

Negotiating Customary Law and *Fiqh* Norms: The Transformation of the *Mepahukh* Tradition in the Indigenous Marriage Practices of the Alas People in Southeast Aceh

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Abstract

Custom-based matchmaking practices in Muslim communities often experience tension between cultural authority and religious normative frameworks. However, comprehensive studies exploring the negotiation between local traditions and *fiqh* (Islamic jurisprudence) norms in contemporary contexts remain limited. This article examines the transformation of *mepahukh*, a customary courtship ritual performed during wedding celebrations among the Alas people in Southeast Aceh, through the lens of negotiation between customary law and *fiqh*-oriented norms. Utilizing a socio-legal approach and a fieldwork-based research design, this study draws on primary data collected through semi-structured interviews with eight key informants, including a village head, customary leaders, local religious authorities, and young people, as well as non-participant observation of the ritual's implementation. The findings reveal that while *mepahukh* continues to function as a social mechanism for strengthening marital alliances and reproducing ethnic identity, it is increasingly subject to normative scrutiny due to negative perceptions of *ikhtilāt* (unsupervised interaction between non-*maḥram* men and women) and concerns regarding moral permissiveness. In response to growing criticism from religious

authorities, the Alas community has adopted adaptive strategies, including family deliberations, procedural restrictions, and enhanced roles for customary and religious leaders. This article argues that *mepahukh* is not a static cultural artifact but a dynamic space for value negotiation within the inter-legalities between customary and Islamic law. The sustainability of this tradition depends on the community's ability to reformulate its practices in ways that are ethical, context-sensitive, and aligned with both cultural norms and religious principles.

[Praktik perjodohan berbasis adat dalam masyarakat muslim kerap menghadapi ketegangan antara otoritas kultural dan kerangka normatif agama. Namun demikian, kajian komprehensif yang secara mendalam mengeksplorasi dinamika negosiasi antara tradisi lokal dan norma fikih dalam konteks kontemporer masih relatif terbatas. Artikel ini menganalisis transformasi tradisi mepahukh—sebuah ritus perjodohan adat yang dilaksanakan pada malam hari dalam rangkaian pesta perkawinan masyarakat Alas di Aceh Tenggara—dalam kerangka negosiasi antara hukum adat dan norma-norma fikih. Dengan menggunakan pendekatan sosio-legal dan desain penelitian berbasis lapangan, artikel ini mengandalkan data primer dari wawancara semi-terstruktur dengan delapan informan kunci, yang terdiri atas kepala desa, tokoh adat, otoritas keagamaan, dan pemuda-pemudi yang terlibat, serta observasi non-partisipatif terhadap pelaksanaan tradisi tersebut. Temuan menunjukkan bahwa meskipun mepahukh tetap berfungsi sebagai mekanisme sosial untuk membentuk aliansi pernikahan dan mereproduksi identitas etnik, praktik ini semakin mendapat tekanan normatif akibat persepsi negatif terhadap ikhtilāf (interaksi bebas antara laki-laki dan perempuan non-mahram) dan kekhawatiran atas kemerosotan moral. Merespons kritik dari kalangan tokoh agama, komunitas Alas menunjukkan kapasitas adaptif melalui musyawarah keluarga, pembatasan teknis, serta penguatan peran tokoh adat dan agama. Artikel ini berargumentasi bahwa mepahukh bukanlah artefak budaya yang statis, melainkan ruang negosiasi nilai yang berlangsung dalam konteks interlegalitas antara hukum adat dan norma fikih. Keberlanjutan tradisi ini bergantung pada kapasitas komunitas untuk mereformulasi praktiknya secara etis, kontekstual, dan selaras dengan prinsip budaya maupun agama.]

Keywords: Alas People, Customary Law, *Fiqh*, Marriage, *Mepahukh* Tradition.

Introduction

The transformation of matchmaking practices within indigenous communities reflects the ongoing tension between the preservation of tradition and the forces of social change rooted in historical, political, and cultural processes.¹ A critical turning

¹ See: Rosemary O'Day, "Matchmaking and Moneymaking in a Patronage Society: The First Duke and Duchess of Chandos, c. 1712–351," *The Economic History Review* 66, no. 1 (February 2013): 273–96; Jennifer Patino, "Kinship and Crisis: Embedded Economic Pressures and Gender Ideals in Postsocialist International Matchmaking," *Slavic Review* 69, no. 1 (2010): 16–40; Minjeong Kim, "Gendered Desire and Heteronormativity in the Transnational Matchmaking Process," in *Advances in Gender Research*, ed. Marcia Texler Segal, Esther Ngan-Ling Chow, and Vasilikie Demos, vol. 16 (Emerald Group Publishing Limited, 2012), 15–38.

point in this transformation was the incursion of colonialism, which disrupted indigenous relational structures by introducing Western legal and moral frameworks. These systems systematically replaced local norms that had previously governed marriage institutions.² This process not only reshaped personal relationships and sexual practices but also eroded the normative foundations that sustained the social and symbolic continuity of indigenous communities. In the contemporary context, several indigenous societies, such as the Iban in Sarawak, have demonstrated cultural resistance to the pressures of modernization while affirming the importance of empathy, social cohesion, and the sustainability of collective identity.³ Nonetheless, these traditional practices are increasingly vulnerable to internal fragmentation driven by external interventions,⁴ particularly through state policies and the influence of transnational actors,⁵ which often overlook participatory ethics and local cultural autonomy.⁶ Similar tensions can be observed in disputes over resource access, further accelerating matchmaking norms' disintegration as cohesive elements of social structure.⁷ Amid globalization and cross-border migration, hybrid forms of matchmaking have emerged, blending traditional values with individual affective preferences, as seen among Indian diasporic communities in Australia.⁸ These phenomena underscore the necessity of treating matchmaking practices as a multidimensional subject of inquiry to understand power relations, cultural shifts, and local strategies of resistance in indigenous communities.

