



**The Role of Customary Leaders as *Ḥakam* in Resolving Divorce:  
A Case Study in Kuta Alam Subdistrict, Banda Aceh City**

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**Abstract**

Divorce in households can occur due to several factors, such as economic factors, ongoing arguments, and domestic violence. Therefore, an alternative solution in such a situation is necessary by involving the role of the village customary leaders as a ḥakam (peacemaker). The effectiveness of the role of the village customary leaders as a ḥakam must fulfill five aspects: purpose, strategy, policy, planning, and implementation. In this study, the aim was to examine the role of the village customary leaders as a ḥakam in resolving divorce in Kuta Alam Subdistrict, Banda Aceh City and the effectiveness of the role of the village customary leader as a ḥakam in resolving divorce in Kuta Alam Subdistrict, Banda Aceh City. The study used a qualitative research method, using a normative sociological approach, and collected the data by means of interviews and document study. The results showed that village customary leaders such as ḥakam play the role of mediators in marital disputes, in which they investigated and found the roots of the problems with the hope that the disputed could be reconciled and reunited in their households. Further, the role of the village customary leaders as a ḥakam has been considered effective as seen from several peace processes carried out. However, some cases of conflict have not been resolved because some parties demand settlement in court. The study suggests that village customary leaders as ḥakam need to pay attention to the aspect of legal force in handling divorce and that the village institution should prepare administrative staff in the deliberation process.

**Keywords:** *Role, customary leaders, ḥakam, divorce, Islamic family law*

### **Abstrak**

*Perceraian dalam rumah tangga dapat terjadi karena beberapa faktor diantaranya faktor ekonomi, pertengkaran yang berkelanjutan terjadi kekerasan dalam rumah tangga. Maka solusi alternatif dalam keadaan seperti ini diperlukan peran tokoh adat gampong sebagai hakam (juru damai). Keefektifitasan peran tokoh adat gampong sebagai hakam harus memenuhi lima aspek yaitu; tujuan, strategi, kebijakan, perencanaan dan pelaksanaan. Berdasarkan uraian di atas maka penulis ingin mengkaji lebih lanjut Bagaimana peran tokoh adat gampong sebagai hakam (juru damai) dalam mengatasi perceraian di Kecamatan Kuta Alam Kota Banda Aceh dan Bagaimana Efektifitas Peran Tokoh Adat Gampong Sebagai Hakam (Juru damai) Dalam Mengatasi Perceraian Di Kecamatan Kuta Alam Kota Banda Aceh. Metode penelitian yang di gunakan adalah jenis penelitian kualitatif dengan menggunakan pendekatan normatif sosiologis, sedangkan teknik pengumpulan data adalah wawancara dan studi dokumen. Hasil penelitian menunjukkan bahwa banyak peran tokoh adat gampong sebagai hakam menjadi penengah di antara perselisihan pasangan dalam rumah tangga dengan cara meneliti dan mencari titik akar permasalahan dengan harapan dapat di damaikan dan di rukunkan kembali dalam menjalankan rumah tangga. Sedangkan Peran tokoh adat gampong sebagai hakam dianggap sudah efektif dilihat dari beberapa proses perdamaian yang di lakukan walaupun ada beberapa kasus pertengkaran yang tidak terselesaikan, dikarenakan sebahagian pihak menuntut penyelesaian di Pengadilan. Saran penulis agar tokoh adat gampong sebagai hakam perlu memperhatikan aspek kekuatan hukum dalam mengatasi perceraian serta hendaknya pemerintah gampong menyiapkan tenaga administrasi dalam proses musyawarah.*

**Kata Kunci:** *Peran, tokoh adat, hakam, perceraian, hukum keluarga Islam*

### **Introduction**

Humans are social creatures who cannot live alone and need other people to help navigate their life. One way to live such a life is through marriage.<sup>1</sup> Marriage is a sacred agreement between a man and a woman to live together on the basis of piety. In so doing, marriage creates love and affection between husband and wife, a life full of peace and tranquility as Allah says in the Sur'an Surah Al-Rum [30:21].<sup>2</sup>

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<sup>1</sup> Ansori Ansori, "Qawā'id Fiqhiyyah as Islamic Epistemology and Its Application at Marriage Law in Indonesia," *JURIS: Jurnal Ilmiah Syari'ah* 22, No. 1 (2021). 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 (2022). Abdul Rahman Ghozali, *Fikih Mumakahat*, (Jakarta: Kencana 2003), p. 11.

