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Reconciling Indigenous Practices and Islamic Principles : A Comparative Analysis of the Fiqh Principles ‘Al-Dararu Yuzal’ and ‘Al-Adah Muhakkamah’ in the Panai Cultural Practice of Bugis Weddings

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Abstract

This paper examines the compatibility of Islamic jurisprudential principles, specifically al-‘Adah Muhakkamah (custom is authoritative) and al-Darar Yuzal (damage shall be removed), with the Panai tradition in Bugis marriage. In Bugis culture, panai, a monetary gift from the groom to the bride's family, serves as more than just a symbolic dowry. In the Bugis tradition, Panai is considered an essential component of the dowry, functioning almost as a precondition. Without Panai, marriages within this culture are unlikely to proceed. Over time, the meaning and significance of Panai have evolved, influenced by various social factors. It now serves as a measure of a woman's family's social status, with its value increasing

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for women deemed beautiful, educated, or employed in prestigious professions such as civil service. This study adopts a qualitative-descriptive methodology through an extensive literature review, analyzing classical Islamic legal texts and contemporary research on Bugis marital customs. It explores how the Panai tradition interacts with key fiqh principles by synthesizing both normative Islamic frameworks and local practices. Findings show that although Panai retains cultural legitimacy and aligns with al-'Adah Muhakkamah, its modern practice often imposes financial and psychological burdens, contradicting the principle of al-Dararu Yuzal. These impacts raise ethical concerns regarding fairness and marriage accessibility. The study concludes that a balanced re-evaluation of the Panai practice is necessary. A reformative approach rooted in maqasid al-shari'ah is recommended to minimize harm while preserving cultural identity and facilitating marriage within Islamic ethical boundaries.

Keyword: Al-Dararu Yuzal (Harm Shall Be Removed), Al-Adah Muhakkamah (Custom Is Authoritative), Panai

Abstrak

Makalah ini mengkaji kesesuaian prinsip-prinsip fikih Islam, khususnya al-'Adah Muhakkamah (adat itu berwibawa) dan al-Dararu Yuzal (kerusakan harus dihilangkan), dengan tradisi panai dalam pernikahan Bugis. Dalam budaya Bugis, panai, pemberian uang dari mempelai pria kepada keluarga mempelai wanita, berfungsi lebih dari sekadar mas kawin simbolis. Dalam tradisi Bugis, panai dianggap sebagai komponen penting dari mas kawin, yang berfungsi hampir sebagai prasyarat. Tanpa Panai, pernikahan dalam budaya ini tidak mungkin terjadi. Seiring berjalannya waktu, makna dan arti penting dari Panai telah berevolusi, dipengaruhi oleh berbagai faktor sosial. Panai kini berfungsi sebagai ukuran status sosial keluarga seorang perempuan, dengan nilainya yang meningkat bagi perempuan yang dianggap cantik, berpendidikan, atau bekerja di profesi bergengsi seperti pegawai negeri. Penelitian ini menggunakan metodologi deskriptif-kualitatif melalui tinjauan literatur yang ekstensif, dengan menganalisis teks-teks hukum Islam klasik dan penelitian kontemporer mengenai adat istiadat perkawinan Bugis. Penelitian ini mengeksplorasi bagaimana tradisi Panai berinteraksi dengan prinsip-prinsip fikih utama dengan mensintesis kerangka kerja Islam normatif dan praktik-praktik lokal. Hasil dari Penelitian ini menunjukkan bahwa meskipun Panai mempertahankan legitimasi budaya dan selaras dengan al-'Adah Muhakkamah, praktik modernnya sering kali membebankan beban keuangan dan psikologis, yang bertentangan dengan prinsip al-Dararu Yuzal. Dampak-dampak ini menimbulkan kekhawatiran etis terkait keadilan dan aksesibilitas pernikahan. Penelitian ini menyimpulkan bahwa evaluasi ulang yang seimbang terhadap praktik Panai diperlukan. Pendekatan reformatif yang berakar pada maqasid al-shari'ah

direkomendasikan untuk meminimalisir kerugian sekaligus melestarikan identitas budaya dan memfasilitasi pernikahan dalam batas-batas etika Islam.