Mepahukh tradition, a traditional matchmaking practice that has evolved within the Alas people in Kutacane, Southeast Aceh, exemplifies integrating cultural values, social structures, and ethnic identity in partner selection processes.⁹ This practice typically occurs at night during wedding celebrations in the groom's hometown and involves structured interactions between young men and women

² Kathleen L. Hull, "Death and Sex: Procreation in the Wake of Fatal Epidemics within Indigenous Communities," in *The Archaeology of Colonialism*, ed. Barbara L. Voss and Eleanor Conlin Casella, 1st ed. (New York: Cambridge University Press, 2011), 122–37.

³ Awang Rozaimie, Amelia Alfred Tom, and Susana William Jalil, "Conserving the Jadi Mali Ritual for Cultural Sustainability: A Case Study of the Iban Community in Sarawak," *Kajian Malaysia* 41, no. 1 (April 28, 2023): 43–61.

⁴ Rahmi Hidayati et al., "Dynamics of Child Marriage in Suku Anak Dalam Community," *Justicia Islamica* 20, no. 2 (October 30, 2023): 261–80.

⁵ Seuty Sabur, "Marital Mobility in the Bangladeshi Middle Class: Matchmaking Strategies and Transnational Networks," *South Asia: Journal of South Asian Studies* 37, no. 4 (October 2, 2014): 586–604.

⁶ Kathy Snow, "What Does Being a Settler Ally in Research Mean? A Graduate Students Experience Learning From and Working Within Indigenous Research Paradigms," *International Journal of Qualitative Methods* 17, no. 1 (December 1, 2018): 1609406918770485.

⁷ Sonny Dewi Judiasih and Efa Laela Fakhriah, "Inheritance Law System: Considering the Pluralism of Customary Law in Indonesia," *Padjadjaran Jurnal Ilmu Hukum (Journal of Law)* 5, no. 2 (September 24, 2018): 315–30.

⁸ Narayan Gopalkrishnan and Hurriyet Babacan, "Ties That Bind: Marriage and Partner Choice in the Indian Community in Australia in a Transnational Context," *Identities* 14, no. 4 (October 15, 2007): 507–26.

⁹ Armin Nasution and Ratna Sahpitri, "Aspek-Aspek Teologi Islam dalam Pernikahan Tradisi Mepahukh Masyarakat di Desa Darul Amin, Kecamatan Lawe Alas, Kabupaten Aceh Tenggara," *Al-Hikmah: Jurnal Theosofi dan Peradaban Islam* 3, no. 1 (June 12, 2021): 85–96.

from the same ethnic group.¹⁰ Socioculturally, the *mepahukh* tradition preserves genealogical purity, reinforces kinship networks, and reproduces collective values rooted in a shared ethnic identity.¹¹ However, the practice has experienced significant changes in recent years, particularly as customary authorities no longer closely monitor nighttime interactions. This shift has created opportunities for *ikhtilāt* (unsupervised interactions between non-*mahram* men and women), which many view as a deviation from Islamic norms.¹² From the perspective of *fiqh* (Islamic jurisprudence)—especially the Shāfi‘ī school of law (*madhhab*), which predominates in Aceh—such interactions are considered *makrūh* (discouraged) or even *ḥarām* (forbidden) when they risk inciting temptation or violating boundaries of permissible conduct.¹³ This epistemological tension between the preservation of tradition and adherence to Islamic legal norms positions *mepahukh* tradition not merely as a cultural practice but as a social phenomenon undergoing a renegotiation of meaning amid evolving collective values.¹⁴ Therefore, investigating this practice is crucial not only for assessing the relevance of tradition in the contemporary context but also for identifying constructive points of convergence between local cultural authority and Islamic legal principles. Ultimately, this inquiry contributes to developing an ethical, contextual, and sustainable indigenous society.

Previous studies on matchmaking practices indicate that these traditions are deeply embedded in the social structure, value systems, and institutionalized forms of authority within specific communities. In China, for example, matchmaking has been transformed by the emergence of marriage agencies in urban areas, highlighting the tensions between individual autonomy and collective expectations.¹⁵ Among the Iban in Sarawak, the *jadi mali* ritual preserves the ancestral heritage and ensures social stability through adherence to customary law.¹⁶ In the Mormon community of Peru, the idealization of the religious family under the concept of Zion reveals a contradiction between inclusive theological narratives and socially exclusive endogamous practices.¹⁷ In Germany, Muslim migrant communities maintain intra-ethnic marriage through active family

¹⁰ SD, Interview with an Alas Customary Leader, January 2024.

¹¹ Dita Pratiwi and Faisal Riza, “Mepahukh dalam Upacara Pernikahan Suku Alas Sebagai Arena Sosialisasi Remaja,” *Jurnal EDUCATIO: Jurnal Pendidikan Indonesia* 9, no. 2 (September 20, 2023): 854–62.

¹² MS, Interview with a Religious Figure of Kutacane, February 2024.

¹³ Mutiara Fahmi et al., “Punishment for Zina Muḥṣān Offenders in Aceh Qanun No. 6 of 2014 in the Perspective of Fiqh al-Siyāsah,” *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 6, no. 1 (June 27, 2022): 346–68.

¹⁴ Murdan Murdan, “Harmonisasi Hukum Adat, Agama, dan Negara dalam Budaya Perkawinan Masyarakat Islam Indonesia Belakangan,” *Asy-Syir’ah: Jurnal Ilmu Syari’ah dan Hukum* 50, no. 2 (December 1, 2016): 505–35.

¹⁵ Jean-Baptiste Pettier, “La Réinvention des Marieuses: Ethnographie D’une Agence Matrimoniale En Chine Urbaine,” *L’Homme*, no. 229 (March 1, 2019): 77–98.

¹⁶ Rozaimie, Alfred Tom, and William Jalil, “Conserving the Jadi Mali Ritual for Cultural Sustainability,” 43–61.