<sup>2</sup> Achmad Musyahid Idrus, et al., "The Tradition of Mappasikarawa in the Bugis-Makassar Community Marriage: A Study of Islamic Law Philosophy," *Samarah: Jurnal Hukum dan Hukum Islam* 7, No. 2 (2023). Ali Yusuf Al-Subki, *Fiqih Keluarga Pedoman Berkeluarga Dalam Islam*, (Jakarta: Amzah, 2012), p. 23.

Within husband-and-wife relationships or in married life are bound to have problems, small or big. The husband and wife not fulfilling their rights and obligations, or not maintaining the values expected and hoped for by both individuals usually cause problems or disturbances in the family.<sup>3</sup> All of these are a trial for both husband and wife. Likewise, feeling safe, comfortable, happy, at ease or failure, sad or suffered, and disappointed are essentially tests from Allah SWT. Good and Islamic family development may be a supporting factor to be realized in the *sakinah* (peaceful) family.

Marital disputes can culminate in an inharmonious household, causing harm to all parties. Therefore, Islam opens the way to divorce. Divorce is a last resort that can be taken by husband and wife if the household can no longer be maintained. Although there is no verse in the Qur'an that commands or prohibits divorce, indicating it is permissible, divorce is still an act that is not liked by Allah SWT. Islamic law teaches that if there is a dispute between husband and wife that leads to divorce, then a *hakam* (peacemaker) should be appointed to examine the case and make peace in order to preserve the household. The negative impacts of divorce will harm the household itself, especially for children and women. Divorce can also have negative impacts on society at large, sometimes for a long time.

Customary village leaders are people who are respected, so all problems in villages will be resolved through customary leaders. Whether it is theft, disagreements between neighbors, land dispute, divorce, and others.<sup>4</sup> Aceh highly prioritizes custom (*adat*) that becomes the benchmark for a person's degree. People who do not know or do not understand custom are considered very embarrassing and can be ostracized in the community. For the people of Kuta Alam Subdistrict, every dispute or quarrel between husband and wife, the village customary leaders will act as a *hakam* for both parties.

*Hakam* is part of the divorce proceedings in a continuous dispute between husband and wife. The term *hakam* refers to a party from the husband's and wife's family or another party tasked with resolving the dispute. However, the Muslim scholars are of the opinion that the task of *hakam* is only as a peacemaker, and not authorized to proceed divorce. Nevertheless, according to Imam Maliki, if *hakam* has been appointed by the religious court, then the *hakam* has the authority of the religious court, i.e., the authority to divorce, either in the form of forcing a divorce such as *talaq* or *khulu'* (redemption *talaq*).<sup>5</sup> There is no verse in the Qur'an that promotes a divorce when there is a conflict in the household since divorce is a deed disliked by Allah SWT; yet, it rather provides a way out with the peace process.<sup>6</sup>

Further, according to Ibn Qayyim al-Jauziyyah, *hakam* is not meant as a representative or trustee of the male or female family. The provision of Surah An-

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<sup>3</sup>Dahwadin, et al., "Hakikat Perceraian Berdasarkan Ketentuan Hukum Islam di Indonesia," *YUDISIA: Jurnal Pemikiran Hukum dan Hukum Islam* 11, no. 1 (2020), p. 89.

<sup>4</sup> Imam Firdaus, *Pesta Adat Pernikahan Di Nusantara*, (Jakarta: Multikreasi Satu Delapan, 2012), p. 53.

<sup>5</sup> Sulaiman Rasyid, *Fikih Islam*, (Jakarta: Sinar Baru Argensindo, 1996), p. 280

<sup>6</sup> Slamet Abidin, Aminuddin, *Fiqh Muamalah I*, (Bandung: Pustaka Setia, 1999), p.189

Nisa' verse 35 shows the meaning, namely two *hakam* as judges who resolve the disputes of each husband and wife. Ibn Qayyim al-Jauziyyah states that the authority of *hakam* in resolving marital disputes is the authority to keep the husband and wife's marriage relationship united or to decide by divorcing the two. There are certain parts that seem the same and relevant between Ibn Qayyim al-Jauziyyah's thoughts on *hakam* and the concept of mediation in the Religious Court.<sup>7</sup>

