the head of the District Religious Affairs Office (KUA) recording and reading the marriage sermon.

The Customary Law of the Kedepatian Semerap has customary sanctions if any community in the customary area violates a customary decision. There are three forms of customary punishment:

1. Goat one rice ten;
2. Buffalo one rice one hundred; and
3. *Anjang sekeih* (removed from the Kedepatian Semerap).

The heaviest customary sanction is *anjang sekeih*, which means relinquishing all rights and obligations above the Kedepatian Semerap. For example, when a person dies, they cannot be taken care of by a *syarak* officer results should be clear and concise. Discussion should explore the significance of the results of the work, not repeat them. Avoid extensive citations and discussion of published literature.

When customary law has a higher position than Islamic law, this often occurs in customary decisions binding on the Semerap community. For example, in areas where Semerap is found, if you want to slaughter a four-legged animal, you should first ask permission from the *depati ninik mamak* (customary leader). In addition, marriages in the Kedepatian Semerap customary area must go through the knowledge and permission of traditional leaders. If not, the marriage is not legally valid, likewise with the election of village heads in the Kedepatian Semerap area. The election of village heads in the Kedepatian Semerap customary area was carried out by deliberation by the leaders of four types of customs, namely *depati*, *ninik mamak*, *ulama* and *cerdik pandai*. Those who may nominate as village heads are the *depati* and *ninik mamak*, who are still active.

State law functions as a formal legal administrative flow regarding village head elections. But in certain cases, such as the decision to determine the Eid al-Fitr and Eid al-Adha holidays, indigenous peoples always follow the government's decision. It is different if the Semerap community's local benefit, then customary decisions are prioritized. In everyday matters, apart from matters of Islamic religious worship, customary law is held in high esteem as the law that regulates all aspects of the life of the Semerap community. The procedure for determining Islamic law in the Kedepatian Semerap customary area is through a deliberation stage involving traditional leaders. Deliberation aims to provide legal decisions that are beneficial to the general public.

The *syarak* officers are chosen people appointed by traditional leaders. So in terms of the *istinbath* method of Islamic law, *syarak* employees also take the *istinbath* method, which is commonly done by scholars such as the *bayani istinbath* method with an approach method that prioritizes extracting Islamic law through *shari'a texts*. The *istinbath qiyasi* method with an approach that prioritizes legal excavation with an analogy method to legal issues that have not found the source of the readers but equates the essence of the case and the *istinbath istislahi* method, an approach that puts forward *al-ra'yu* (rationality) due to texts and events that have the same sense (analogy) did not exist at all before. The *istislahi* method is common in today's modern era.

The position of customary sanctions is carried out when someone violates a customary law decision. A Mushalla has experienced traditional sanctions by using *tarawih* eight *raka'at*. Imam Mushalla is fined according to custom and is no longer allowed to be an Imam at *tarawih* prayers. One of these examples proves that customary law is binding and must be obeyed, even though the differences in the *raka'at* of Tarawih prayers in Islamic law are part of the problem of *furu'iyah* law.

The internalization of '*urf*' in social problems is reflected in the theory of social *fiqh*, which requires Islamic law holders (in this case, *syarak* officer) to follow procedures in making *fiqh* a solution to social problems. Some of the procedures include; First, mastery of Arabic (text) as initial capital to interpret *fiqh* in a social context; Second, the mastery of *fihi aqwal* (differences of opinion of scholars over a law) as the first step of the *qauli mazhab* which is a step towards the *manhaji*; Third, can identify the problems of Islamic law between *ushul* and *furu'*; Fourth, *fiqh* is presented as social ethics, not positive state law; Fifth, think methodologically and philosophically in terms of cultural and social issues (Asmani, 2014).

Establishing Islamic law in the Kedepatian Semerap is carried out in three stages. The first stage is the appointment of a *syarak* officer. The appointed *syarak* officer has the competence to master the Islamic religion. Both in theory and practice. The *syarak* officers at the Kedepatian Semerap have studied in Islamic religious education institutions. *Syarak* employees also have an important role as guardians of Sharia. *Syarak* officers can reprimand people who violate Islamic law even when the violator is a traditional leader. For example, the *depati ninik mamak* once determined the distribution of qurban animals for the *depati ninik mamak* by means that each *depati ninik mamak* gets one share for every person sacrifices. So that if 100 people participate in qurban, then one *depati ninik mamak* will get 100 shares. At that time, this was strongly opposed by the *syarak* officers. Finally, the *depati ninik mamak* admitted that they were wrong about the decision, and the *depati ninik mamak* was "fined" with "one goat, ten rice". The second stage is deliberation. The deliberation involved four elements of traditional leaders, including *depati ninik mamak*, *tonggak pamarang* (*purna tugas pemuka adat*/executor of duties of customary holders), *cerdik pandai* (people who are considered to know), and ulama (*syarak* employees). After deliberation, the decision of Islamic law is ratified through the conclusion of the adat community, which is the last stage of the legal decision.

## D. CONCLUSION

The traditional leaders in the Kedepatian Semerap have succeeded in making Islamic law a social ethic that grows and develops in the lives of indigenous peoples. This is evidenced by the decisions of Islamic law that must be obeyed even though the decision referred to in terms of *furu'iyah* (a branch of Islamic law) is not a problem of *ushul* (the main teaching of Islamic law). This settlement is part of the second and third methods of social *fiqh*. Different philosophical methodologies of the *syarak* officials in the Kedepatian Semerap area in cultural and social issues.

The issues of the Islamic law that were decided included marriage (dowry), sunnah worship (*tarawih* prayers and distribution of *qurban* meat) and once agreed on the issue of *ushul* (zakat). The practice of establishing Islamic law in the Kedepatian Semerap area was carried out at the gedang house, which was attended by four types of elements consisting of elements of *depati ninik mamak*, elements of ulama, elements of *tonggak pamarang* (*purna tugas pemuka adat*/executor of duties of customary holders), and aspects of *cerdik pandai*. Determination of Islamic law is carried out by deliberation and consensus, and if an agreement is not reached, the *depati* will use his prerogative in making legal decisions.

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