¹⁷ Jason Palmer, “Peruvian Mormon Matchmaking: The Limits of Mormon Endogamy at Zion’s Border,” in *The Routledge Handbook of Mormonism and Gender* (New York: Routledge, 2020), 419–31.

involvement and an emphasis on cultural homogeneity in partner selection.¹⁸ In Indonesia, matchmaking practices within *pesantren* (Islamic boarding schools) underscore the importance of *wali mujbir* (compelling guardianship) and descent from religious scholars as key factors for ensuring religious compatibility and alignment of social status.¹⁹ While these studies provide valuable insights into cross-cultural matchmaking dynamics, few have examined how customary local religious authorities' normative pressures challenge matchmaking practices. In this context, the *mepahukh* tradition is uniquely positioned as a communal practice initially designed to preserve lineage and social identity. However, it is now criticized for allegedly conflicting with Islamic norms, particularly those concerning *ikhtilāf*. Religious critics have called for restoring the practice's moral essence under Islamic ethical standards. This phenomenon creates an opportunity to interpret *mepahukh* tradition as a site of contestation between customary and religious authorities in defining the legitimacy of tradition. Therefore, this article addresses the existing research gap by offering a new perspective on the *mepahukh* tradition as a practice within the negotiation space between local cultural preservation and the internalization of Islamic norms in contemporary indigenous Muslim society.

This article is based on a qualitative field study examining the *mepahukh* tradition practiced by the Alas people in Kutacane, Southeast Aceh Regency, Aceh, Indonesia. The research was conducted over three months, from December 2023 to February 2024. Utilizing a socio-legal framework as its primary analytical lens, the study explores the dialectical relationship between customary norms, *fiqh* norms, and contemporary social dynamics within community-based matchmaking. Primary data were collected through semi-structured interviews with eight key informants, including a village head, three customary leaders, two religious figures, and two young people who are involved in this tradition. They were purposively selected based on their knowledge of and involvement in local matchmaking practices. In addition to in-depth interviews, the researcher conducted non-participant observations of the *mepahukh* tradition to gain a contextual understanding of the social, symbolic, and normative dynamics at play. The data were analyzed thematically using Anthony Giddens's theory of structuration as the conceptual framework.²⁰ This theory is pertinent in explaining how social structures—customary or religious norms—are not static or deterministic entities but are continually produced and reproduced through social practice. Consequently, the theory provides a robust conceptual foundation for understanding how indigenous communities act as active agents in negotiating, preserving, and reconstructing

¹⁸ Andrea Hense and Marén Schorch, "Arranged Marriages as Support for Intra-ethnic Matchmaking? A Case Study on Muslim Migrants in Germany," *International Migration* 51, no. 2 (April 2013): 104–26.

¹⁹ Dea Salma Sallom and Kholil Syu'aib, "Matchmaking in Pesantren: The Role of Wali Mujbir in Matchmaking with Maqasid Sharia Perspectives," *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 22, no. 1 (June 30, 2022): 78–91.

²⁰ Anthony Giddens, *The Constitution of Society: Outline of the Theory of Structuration* (Cambridge: Polity press, 1986), 1–40.

matchmaking norms amid the ongoing contestation between customary authority, Islamic law, and socio-cultural transformation.²¹

Cultural, Religious, and Social Structure of the Alas People in Kutacane

The Alas people residing in the Kutacane, located in the Southeast Aceh Regency, represent a distinct ethnocultural entity with a complex socio-cultural system within the broader context of Acehnese society. This region, known locally as Tanoh Alas (the Land of Alas), is historically significant as the Alas Kingdom once governed it. It encompasses fertile lowlands between the Bukit Barisan and the Alas River (Lawe Alas).²² Etymologically, the term “Alas” is believed to derive from the name of an early tribal chief, a descendant of King Lambing, who settled in the oldest village in the area, Batumbulan.²³ According to demographic data, the region is predominantly inhabited by Muslims and is home to various ethnic groups, with the Alas people constituting the majority.²⁴ Minority groups include the Gayo, Tamiang, Kluet, Singkil, and Aneuk Jamee ethnicities.²⁵ Despite this ethnic diversity, the region is relatively homogeneous in religious terms, with Islam serving not only as a formal religion but also as a normative framework that shapes social life, cultural values, and customary institutions.²⁶

Kutacane, the capital of Southeast Aceh Regency, has a population of approximately 45,000 residents. The majority belong to the Alas ethnic group, the indigenous population that significantly shapes the region's social and cultural structures.²⁷ In addition to the Alas people, other ethnic groups, including the Gayo, Batak (particularly Karo and Toba), Javanese, Minangkabau, and Acehnese, coexist harmoniously, contributing to a diverse yet cohesive social landscape.²⁸ Over 90% of Kutacane's population practices Islam, which serves not only as the primary religious system but also significantly influences social interactions and the community's normative framework, especially among the Alas people.²⁹ In this context, Islam functions as a spiritual doctrine and a foundational normative system

²¹ André J. Hoekema, “European Legal Encounters between Minority and Majority Cultures: Cases of Interlegality,” *The Journal of Legal Pluralism and Unofficial Law* 37, no. 51 (January 2005): 1–28.

²² Gani Dwisatria Setiyatwan, Endro Legowo, and Bambang Wahyudi, “Optimalisasi Peran Kearifan Lokal Masyarakat Gayo dalam Membangun Perdamaian Positif di Aceh,” *NUSANTARA: Jurnal Ilmu Pengetahuan Sosial* 9, no. 9 (November 13, 2022): 3201–11.

²³ Kamaruzzaman Bustamam-Ahmad, “From Power to Cultural Landscapes: Rewriting History of Shi'ah in Aceh,” *Journal of Indonesian Islam* 11, no. 2 (December 5, 2017): 509–30.

²⁴ Badan Pusat Statistik Provinsi Aceh, *Indikator Kesejahteraan Masyarakat Provinsi Aceh*, vol. 11000.2336, 4102004.11 (Aceh: Badan Pusat Statistik Provinsi Aceh, 2024).

²⁵ Dri Santoso et al., “Harmony of Religion and Culture: Fiqh Munākahat Perspective on the Gayo Marriage Custom,” *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 22, no. 2 (December 5, 2022): 199–218.