In recent years, divorce cases that occurred in several sub-districts in Banda Aceh during the pandemic increased in 2021. Data obtained at the Banda Aceh Sharia Court from 2018 to 2021 showed that the most divorce cases occurred in 2021, with divorce lawsuits reached 48, while there were 22 cases of divorce in the Kuta Alam Sub-district. The lowest cases occurred in 2019 with the status of divorce lawsuits as many as 41 and divorce cases as many as 15 in Kuta Alam, Banda Aceh.<sup>8</sup>

From observations in several villages in Kuta Alam, several factors cause divorce in households, e.g., economic factors, ongoing disputes, domestic violence, prioritizing one parent over another, and disagreement. Economic factors often occur in society. In such a situation, it can lead to stress and burden over the husband's mind, which eventually triggers quarrels in the household. In this case, the husband feels less confident and decides to separate from his wife, especially if the husband marries a career woman.<sup>9</sup> However, not all couples have the same view on this matter. There are also couples who do not have a problem and consider each party's contribution in the household.

Another factor is domestic violence. Violence is not only carried out physically, but harsh words are also included in the violence in question. Wives often become victims of domestic violence leading to depression, and thus, taking the path of separation is the ultimate solution. The next factor is differences in principles or differences of opinion. Having different opinions too often can also trigger arguments in the household, especially if both husband and wife maintain their respective egos.<sup>10</sup>

The information obtained in the Kuta Alam community shows that if a divorce occurs, it is generally resolved through customary law whereby the village customary leader is sent as a *hakam* along with the village *imam* (prayer's leader), or simply informs the village officials. Thus, resolving problems that occur in the household is not an easy matter, and it requires serious handling so that the role of customary leaders becomes very important as a mediator. Hence, problems

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<sup>7</sup> Khairuddin Hasballah and Rahmadani Rahmadani, "Studi Pemikiran Ibnu Qayyim Al-Jauziyyah tentang *Hakam* dan Relevansinya dengan Mediasi di Pengadilan Agama," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 3, No. 1 (2019).

<sup>8</sup> Interview with H. Yusri, M.H, Hakim Mahkamah Syar'yah Banda Aceh, September 27, 2022.

<sup>9</sup> Observations conducted by researchers in Kuta Alam, September 2022.

<sup>10</sup> Interviews with some village Customary Leaders in Kuta Alam, September 27, 2022.

between husband and wife can be resolved through mediation without ending in divorce.

In light of the explanation above, the study aimed to examine further the role of the village customary leaders as a *hakam* in handling divorce in Kuta Alam Subdistrict, Banda Aceh City. This study employed a normative-sociological study, namely a textual approach that has not been influenced by thought. The sociological approach is an approach that emphasizes the social aspects of a research object.<sup>11</sup> The study was classified as field research, which describes the situation and phenomena clearly in the field, in this case among the people in Kuta Alam Subdistrict, Banda Aceh City. Data were collected through interviews with *Keuchik* (Village Head), *Tuha Peut* (the elders), *Imum Chik* (Imam/Prayer Leader), and community leaders as well as document study in the form of articles, books, and related references.

### **The Role of Village Customary Leaders as *Hakam* in Resolving Divorce**

*Lembaga adat* (customary institution) is the combination of the words *lembaga* and *adat*. The word “*lembaga*” comes from the Indonesian language, which is a transfer of the term from English, *institution* (establishment, institution, custom, habit).<sup>12</sup> From the linguistic definition, an institution can be interpreted as a term that refers to a stable pattern of human behavior consisting of social interactions that have a structure within a framework of relevant values.<sup>13</sup>

The term *customary institution* refers to a form of customary organization relatively fixed in terms of patterns of behavior, roles that are free and binding on individuals, has formal authority and customary law sanctions in order to achieve basic social needs.<sup>14</sup> In other words, *adat* is a sustainable community custom (continuous) maintained by its supporters.<sup>15</sup> The manifestation of cultural ideas consisting of cultural values, norms, laws, and regulations that are interconnected forms a system based on Islamic Sharia. Sharia itself has its foundation in the Holy Book (Qur'an) and its legal principles should not contradict one another. This is illustrated in a famous Acehese saying, “*Adat ngen hukom, lagei zat ngon sifeut, hanjeut crei brei*” (custom and law are like substance and attribute, inseparable).<sup>16</sup>

The legal basis for customary institutions is contained in several regulations, including Law Number 4 of 1999 concerning the Implementation of Special Autonomy in the Fields of Religion, Education, and Customs and Traditions and Regional Regulation Number 7 of 2000 concerning the Implementation of

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<sup>11</sup> Soerjono Soekanto, *Pengantar Penelitian Hukum*, (Jakarta: UI Press, 1986), p. 10. Muh. Fitrah and Luthiyah, *Metodologi Penelitian*, (Jawa Barat: Jejak, 2017).