Kata kunci: Al-dararu Yuzalu, Al-adah Muhakkamah, Panai, Prinsip Fiqh.

المخلص

تتناول هذه الورقة البحثية مدى توافق المبادئ الفقهية الإسلامية، ولا سيما قاعدة "العادة محكمة" وقاعدة "الضرر يزال"، مع تقليد "الباناي" في الزواج البوقيسي. في ثقافة البوقيس، يُعدّ الباناي – وهو هدية مالية من العريس إلى أسرة العروس – أكثر من مجرد مهر رمزي؛ بل يُعتبر عنصراً جوهرياً في المهر وشبه شرط مسبق لعقد الزواج. وبدون الباناي، نادراً ما تُعقد الزيجات في هذه الثقافة. ومع مرور الوقت، تطوّرت دلالة الباناي وأهميته تحت تأثير عوامل اجتماعية متعددة، وأصبح يُنظر إليه كمقياس للمكانة الاجتماعية لأسرة المرأة، حيث تزداد قيمته للنساء الجميلات أو المتعلّقات أو العاملات في وظائف مرموقة كالخدمة المدنية. تعتمد هذه الدراسة على منهج وصفي-نوعي من خلال مراجعة أدبية واسعة، تشمل النصوص الفقهية الإسلامية الكلاسيكية والأبحاث المعاصرة حول عادات الزواج لدى البوقيس. وتستكشف كيف يتفاعل تقليد الباناي مع المبادئ الفقهية الأساسية من خلال الجمع بين الأطر الإسلامية المعيارية والممارسات المحلية. وتُظهر النتائج أن الباناي لا يزال يحتفظ بشريعته الثقافية ويتوافق مع قاعدة "العادة محكمة"، إلا أن ممارسته الحديثة تفرض أعباء مالية ونفسية تتعارض مع قاعدة "الضرر يزال". وتشير هذه التأثيرات تساؤلات أخلاقية تتعلق بالعدالة وإمكانية الوصول إلى الزواج. وتخلص الدراسة إلى ضرورة إعادة تقييم ممارسة الباناي بشكل متوازن، وتوصي باتباع نهج إصلاحي يستند إلى مقاصد الشريعة من أجل تقليل الضرر مع الحفاظ على الهوية الثقافية وتيسير الزواج ضمن الإطار الأخلاقي الإسلامي.

الكلمات المفتاحية/الرئيسية: المبدأ الفقهي، الضرر يزول، العادة المحكمة، باناي

1. Introduction

In Islamic and Indonesian culture, marriage is a vital institution that is frequently influenced by the meeting point of local traditions and religious beliefs. The panai tradition—a monetary present from the groom to the bride's family—is one of the most important marital customs in Bugis culture. Although panai has cultural and symbolic meaning and serves as a gauge of the woman's standing and the seriousness of the groom, rising financial demands have also made it a possible hardship. In the Bugis tribal society, "Panai" is often referred to as the money provided by the groom's side to cover the expenses during the wedding ceremony. Panai plays a very important role; without this money, the marriage cannot take place. The process of determining the amount of panai is an agreement between the two families, and it often fails due to disputes over the amount requested by the bride's family. The increased demand for panai is closely tied to the "siri" culture, or the sense of shame, especially when the amount of panai does not align with the bride's level of education. The higher the woman's level of education, the higher the amount requested. This is done to maintain honor and avoid shame for the bride's family. Over time, the demand for Panai has sometimes turned into a symbol of boasting within the community.