²⁶ Christine G. Schenk, “Legal and Spatial Ordering in Aceh, Indonesia: Inscribing the Security of Female Bodies into Law,” *Environment and Planning A: Economy and Space* 51, no. 5 (August 2019): 1128–44.

²⁷ Badan Pusat Statistik Provinsi Aceh, *Indikator Kesejahteraan Masyarakat Provinsi Aceh*.

²⁸ Amirul Hadi, “Aceh in History: Preserving Traditions and Embracing Modernity,” *MIQOT: Jurnal Ilmu-Ilmu Keislaman* 37, no. 2 (April 14, 2016): 449–64.

²⁹ Badan Pusat Statistik Provinsi Aceh, *Indikator Kesejahteraan Masyarakat Provinsi Aceh*.

embedded in customary practices, informal law, and everyday social ethics.³⁰ A small minority adheres to Christianity or Catholicism, primarily among non-Alas ethnic groups such as the Batak and other migrant communities. Despite differences in ethnic and religious backgrounds, the people of Kutacane generally uphold tolerance and social harmony values, as reflected in communal practices such as *gotong-royong* (mutual cooperation), *musyawarah* (deliberation), and other forms of collective solidarity.³¹

Culturally and socially, the structure of the Alas people is shaped by values of kinship, the *mergo* (clan) system, and the distribution of social roles within a hierarchically organized village setting.³² The Alas language is widely used in daily interactions and serves as a vital symbol of ethnic identity that continues to be preserved across generations. Customary law plays a central role in regulating various aspects of social life, from conflict resolution to the conduct of marriage ceremonies.³³ One significant expression of this socio-cultural structure is the *mepahukh* tradition, a courtship ritual performed as part of wedding festivities. This ritual functions as a medium for socialization between unmarried men and women of the same ethnicity and as a mechanism for reproducing collective values. It strengthens interfamily networks and reinforces norms of propriety, honor, and social regulation concerning gendered interactions. The continued *mepahukh* tradition reflects a strong connection between custom and religion, although the two systems do not continuously harmonize.³⁴ Tensions between customary norms and religious prescriptions have become increasingly evident amid social transformation and modernization.

***Mepahukh* Tradition as a Matchmaking Institution in the Marriage Ceremonies of the Alas People**

Mepahukh tradition is a customary institution of significant social importance within the Alas people in Kutacane, Southeast Aceh Regency. Rather than being a simple inherited practice, the *mepahukh* tradition serves as a structured social system that facilitates the matchmaking process for unmarried young men and women.³⁵ This ritual is performed during wedding receptions, particularly at the groom's family home. In this context, the *mepahukh* tradition creates an

³⁰ Fahmi Fatwa Rosyadi Satria Hamdani et al., "Traditional Law vs. Islamic Law; An Analysis of Muslim Community Awareness in Inheritance Issues," *Al-Ahkam* 32, no. 1 (April 28, 2022): 109–30.

³¹ A. Abdullah, "Legal Pluralism and Inclusivity: The Integration of Sharia and Civil Law in Brunei's Legal System," *Journal of Islamic Law Studies* 14, no. 3 (2020): 215–30.

³² Inayatillah Inayatillah et al., "Social History of Islamic Law from Gender Perspective in Aceh: A Study of Marriage Traditions in South Aceh, Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 6, no. 2 (October 7, 2022): 573–93.

³³ Yuni Roslaili, "Kajian 'Urf tentang Adat Ranub Kong Haba dan Akibat Pembatalannya di Aceh (Study of 'Urf on The Custom of Ranub Kong Haba and its Cancellation in Aceh)," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 3, no. 2 (November 20, 2019): 417–37.

³⁴ Muhammad Adib Alfarisi, Muhammad Jihadul Hayat, and Adul Rahim Hakimi, "Solving Pregnancy Out-of-Wedlock: 'Dual Validity' of Ngampang Marriage among Dayak Muslim Community in Sintang, Indonesia," *Journal of Islamic Law* 4, no. 2 (August 1, 2023): 123–47.

³⁵ Nasution and Sahpitri, "Aspek-Aspek Teologi Islam dalam Pernikahan Tradisi Mepahukh Masyarakat di Desa Darul Amin, Kecamatan Lawe Alas, Kabupaten Aceh Tenggara," 85–96.

environment for regulated social interaction, conducted under customary supervision and guided by norms of propriety and honor at both the individual and communal levels. Etymologically, *mepahukh* derives from the Alas language and translates to “playing under the house, to an indirect mode of communication between men and women that typically occurs from outside the raised stilt house, through gaps or openings beneath the floor.”³⁶ The tradition is organized into four main stages: (1) the arrival of the young women, (2) the participation of single men, (3) limited interactions between the two parties, and (4) a stage of commitment that may lead to formal engagement. Each stage carries not only symbolic meaning but also institutional value, reinforcing the social structure of the Alas people and regulating interpersonal relationships through customary norms and communal oversight.³⁷

The first stage commences with the bride’s arrival at the groom’s house prior to the wedding celebration. In Alas people’s tradition, she is not permitted to arrive alone; instead, she is accompanied by two young women from her village. As a young woman of Kutacane noted, “*The mepahukh tradition emphasizes that the bride should not arrive alone but be accompanied by two unmarried women. Their presence is a gesture of respect and symbolizes the bride’s readiness to marry.*”³⁸ These companions are not merely attendants; they actively participate in the *mepahukh* tradition process. They temporarily reside in the groom’s home and may be introduced to single men attending the celebration. It illustrates that customary law allows for participatory roles for women in matchmaking, albeit within a framework of communal control and protection.³⁹ As a religious leader of Kutacane stated, “*These two unmarried women can be trusted to represent their village, reflecting the collective honor of their people.*”⁴⁰ Thus, this stage represents a form of female social mobility within an orderly and dignified customary structure.