<sup>12</sup> John M. Echol, *Kamus Inggris Indonesia*, (Jakarta: Gramedia, 1996), p. 325.

<sup>13</sup> Departemen Pendidikan Nasional, *Kamus Besar Bahasa Indonesia*, Third Ed., (Jakarta: Balai Pustaka, 2003), p. 655.

<sup>14</sup> Hendropuspita, *Sosiologi Agama*, Yogyakarta: Kanisius, 1994), p. 20.

<sup>15</sup> Soepomo, *Bab-Bab Tentang Hukum Adat*, (Jakarta: Pradya Pramita, 1984), p. 34.

<sup>16</sup> Badruzzaman Ismail, *Perilaku Budaya Adat Aceh, Narit Madjah dan Petuah Madjah Dalam Masyarakat*, (Banda Aceh: Majelis Adat Aceh, 2018), p. 2.

Customary Life, which has now been replaced by Qanun Aceh No. 9 of 2008 concerning the Development of Customary Life and Customs. In addition, in Regional Regulation PERDA Number 7 of 2000 concerning the Development of Customary Life, it is explained about the Settlement of Customary Law in Aceh, wherein customary institutions consist of *Keuchik* (Village Head), *Tuha Peut* (Village Elders), *Tuha Lapan* (Village Elders), and *Imuem Meunasah* (Mosque Leader). Furthermore, in Article 14 of Qanun Aceh Number 9 of 2008 concerning the Development of Customary Life and Customs, it is stated that customary settlement as referred to in Article 13 paragraph (2) includes customary settlement in *Gampong* or other names for customary settlement, *mukim*, and customary settlement at sea.<sup>17</sup>

The settlement of customary disputes at the village level, as referred to in Qanun Aceh Number 9 of 2008, gives the *Keuchik* the authority to resolve disputes that occur in the village, including problems within families, problems between families, social problems that arise in the community, all of which can be resolved in a single village customary meeting.<sup>18</sup> The enactment of Law Number 11 of 2006 concerning the Government of Aceh further strengthens the role of the Village Government in resolving disputes, as stipulated in Article 98 paragraph (2) which states that the resolution of social and community problems through customary means it is carried out through customary institutions.

The efforts of village customary leaders as *ḥakam* in resolving family disputes are an alternative solution for married couples who expect a divorce, as Allah SWT says in Surah An-Nisa [4:35], “*And if you fear a breach between the two, then appoint an arbiter from his people and an arbiter from her people. If they both desire reconciliation, Allah will bring about their concord. Indeed, Allah is All-Knowing, All-Aware.*” This verse explains that if one fears that there will be a dispute and disagreement between a married couple, then send a *ḥakam* from each of their families to reconcile them. If both *ḥakam* intend to reconcile, then Allah will give them success.

*Ḥakam* plays a very important role in resolving disputes between husband and wife. A *ḥakam* must have the wisdom and ability to offer solutions and to control the thoughts of the parties who are facing a dispute in their household. The *ḥakam* must understand the needs of others for reality, respect, and independence, and must adjust the level of formality to the appropriate setting. Therefore, the role of a *ḥakam* is not easy and carries a very heavy responsibility. A *ḥakam* also needs extensive knowledge and careful thinking, as well as a productive attitude that can make the parties feel comfortable and respect his role as a *ḥakam*. If every village has peacemakers who are increasingly wise in handling dispute cases, then the

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<sup>17</sup> Fajri M. Kasim and Abidin Nurdin, “Study of Sociological Law on Conflict Resolution Through Adat in Aceh Community According to Islamic Law,” *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 4, No. 2 (2020).