The practice of Panai in Bugis society is a tradition where the amount of money paid by the man to the woman's family is determined by various factors such as education, economic status, and social standing. Panai money is seen as a way to gain social status and maintain family reputation, reflecting the social norms and cultural values of the society. It is considered a symbol of women's self-esteem and plays a significant role in the economy and social status of women in Bugis culture. Panai money is closely linked to Islamic law and is considered sacred in marriage by the majority of the population in Bugis society. Both panai and dowry are essential elements in Bugis weddings, with panai often receiving more attention and being a key factor in the smooth running of the wedding process¹.

Some of the phenomena occurring in society regarding Panai include treating Panai, which was once considered a complement (tahsiniyyat), as the most important factor (necessity) in marriage, surpassing the dowry, which is obligatory; viewing Panai as a determinant for the realization of marriage, rather than adhering to the conditions set by Sharia; and the emergence of various forms of crime (such as usury, theft, etc.) to fulfill the demand for Panai money.² As a result, the traditional values associated with "Panai" have deviated from their original purpose. "Panai" is no longer merely a tradition but a means of displaying social status within the community. As previously explained, this section will review the application of two legal maxims in relation to the issue of Panai. These maxims are particularly pertinent to the issue of Panai money, which has become a deeply established tradition in Bugis society. The two legal maxims to be discussed are "al-adah muhakkamah" (custom is authoritative) and "ad-Darar Yuzal" (harm shall be removed), which will be elaborated upon in the following sections. A legal maxim is defined as a general legal principle that encompasses broad legislative rulings from various chapters related to the issues within its scope.³

The fiqh principles "Ad-Darar Yuzal" (harm shall be removed) and "Al-'Adah Muhakkamah" (custom is authoritative) are two foundational concepts in Islamic jurisprudence. Concerning the principle "Ad-Darar Yuzal," I will focus on a sub-principle derived from it, namely "Daf' al-Mafasid Awla min Jalb al-Masalih" (warding off harm takes precedence over bringing benefits). This sub-principle indicates that when harm and benefit are in conflict, averting harm is generally prioritized, as the Shari'ah places greater emphasis on prohibitions than on obligations. A detailed exploration of this principle, along with its application to the issue of "panai," will be presented later. Using the legal maxim al-'Adah Muhakkamah, Islamic

¹ Muhammad Dwi Fajri and Ishma Amelia, "Panai Tradition In Bugis Makassar Society In Bima : Islamic Law Perspective" 10, no. 2 (2024): 221–48.p. 243-244

² Fatwa of the Indonesian Ulama Council (MUI) South Sulawesi Province No. 02 of 2022 Regarding Panai Money

³ Abu Hafis Umar bin Ali Al-Ansari, Sirajuddin (d. 804 AH) (1431 AH), *Qawa'id Ibn al-Mulaqqan or 'Al-Ashbah wa al-Naza'ir fi Qawa'id al-Fiqh* (Riyadh: Dar Ibn al-Qayyim for Publishing and Distribution, 1431 AH), 1/25

law recognizes the legitimacy of regional customs while also encouraging the alleviation of hardship through the principle *al-Darar Yuzal*. Thus, the Panai tradition offers an intriguing point of conflict between the preservation of cultural history and the application of Islamic law, particularly in modern settings where dowry customs may result in social inequity, psychological suffering, or marital delays.

Scholars have debated the question of whether *fiqh* principles can be regarded as valid Shari'ah-based evidence. This debate is divided between those who reject this view and those who affirm it. The detractors argue that *fiqh* principles are merely comprehensive frameworks that organize subsidiary rulings. Their primary function, they claim, is to recall, classify, and clarify these rulings, rather than to serve as independent legal evidence. Furthermore, they assert that *fiqh* principles are general (*ghalibiyah*) rather than absolute (*kulliyah*), meaning that specific rulings might fall outside their scope. Additionally, they emphasize that reasoning based on *fiqh* principles is speculative (*zanni*), whereas Shari'ah mandates that only definitive (*qat'i*) evidence may be used as proof. Conversely, proponents of this view contend that *fiqh* principles qualify as general legal evidence (*dalil shar'i kulli*), as they are rooted in multiple Shari'ah sources rather than a single, specific source. They argue that reasoning through *fiqh* principles is superior to analogical reasoning (*qiyas*), as it encompasses all cases analogous to a given subsidiary ruling. This universal application, they maintain, is more robust than reasoning applied to individual cases. Additionally, they highlight that some *fiqh* principles have explicit foundations in the Qur'an, the Sunnah, and the statements of the *salaf al-salih* (pious predecessors).⁴ This discourse underscores the varying perspectives regarding the epistemological and methodological authority of *fiqh* principles in Islamic jurisprudence.