The second stage occurs in the evening when unmarried men from the host village and surrounding areas gather at the groom’s house. However, direct interaction with the women is prohibited. Any young man interested in one of the female companions must first communicate his intentions to the village elders or customary leaders present.⁴¹ This communication is not merely procedural but a formal declaration of intent that requires social authorization. As an Alas customary leader stated, “*If a young man is interested in a girl who is part of the mepahukh procession, he must first inform the customary leaders. Directly expressing his feelings would be considered disrespectful and a violation of custom.*”⁴² This stage

³⁶ Salwa Farhani Asri, “Pergeseran Adat Meupahukh dalam Tradisi Pernikahan dan Pengaruhnya terhadap Realitas Sosial Agama (Studi Kasus di Desa Terutung Seperai terhadap Realitas Agama)” (Thesis, Aceh, UIN Ar-Raniry, 2020), 51–9.

³⁷ Field Notes from Observation, December 2023.

³⁸ ARR, Interview with a Young Woman of Kutacane, December 2023.

³⁹ Asri, “Pergeseran Adat Meupahukh dalam Tradisi Pernikahan dan Pengaruhnya terhadap Realitas Sosial Agama,” 51–9.

⁴⁰ MS, Interview with a Religious Figure of Kutacane.

⁴¹ Asri, “Pergeseran Adat Meupahukh dalam Tradisi Pernikahan dan Pengaruhnya terhadap Realitas Sosial Agama,” 51–9.

⁴² S, Interview with an Alas Customary Leader, February 2024.

illustrates how the *mepahukh* tradition functions as a moral and social regulation system. Interactions between men and women are mediated through customary protocols, ensuring honor, decorum, and propriety are upheld, even in potentially intimate settings.

The third stage—considered the culmination of the *mepahukh* tradition—involves carefully regulated interpersonal engagement. Taking place between 11:00 PM and 4:00 AM, this interaction occurs with the women situated inside the groom's house while the men remain outside, typically beneath the house's windows or elevated floorboards.⁴³ Communication is verbal and conducted through small openings in the walls, and visual contact is strictly prohibited. A female guardian supervises the process to ensure the interaction remains within acceptable customary bounds. Conversations typically revolve around family background, values, and initial impressions. If a man is interested, he may offer a token, such as a handkerchief, scarf, headscarf, sarong, or other small item, to symbolize his intent.⁴⁴ Acceptance of the token by the woman signifies her willingness to continue the relationship. A young man of Kutacane explained, "*He speaks outside the house without seeing the girl's face. If he is interested, he gives a token like a scarf. If she accepts it, the process continues. If not, the relationship ends.*"⁴⁵ This stage reflects a balance between private and public spheres and between expressive freedom and social control.⁴⁶ While physical interaction is restricted, symbolic space is provided for courtship and emotional negotiation. If the token is accepted, the *mepahukh* tradition proceeds to the fourth and final stage—formal commitment. In this phase, the young man, accompanied by his parents or family representatives, visits the woman's family in her village a few days after the wedding celebration. The purpose of this visit is to formally express his intention to propose and deliver traditional engagement gifts (*seseurahan*). An Alas customary leader noted, "*If a man gives a token and his family follows up with a visit to the woman's house, it means he is serious. If not, it is seen as insincere and could damage reputations.*"⁴⁷

This final stage is a marker of success in the *mepahukh* process, as informal encounters are transformed into socially legitimate commitments sanctioned by the community and customary law.⁴⁸ Not all *mepahukh* tradition interactions result in marriage, but discontinued processes are not stigmatized. As a village head of Darul Amin explained, "*If the relationship does not continue, that is not a problem. It is part of the custom. Not all who meet are meant to end up together. What matters is that the process is conducted properly.*"⁴⁹ Thus, the commitment stage not only

⁴³ Field Notes from Observation.

⁴⁴ Asri, "Pergeseran Adat Meupahukh dalam Tradisi Pernikahan dan Pengaruhnya terhadap Realitas Sosial Agama," 51–9.

⁴⁵ IA, Interview with a Young Man of Kutacane, December 2023.

⁴⁶ Souad Ezzerouali, "Expanding the Authority of Muhtasib to Protect Consumers: A Comparison between Moroccan Law and Islamic Qanun of Aceh," *Trunojoyo Law Review* 7, no. 2 (March 15, 2025): 161–91.

⁴⁷ SD, Interview with an Alas Customary Leader.

⁴⁸ Asri, "Pergeseran Adat Meupahukh dalam Tradisi Pernikahan dan Pengaruhnya terhadap Realitas Sosial Agama," 51–9.

⁴⁹ R, Interview with a Village Head of Darul Amin, January 2024.

symbolically concludes the ritual but also institutionalizes the social bond established from the beginning. *Mepahukh* tradition functions as a social mechanism that regulates interpersonal and interfamily relationships, reinforces normative structures, and demonstrates that customary law is not merely a static cultural relic but a dynamic and adaptive social system responsive to evolving societal values.⁵⁰

Ethnic Identity and Marital Alliances: The Purpose of the *Mepahukh* Tradition

Implementing *mepahukh* tradition within the Alas people transcends a mere pre-marital ceremonial ritual; it reflects a broader social order that mediates individual relationships through a framework of collective cultural values.⁵¹ This tradition serves multiple interconnected purposes: (1) ensuring the continuity of lineage, (2) preserving local cultural identity, and (3) conferring social legitimacy upon marriage within the customary community.⁵² These objectives are not expressed through static norms but are continually interpreted, negotiated, and reproduced through the everyday social practices of customary actors within a dynamic cultural context. In this sense, the *mepahukh* tradition constitutes a site where social actions—whether by young men, young women, or their families—operate within a customary structure that is both flexible and binding. In other words, the tradition is historically constituted and maintained through culturally embedded practices that function as meaningful mechanisms of social regulation.⁵³

The primary fundamental aim of the *mepahukh* tradition is to maintain lineage continuity within the ethnically homogeneous Alas people. Marriage is governed by the *mergo* system, which is critical in preserving genealogical integrity and preventing unions between individuals of the same lineage—a practice strictly prohibited by local custom. The *mepahukh* tradition provides a social forum facilitating interaction between young men and women from different villages belonging to distinct *mergo*, reinforcing a culturally exclusive structure open to internal diversity. As an Alas customary leader explained, “*Mepahukh tradition is not just about getting acquainted. It aims to find a partner within the Alas ethnic group but from a different mergo. It ensures their offspring remain ethnically Alas and are not mixed with outsiders.*”⁵⁴ This statement underscores that the *mepahukh* tradition is about preserving biological identity and reaffirms a collective commitment to cultural continuity. Ethnicity-based partner selection is not simply a form of exclusivism; it functions as a social mechanism to uphold internal stability

⁵⁰ Asri, “Pergeseran Adat Meupahukh dalam Tradisi Pernikahan dan Pengaruhnya terhadap Realitas Sosial Agama,” 51–9.