<sup>18</sup> Kamaruddin, “Model Penyelesaian Konflik Di Lembaga Adat,” *Walisongo: Jurnal Penelitian Sosial Keagamaan* 21, no. 1 (2013), p. 47-48.

community will increasingly believe that these customary leaders are capable of resolving the problems in households.<sup>19</sup>

Therefore, in general, when a dispute occurs, people choose religious leaders, customary leaders, community leaders, and all village officials or people who are considered capable of providing solutions as *hakam* in a domestic dispute. People believe that religious leaders, community leaders, and all village officials have the knowledge and authority to help in the process of resolving the dispute between the husband and wife.<sup>20</sup>

The community's understanding of the role of customary leaders as *hakam* is that they are capable to handle problems in the family, especially in disputes that can lead to divorce. Hence, the majority of people come to ask customary leaders to be peacemakers who are able to provide a middle ground and provide advice and decide on good law so that it can be resolved peacefully and in a family way.<sup>21</sup>

The tasks and authorities of the village customary institution have been regulated in Regional Regulation Number 7 of 2000 concerning the Implementation of Customary Life, which emphasizes that the customary institution functions as a means to maintain security, peace, harmony, and order in the community<sup>22</sup> as referred to in Article 98 Paragraph (3) of Law Number 11 of 2006 concerning the Government of Aceh and in Article 2 Paragraph (2) of Aceh Qanun Number 10 of 2008 concerning Customary Institutions.

Therefore, the role of customary leaders as *hakam* is to be able to resolve cases happening in the village, as stated in Article 13 of Aceh Qanun Number 9 of 2008 concerning the Development of Customary Life and Customs. There are 18 customary cases that can be resolved through village customary law.

Based on Article 13 of Aceh Qanun Number 9 of 2008 above, customary courts prioritize the aspect of deliberation in resolving every problem in society. Customary courts expect every problem that occurs in the village to be resolved first in a family way, so that a decision can be made that can be accepted together.

The mechanism of the role of village customary leaders as a *hakam* is very important in resolving domestic disputes between husband and wife, as a *hakam* must have the wisdom to make a legal decision, and thus, a wise *hakam* is able to overcome all the problems in society.<sup>23</sup>

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<sup>19</sup> Interview with Enzus Tinianus, member of Tuha Peut of Gampong Lambaro Skep, Kuta Alam, January 31, 2023.

<sup>20</sup> Interview with Sarifuddin, Customary Leader of Gampong Lamdingin, Kuta Alam, January 30, 2023.

<sup>21</sup> Interview with Tgk. M. Zein Hamid, Imum Chik, Gampong Beurawe, Kuta Alam, February 1, 2023.

<sup>22</sup> Badruzzaman Ismail, *Dasar-Dasar Hukum Pelaksanaan Adat dan Adat Istiadat di Aceh*, (Banda Aceh: Boenbon Jaya, 2013), p. 47.

<sup>23</sup> Fadlil Akbar and Darmawan, "Mediasi Terhadap Perselisihan Rumah Tangga Melalui Mekanisme Adat di Kemukiman Kampong Baro Kecamatan Pidie," *Jurnal Ilmiah Mahasiswa Bidang Hukum Keperdataan* 5, no. 2 (2021), p. 144-145.

The resolution carried out by customary leaders as *hakam* in resolving disputes between husband and wife is through mediation at the *keuchik* office. The settlement is performed through village customary law after receiving a report from the husband and wife or the wife who reports the problem or (there is a complaint) so that the village customary leaders can hold a trial at the *keuchik* office or village hall.<sup>24</sup>

In general, according to Tarmizi, *Keuchik* of Lambaro Skep, every problem, e.g., dispute or conflict, in society is always tried to be resolved through deliberation since it is the essence of the mediation process between the disputing parties. If at this stage an agreement cannot be reached between the disputing parties, then the resolution can be requested from the village customary leaders as peacemakers by approaching the parties to find the root of the problem.<sup>25</sup>

Muhammad Jakfar Puteh, a member of *Tuha Peut*, also mentions that customary institutions are always involved in any problem. The resolution is carried out through several stages, i.e., organizing deliberation firstly with the hamlet head to seek reconciliation. If it cannot be resolved by the hamlet head, it will then proceed to the deliberation with the village customary leaders, involving the *tengku imum*, *tuha peut*, *keuchik*, customary leaders, and all village officials.<sup>26</sup>

According to Zakki, *Keuchik* of Lamdingin, when there is a dispute concerning household matters, it is first tried through the *ule jurong* (hamlet head) who is appointed as *hakam*. The task of the *ule jurong* is to find out and observe the case by visiting the parties concerned. After visiting the husband and wife who are in conflict, the *ule jurong* usually gives the following advice, “*In building a household, there are always disagreements, which we all do not want. However, know that every problem that occurs in a household is a test from Allah in living a married life. So, don't get divorced because divorce is not a way to solve problems. Have pity on your children, have pity on your parents, be ashamed towards neighbors, as every household must have trials given by Allah. Our job is only to be patient and think carefully, we should never make the wrong decision, especially in a state of emotion, because regretting it later will be useless. All the problems we face can be solved properly through deliberation.*”<sup>27</sup>