One of the conditions for a jurisprudential rule to be considered valid legal evidence is that the rule must either provide certainty (*qat'i*) or high probability (*zanni*), supported by methods of proof such as textual evidence (*nass*) or consensus (*ijma'*), among others. Additionally, there must be no stronger evidence or evidence that contradicts it. The specific branch being addressed must align with the general principle, and the one who applies the rule must possess the capacity for *ijtihad* and legitimate legal reasoning.

When we refer to "panai," we are actually referring to Indonesia's cultural variety, which is typified by distinctive customs surrounding marriage in every area or culture. Under many names, the Bugis tradition of *panai* money is analogous to similar practices in other cultures. However, what makes the problem of *panai* money unique to Bugis culture and a major topic of discussion? What about the *panai* money used in other cultures in an indirect manner? In the Bugis tradition, where the *panai* money given is renowned for its variable standards depending on a number of criteria, I would like to share my opinion that *panai* money in other traditions does not have the same distinctiveness or substantial worth. The quantity of *panai* money that

⁴ Mukhtar al-Khadimi, Nur al-Din. *Al-Qawa'id al-Fiqhiyyah* (2007): 3.

must be paid increases with the woman's expectation of marriage. The Bugis tradition places a greater emphasis on the *panai* issue than other traditions because of this.

This study addresses the following research questions:

1. How do the two key principles of Islamic jurisprudence, "al-‘Adah Muhakkamah" (custom is authoritative) and "ad-Darar Yuzal" (harm shall be removed), manifest in the Panai tradition within Bugis marriage?
2. How do these principles correspond with Islamic teachings on mahr (dowry) and the facilitation of marriage procedures?
3. Additionally, how do they interact with the cultural norms and social structure of the Bugis community, particularly regarding social status and the negotiation of marriage terms?

Through a comparative analysis, this study explores how these principles are applied within the context of local customs and practices, shedding light on the relationship between Islamic law and indigenous traditions in Bugis society. This paper aims to close the research gap by providing a comparative analysis of these two fundamental tenets of Islamic law and their applicability to the changing Panai practice. It contributes to the ongoing discussions on whether Islamic law and native customs in Muslim communities are compatible by offering both a normative and socio-legal evaluation.

This research utilizes the framework of Islamic law and customary law theory to analyze the practice of *panai* in Bugis tradition. Islamic law theory, particularly the principle of *maqasid al-shari'ah*, is used to explore whether the *panai* practice aligns with the objectives of Islamic law in promoting welfare and social justice, especially in relation to women's rights. Meanwhile, the theory of customary law helps to understand how *panai* is integrated into the Bugis community's legal system and the extent to which Islamic law accommodates this tradition. By combining both theories, this study aims to explore the relationship between Islamic law and local traditions and examine how they interact in shaping social norms that are just and in accordance with the principles of Islamic law.