⁵¹ Ilyas Ilyas et al., “The Accommodation of Customary Law to Islamic Law: Distribution of Inheritance in Aceh from a Pluralism Perspectives,” *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 7, no. 2 (May 28, 2023): 897–919.

⁵² R, Interview with an Alas Customary Leader, February 2024; S, Interview with an Alas Customary Leader.

⁵³ Khairuddin Khairuddin, “Memakai Hine Sebagai Syarat dalam Perkawinan pada Masyarakat Kuta Tinggi Aceh,” *Al-Ahwal: Jurnal Hukum Keluarga Islam* 13, no. 2 (December 10, 2020): 108–18.

⁵⁴ S, Interview with an Alas Customary Leader.

and ensure the continuity of community values.⁵⁵ Thus, the *mepahukh* tradition can be understood as a social practice that simultaneously fulfills individual biological needs and the cultural reproduction of the community.

The second aim of the *mepahukh* tradition is to preserve traditions and local cultural values.⁵⁶ In Alas people, marriage is not merely a personal bond between two individuals; it is a principal medium through which values are transmitted and cultural regeneration occurs. *Mepahukh* tradition provides a social framework emphasizing respect, careful partner selection, and family honor as intergenerational values conveyed symbolically and through practice. As expressed by an Alas customary leader: “*Without mepahukh, the tradition could disappear. It is a symbol and a space to learn mutual respect before marriage. The children born from those marriages are also taught customs from a young age.*”⁵⁷ It illustrates that the *mepahukh* tradition is a rite of passage and a social educational institution that instills communal values from early life. Amid the accelerating forces of modernization that tend to erode local identity, *mepahukh* tradition functions as a cultural safeguard, reinforcing symbolic and institutional practices within social interaction spaces.⁵⁸

The third aim of the *mepahukh* tradition is to confer social legitimacy on marriage within the customary community. In the Alas people context, marriages that do not involve the *mepahukh* process are often perceived as lacking legitimacy in customary terms and may even attract social stigma. A man or woman who marries without undergoing the ritual may be labeled a “widower” or “widow” despite being legally married according to state or religious law. A village head of Darul Amin stated, “*If you do not participate in mepahukh tradition, people will say you are a widow or widower, even though you just got married. That is why it has to be done—to be valid in the eyes of custom and respected.*”⁵⁹ In this regard, the *mepahukh* tradition marks the transition from singlehood to marriage and institutionalizes a new social status through collective recognition.⁶⁰ The tradition demonstrates that social legitimacy within customary communities is not solely derived from state or religious institutions but is deeply rooted in customary recognition enacted through symbolic and cultural practices.⁶¹ Thus, the *mepahukh* serves as a social institution that binds two individuals and their families, villages, and kinship networks within both vertical and horizontal relational structures.

⁵⁵ Ratno Lukito, *Islamic Law and Adat Encounter: The Experience of Indonesia* (Canada: McGill University, 1997), 60–70.

⁵⁶ Asri, “Pergeseran Adat Meupahukh dalam Tradisi Pernikahan dan Pengaruhnya terhadap Realitas Sosial Agama,” 51–9.

⁵⁷ R, Interview with an Alas Customary Leader.

⁵⁸ Mark Cammack, “Islamic Inheritance Law in Indonesia: The Influence of Hazairin’s Theory of Bilateral Inheritance,” *Studia Islamika* 10, no. 1 (January 1, 1970): 97–122.

⁵⁹ R, Interview with a Village Head of Darul Amin.

⁶⁰ Franz Von Benda-Beckmann and Keebet Von Benda-Beckmann, “The Dynamics of Change and Continuity in Plural Legal Orders,” *The Journal of Legal Pluralism and Unofficial Law* 38, no. 53–54 (January 2006): 1–44.

⁶¹ M. Djawas et al., “Harmonization of State, Custom, and Islamic Law in Aceh: Perspective of Legal Pluralism,” *Hasanuddin Law Review* 10, no. 1 (2024): 64–82.

Through customary acknowledgment, the *mepahukh* tradition ensures that marriage is not merely a private event but a socially sanctioned and communal act.

Furthermore, the *mepahukh* tradition is vital in affirming the patrilineal kinship system practiced by the Alas people. Lineage and social rights are transmitted through the male line in this system. Therefore, this tradition is not merely a ceremonial transfer of the bride to the groom's family; it also serves as a symbol of social legitimacy that signifies the transfer of responsibility and status of the woman from her natal family to her husband's lineage.⁶² This tradition functions as a symbolic exchange that strengthens kinship ties and regulates social alliances through the institution of marriage. Compared to other regional customs, such as *ngunduh mantu* (wedding ceremonies) in Javanese culture⁶³ or Batak Angkola marriage practices among the Batak people,⁶⁴ one can observe similarities in the function of marriage as a familial bond, although the rituals and sequences differ.⁶⁵ *Ngunduh mantu* typically involves the formal reception of the bride into the groom's family after the wedding, whereas, in *mepahukh*, the affirmation of the bride's status occurs earlier, serving as a symbolic and social transfer even before the formal ceremony takes place.⁶⁶ It indicates that the *mepahukh* reflects local customary norms and illustrates how social structures, gender relations, and kinship systems are constructed through complex and symbolically rich customary mechanisms.