Such is the advice given to the husband and wife who are in conflict, with the aim of making them think and not rush in making decisions that can harm them. Syarifuddin adds that if the problem is too difficult to resolve and the advice stage is unsuccessful, then the village customary institution will hold a deliberation by calling the parties. The trial process is carried out at the village hall, and after

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<sup>24</sup> Interview with, Tgk. Muhammad Ali, Imum Chik of Gampong Lambaro Skep, Kuta Alam, January 31, 2023.

<sup>25</sup> Interview with Tarmizi, *Keuchik* of Lambaro Skep, Kuta Alam, January 30, 2023

<sup>26</sup> Interview with H M. Jakfar Puteh, member of *Tuha Peut* of Gampong Lambaro Skep, Kuta Alam, January 31, 2023.

<sup>27</sup> Interview with Zakki, *Keuchik* of Lamdingin Kuta Alam, January 30, 2023.



hearing the problem, the village customary leaders will give advice again. This effort is made so that the husband and wife in conflict are willing to make peace.<sup>28</sup>

Amri, *Keuchik* of Beurawe, describes that if there is a quarrel in the household, the village customary leaders do not immediately intervene as *hakam*, but rather it is first resolved by the family who acts as a mediator between the two parties, the husband and wife who are in conflict, and if the family is unable to help them reconcile, then they will report the matter to the *ule jurong* to find out the root of the problem that causes the quarrel. Then, the *ule jurong* reports it to the *keuchik* so that it can be resolved through village customary law. The deliberation involves *tuha peut*, *tengku imum*, and customary leaders as *hakam* in resolving the quarrel.<sup>29</sup>

If it has been directed to the village customary leaders as *hakam*, then the village customary leaders will immediately try as hard as possible to reconcile the married couple. A peaceful settlement will be agreed upon by the two disputing parties through the mediation process of village customary law. The steps taken by the village customary leaders as *hakam* are as follows:

1. Discussing, listening, receiving, and observing complaints.
2. Ordering the hamlet head to investigate the case, by visiting the disputing parties.
3. First resolving it by the hamlet head, and if failing to resolve it, it will be submitted to the village customary institution.
4. Conducting a deliberation (trial) at the village hall or at the *keuchik* office.
5. Inviting village customary leaders e.g., *imum chik*, *tuha peut*, *tuha lapan*, and village customary leaders to participate in the deliberation.
6. Inviting the husband and wife who are in conflict, witnesses, and the opinions of the village customary leaders.
7. Giving advice to the disputing parties, considering, and determining the results of a joint decision between the two parties concerned.<sup>30</sup>

However, there are also parties who wish to resolve their problems directly to the Sharia Court to seek legal certainty. In this case, the village customary institution will provide a recommendation letter, stating that the village customary institution has conducted mediation, but has not found a common ground, and thus, they want to seek legal certainty through the Sharia Court.<sup>31</sup>

From the results of the interview above, it can be concluded that the role of the village customary leaders as *hakam* is only to reconcile the disputing parties in the household, and not to divorce them. In general, *hakam* is to reconcile or mediate married couples in dispute, by investigating and finding the root of the problem with the hope that they can be reconciled and reunited. If there is a dispute between a husband and wife, the village customary leaders will generally ask the

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<sup>28</sup> Interview with Syarifuddin, Lamdingin, Kuta Alam, January 30, 2023.

<sup>29</sup> Interview with Amri, Keuchik of Beurawe, Kuta Alam, February 1, 2023.

<sup>30</sup> Interview with Some Village Customary Leaders in Kuta Alam, Banda Aceh, February 1, 2023

<sup>31</sup> Interview with Abdul Wahab, member of Tuha Peut, Kuta Alam, February 1, 2023

parties involved whether they want to be reconciled or divorced. If they want to make peace, then the village customary institution is ready to help them reconcile. However, if they want to seek legal certainty or to divorce, the village customary leaders have no right to resolve it.

Findings from the survey conducted in several villages in Kuta Alam Subdistrict, e.g., Gampong Lambaro Skep, Gampong Lamdingin, and Gampong Beurawe, many factors have caused divorce in households, including economic factors, ongoing disputes and quarrels, domestic violence, and income mismatch between husband and wife.