Negotiating Custom and *Fiqh* Norms: Moral and Social Transformation in the *Mepahukh* Tradition

The *mepahukh* tradition, a central element of the customary marriage system among the Alas people in Southeast Aceh, represents an intergenerational cultural practice deeply embedded within indigenous social structures.⁶⁷ It serves not only as a formalized matchmaking mechanism but also as a means of affirming values such as propriety, honor, and collective obligation—principles that underpin inter-village social relationships. However, the *mepahukh* has undergone significant transformation in contemporary practice due to shifting social moralities and the growing influence of Islamic normative values. These changes have positioned *mepahukh* at the center of an epistemological contestation between customary

⁶² Wei Yang and Byron G Spencer, "Kinship and Fertility: Brother and Sibling Effects on Births in a Patrilineal System," *Journal of Economic Behavior & Organization* 195 (March 2022): 158–70.

⁶³ Elfia Elfia, Surwati Surwati, and Bakhtiar Bakhtiar, "The Struggle of Custom and Sharia: Classic Dilemma of Inheritance Settlement in Javanese and Minangkabau Ethnic Communities in Indonesia," *Al-Istinbath: Jurnal Hukum Islam* 8, no. 1 (May 16, 2023): 75–94.

⁶⁴ Ulfa Ramadhani Nasution, "When Tradition Against Modernity: Batak Angkola Men's Resistance towards Gender Equality," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 16, no. 1 (March 15, 2023): 23–42.

⁶⁵ RR Dewi Anggraeni, "Islamic Law and Customary Law in Contemporary Legal Pluralism in Indonesia: Tension and Constraints," *AHKAM: Jurnal Ilmu Syariah* 23, no. 1 (June 16, 2023): 25–48.

⁶⁶ Asri, "Pergeseran Adat Meupahukh dalam Tradisi Pernikahan dan Pengaruhnya terhadap Realitas Sosial Agama," 51–9.

⁶⁷ Muzakir, "The Effectiveness of Aceh's Jinayat Qanun on Crime Rates in the Community in a Review of Legal Socialization," *Al-Manahij: Jurnal Kajian Hukum Islam* 16, no. 2 (November 18, 2022): 255–68.

legitimacy and *fiqh* norms, particularly concerning gendered interaction boundaries, social supervision, and the moral construction of social behavior.⁶⁸

Over the past decade, religious leaders in Southeast Aceh have increasingly criticized the contemporary implementation of the *mepahukh* tradition. This critique arises from a perceived decline in the customary community's ability to uphold the moral boundaries that traditionally governed the practice. What was once a carefully regulated environment for limited interaction between unmarried youth has, in some instances, transformed into a permissive social arena—characterized by musical entertainment (*kibot*), youth parties, and alcohol consumption.⁶⁹ These developments have shifted the *mepahukh* tradition away from its original role as a system of social control, rendering it vulnerable to *ikhtilāt* and other forms of moral deviation. A religious figure of Kutacane remarked: “Mepahukh tradition today has many negative consequences. In the past, it was monitored and guided by a sense of modesty. Now, it often serves as a gathering place for teenagers to congregate all night. It can lead to inappropriate behavior, including prolonged staring and even sexual immorality. Therefore, this tradition must be critically evaluated.”⁷⁰ This criticism highlights a significant shift in the meaning and function of the *mepahukh* tradition—from a culturally structured practice to a form of social interaction that challenges established norms. From the perspective of Islamic moral theology, violations of the principles of *ḥifẓ al-dīn* (preservation of religion) and *ḥifẓ al-‘ird* (preservation of honor) serve as critical indicators that *mepahukh* tradition necessitates evaluative reform.⁷¹ Furthermore, the emerging stigmatization of young women who are not “chosen” or courted during the ritual—often perceived as “unattractive” or “undesirable”—reflects the perpetuation of gender-biased social meanings that contradict Islamic teachings on human dignity and gender equity.

Nevertheless, the dynamics surrounding the *mepahukh* tradition cannot be reduced to a binary opposition between custom and *fiqh* norms.⁷² The Alas people exhibit a remarkable capacity for adaptive responses to normative pressures through practical value negotiation. In many instances, the bride's families now stipulate that the *mepahukh* tradition be conducted within a specified time frame, without musical entertainment, and under the direct supervision of customary and familial authorities. These deliberative processes—rooted in *musyawarah*—serve as mechanisms for value reconstruction, enacted not through top-down coercion but through participatory and context-sensitive agreements. As stated by a religious figure of Kutacane: “Today, if you wish to participate in mepahukh, the rules must

⁶⁸ Ahmad Zayyadi et al., “Understanding of Legal Reform on Sociology of Islamic Law: Its Relevance to Islamic Family Law in Indonesia,” *Al-Manahij: Jurnal Kajian Hukum Islam* 17, no. 2 (November 20, 2023): 249–62.

⁶⁹ Asri, “Pergeseran Adat Meupahukh dalam Tradisi Pernikahan dan Pengaruhnya terhadap Realitas Sosial Agama,” 51–9.

⁷⁰ MS, Interview with a Religious Figure of Kutacane.

⁷¹ Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (London: The International Inst. of Islamic Thought, 2008), 26–55.

⁷² R. Michael Feener, *Shari'a and Social Engineering: The Implementation of Islamic Law in Contemporary Aceh, Indonesia* (Oxford: Oxford University Press, 2013), 130–2.

be clearly defined. Time should be limited, music such as kibot should be prohibited, and gatherings must be regulated. The objective is to preserve the tradition while upholding Islamic values."⁷³ This statement illustrates that customary structures are dynamic social frameworks capable of adaptation rather than static entities resistant to change.⁷⁴ In this context, the transformation of the *mepahukh* tradition is not merely a reaction to *fiqh*-based critiques but also a result of reflective community actions that seek to ensure the continuity of local values within an evolving socio-cultural landscape.

This phenomenon can be examined through inter-legality, where customary law and Islamic law do not negate one another but intertwine to shape new, ethically grounded, and contextually relevant social norms.⁷⁵ The synergy of these two legal entities emerges through symbolic negotiations reconfiguring moral and cultural boundaries.⁷⁶ Consequently, the *mepahukh* tradition can be understood as a social practice within the structure and agency dialectic. The Alas people—through the roles played by customary leaders, religious leaders, families, and youth—actively reproduce and reinterpret traditional meanings, informed by both spiritual imperatives and contemporary social demands.⁷⁷ The core challenge in preserving the *mepahukh* tradition lies not in its existence per se but in the ways it is enacted. A reformulated *mepahukh* tradition—guided by the principle of *islāḥ al-ʿurf* (customary reform).⁷⁸ It is can remain a living tradition while serving as an ethical and cultural instrument that reinforces social cohesion, moral integrity, and symbolic legitimacy within contemporary indigenous Muslim communities.

More broadly, the transformation of the *mepahukh* tradition reflects the ongoing contestation between customary law and *fiqh* norms within marriage practices across Indonesia.⁷⁹ What began as a culturally rooted pre-marital courtship mechanism now intersects with legal and ethical debates surrounding child marriage and national legal reform.⁸⁰ Similar tensions are evident in other regions, such as the controversial *kawin tangkap* tradition in West Sumba⁸¹ and the inheritance practices involving polygamous widows in Banjar society, which

⁷³ TA, Interview with a Religious Figure of Kutacane, February 2024.

⁷⁴ S. Tellenbach, "Islamic Law, Secular Law and Customary Law," in *Justice without the State within the State*, ed. Peter Collin (Klostermann, 2016), 311–28.

⁷⁵ Hamid M. Khan, "Islamic Law, Customary Law, and Afghan Informal Justice" (US Institute of Peace, 2015), 2–11.

⁷⁶ Noel J. Coulson, *A History of Islamic Law* (Piscataway, NJ: Transaction, 2011), 134–8.

⁷⁷ Nur Wakhidah et al., "The Legal Culture of Samin Community of Family Law in Central Java," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 19, no. 1 (June 15, 2024): 125–50.

⁷⁸ Muhamad Fathye Muhamad Etrebi and Hassan Suleiman, "Al-Takyif al-Fiqhī for the Shared Properties between Spouses in the Light of Jurisprudential," *Journal of Fatwa Management and Research* 24, no. 2 (April 30, 2021): 274–87.

⁷⁹ Ratno Lukito, *Hukum Sakral dan Hukum Sekuler: Studi tentang Konflik dan Resolusi dalam Sistem Hukum Indonesia*, 1 (Ciputat, Tangerang: Pustaka Alvabet, 2008), 69–72.

⁸⁰ Michael Gates Peletz, *Sharia Transformations: Cultural Politics and the Rebranding of an Islamic Judiciary* (Oakland, California: University of California press, 2020), 1–13.

⁸¹ Muhammad Luthfi and Nu'man Aunuh, "Study of the Kawin Tangkap Tradition of Sumba: Conception 'Urf and the Sexual Violence Crimes Act," *Audito Comparative Law Journal (ACLIJ)* 6, no. 2 (April 28, 2025): 97–110.

illustrate the friction between local customs and formal legal principles.⁸² In this context, integrating customary law and *fiqh* becomes increasingly essential to ensure that cultural practices like the *mepahukh* tradition remain relevant, ethical, and aligned with the principles of human dignity and individual rights.⁸³ Achieving this necessitates sustained inter-normative dialogue and the active involvement of local communities in shaping regulations that are just, contextual, and rooted in communal values.

Conclusion

The *mepahukh* tradition, as practiced within the framework of customary marriage in the Alas people of Southeast Aceh, serves as a vital social institution that strategically reproduces both social and cultural systems. It functions as a medium for partner selection, a mechanism for ensuring lineage continuity, a preserver of ethnic identity, and a legitimizing force for marriage. *Mepahukh* tradition operates as a dynamic arena where customary norms are both reproduced and negotiated. The practice unfolds through four structured stages: the arrival of young women, the participation of unmarried men, limited interaction, and a stage of serious intent. These stages empirically reflect the dialectical relationship between customary structures and individual agency in enacting social practices. However, contemporary social dynamics and the increasing prominence of Islamic values have intensified normative tensions between customary law and *fiqh* (Islamic jurisprudence), particularly regarding morality, gender interaction, and systems of social regulation. These tensions have not resulted in the wholesale rejection of the *mepahukh* tradition; rather, they have initiated a process of value negotiation and procedural adaptation. The tradition demonstrates flexibility and reflexivity through mechanisms such as family deliberation, the enhanced role of customary and religious authorities, and practical adjustments, including time restrictions and the elimination of nighttime entertainment.

Theoretically, these findings contribute to the discourse on inter-legality between customary law and Islamic law by employing a social structuration approach to interpret *mepahukh* tradition as a site of normative reproduction within a continuously negotiated social space. Rather than merely persisting as a cultural relic, this tradition has evolved into a functional social instrument that facilitates synergy between customary authority and Islamic principles in a dynamic context. The practical implications of this study highlight the necessity for cultural policy frameworks that can bridge local traditions and religious norms in a contextually grounded, participatory, and collaborative manner. Such a model of harmonization is increasingly relevant for fostering inclusive, ethically conscious, and resilient indigenous Muslim communities in the face of global value transformations. The

⁸² James J. Fox, "Notes on the Southern Voyages and Settlements of the Sama-Bajau," *Bijdragen Tot de Taal-, Land- En Volkenkunde / Journal of the Humanities and Social Sciences of Southeast Asia* 133, no. 4 (1977): 459–65.

⁸³ Mohamed Cheikh Banane, Souad Ezzerouali, and Ahmed Mohamed Elzein, "The Struggle for Land in Morocco: A Case Study of Amazigh," *Mazahib* 23, no. 2 (December 9, 2024): 391–430.

primary limitation of this study lies in its narrow geographic scope, focusing exclusively on the Alas people in Kutacane. Additionally, it does not yet fully explore gender dynamics in the construction and transformation of the tradition. Future research should investigate the role of women as agents of customary transformation and further develop formal models for integrating customary law and *fiqh* in marriage practices across diverse Muslim communities in Indonesia.

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