Economic factors are one of the factors that often trigger divorce among married couples in the community. This situation can cause stress and anxiety for the husband, which can eventually lead to or even trigger quarrels in the family. For example, a wife tries to earn a living since her husband's income is low in order to meet daily needs; however, the wife chooses to work abroad due to the low income in the village. When the husband does not allow it, they quarrel, and thus, conflict arises in the family. Afterwards, the husband feels insecure and decides to separate from his wife.<sup>32</sup>

### **The Effectiveness of the Role of Village Customary Leaders as *Hakam* in Kuta Alam, Banda Aceh City**

The success of a *hakam* in seeking peace between the two conflicting spouses cannot be separated from the existence of an effective way or method used by the *hakam* in handling and reconciling them. If a *hakam* does not have the wisdom or skills, then the chance of peace may slip away.

From the results of interviews with several *keuchik* and *tuha peut* in Lambaro Skep, Lamdingin, Beurawe of Kuta Alam Subdistrict, Banda Aceh City, the cases that have been handled from 2018-2021 are as follows:

**Table 1: Spousal Conflict Cases in Kuta Alam**

No	Gampong	Year	Number of Cases	Resolved	Failed
1.	Lambaro Skep	2018-2021	15	10	5
2.	Lamdingin	2018-2021	12	11	1
3.	Beurawe	2018-2021	8	5	3

Source: Interview Results, 2022-2023

Table 1 shows that between 2018-2021, there were 15 cases of household disputes in Lambaro Skep in which 10 were resolved by village customary leaders and 5 failed to be reconciled. In Lamdingin, of 12 cases of household disputes, 11 were resolved and one failed. In Beurawe, of 8 cases of household disputes, 5 were resolved and 3 failed to be reconciled.

Mr. Yusfa, a member of *tuha peut* of Gampong Lamdingin, recalls that the village customary leaders could not resolve some cases of conflict as *hakam*

<sup>32</sup> Interview with Safaruddin, community leader of Gampong Lamdingin, January 31, 2023.

because the conflict could no longer be resolved or reconciled. Because the problems that arose were already very serious, the village customary leaders as *hakam* were unable to resolve them. Therefore, the conflict cases were referred to the Sharia Court, and both parties also saw that the only best way was to divorce.<sup>33</sup>

The table above also illustrates that the peace efforts made by village customary leaders as *hakam* in overcoming divorce in Kuta Alam, Banda Aceh City have been effective. However, village customary leaders cannot resolve some cases as *hakam*. The success or failure of *hakam* is influenced by factors that support the peace process.

The factors that support peace include the willingness or humility of the husband and wife who are in dispute to seek peace. Willingness to attend the hearing is necessary so that advice and guidance can be given in order to manage a peace process. In addition, the problem factor is also crucial since the magnitude of the problem that occurs can determine the success of the peace process. Further, the factor from *hakam* itself is important since he must have good policies or skills in achieving peace.

## Conclusion

The role of village customary leaders as *hakam* in handling divorce in Kuta Alam Subdistrict is to be a peacemaker for the parties involved in domestic dispute. Village customary leaders as *hakam* also act as a mediator between couples in conflict, by investigating and finding the root of the problem with the hope that they can be reconciled and reunited. The following are the divorce cases that occurred in Lambaro Skep, Lamdingin, and Beurawe Villages in 2018/2021. Lambaro Skep had 15 cases, 10 were successfully resolved and 5 failed. Lamdingin had 12 cases, 11 were successfully resolved and 1 failed. Beurawe had 8 cases, 5 were successfully resolved and 3 failed. In the event that the village customary leaders cannot successfully resolve the divorce case as *hakam*, he will refer the case to the Sharia Court by making a signed letter stating that it has been resolved at the customary level, but no common ground has been reached. The role of village customary leaders as *hakam* has been generally effective, as can be seen from the several stages of the peace process carried out in resolving domestic disputes. However, there are some cases of conflict that cannot be resolved by the village customary leaders as *hakam* because the disputed parties prefer legal certainty in court. Nevertheless, several cases of divorce settlement carried out by customary leaders as *hakam* in Kuta Alam Subdistrict, Banda Aceh City show that peace could still be achievable between the parties in conflict to avoid divorce.

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<sup>33</sup> Interview with Yusfa, member of Tuha Peut of Gampong Lamdingin, Kuta Alam, January 30, 2023.

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