The value of the *panai* money is determined and discussed before the engagement between the bride and groom, and it depends on several factors, including the bride's physical condition and beauty. The value increases as the bride is considered more beautiful, with fair skin and an appropriate height. Education also has a significant impact; an educated bride receives a larger sum compared to one who has not attended school. The profession the bride holds also affects the amount, with women in prestigious positions receiving a higher amount. Finally, the influence of lineage in Bugis society persists, despite the extinction of formal social classes. The value of *panai* money is stratified based on the Karang, Daing, and Ata classes.⁵

⁵ Himas Diningrat et al., "Tinjauan Hukum Islam Terhadap Uang Panai Dalam Perkawinan Adat Bugis," *Jurnal Syntax Admiration* 5, no. 5 (2024): 1892–99, <https://doi.org/10.46799/jsa.v5i5.1131>.

2. Literature Review

Based on a review of previous studies, Khalid Saifulloh (2020), in his study, discussed the conditions under which custom becomes a legal reference in Islam. He examined how the maxim "Al-'Adah Muhakkamah" (custom is authoritative) is used to determine the type of dowry when the contract wording is vague. The stipulated dowry must be paid according to the agreement or half of it under certain circumstances, while the "like-for-like" dowry can be determined using this principle. Panai money is a form of like-for-like dowry, and the study focused on the application of this jurisprudential principle to Bugis traditions.⁶

The researchers Mistri, Jarot, and Wahyudi conducted a study on the manuscript Pau-Paunna Sitti Rabiyyatul Awaliya (PPSRA) in 2024 and found that "panai" is considered an expensive cost that must be negotiated. In the manuscript, Sitti Rabiyyatul Awaliya transforms *panai* into a dowry in the form of acquiring knowledge. The story narrates the life of Sitti Rabiyyatul Awaliya, a young Bugis woman who advocates for the study of the Qur'an and Islam. The study concluded that Sitti's actions represent a rejection of the *samba* tradition, but Bugis women did not fully understand her message. The struggle to transform *samba* and *panai* into a dowry is ongoing and faces many obstacles. This study combines Islamic studies and literary studies to uncover the main theme of the manuscript, thereby enhancing the understanding of classical texts through an aesthetic, religious analysis.⁷ The Islamic legal perspective on "panai" clarifies that there are no specific rulings governing this practice in Islam. However, its ruling is permissive, meaning it is allowed to be carried out as there is no evidence prohibiting it. Therefore, it is returned to local traditions, and in its implementation, there should be no element of coercion. It depends on the ability and mutual agreement of both parties.⁸ Upon reviewing the previous studies, none have specifically addressed the comparative analysis of these two major jurisprudential principles, which is the focus of this article. This article aims to examine and compare the application of the two foundational legal principles—*Ad-Darar Yuzal* (harm must be removed) and *Al-'Adah Muhakkamah* (custom is authoritative)—in the context of the practice of *panai*, particularly in Bugis culture. The existing literature has provided important insights into the application and interpretation of these principles, but no prior research has fully explored the comparative study of these principles in relation to the topic at hand.

⁶ Kholid Saifulloh, "Aplikasi Kaidah 'Al-'Adah Muhakkamah' Dalam Kasus Penetapan Jumlah Dan Jenis Mahar," *Al-MAJALIS: Jurnal Dirasat Islamiyah* 8, no. 1 (2020): 57–85, <https://doi.org/10.37397/almajalis.v8i1.153>.

⁷ Jarot Wahyudi, "Transformation of Indigenous Traditions into Islamic Culture: An Examination of Sompā and Mahr in Pau-Paunna Sitti Rabiyyatul Awaliya Manuscript," *ELS Journal on Interdisciplinary Studies in Humanities* 7, no. 1 (2024): 2024.

⁸ Lukman, L., Saeni, J., & Pilo, N. (2024). *Problematika Dui Menre' (Uang Belanja) Terhadap Perkawinan Dalam Pandangan Hukum Islam (Studi Kasus Di Kota Watampone)*.

Numerous studies have examined the Panai tradition in Bugis marriage from various angles, particularly in light of Islamic law and custom. In their study, Maani, Syukri, and Aliyas (2024) looked at the Panai custom in light of *maqasid al-shari'ah*. They pointed out that although Panai upholds societal values and lineage, its high financial demands might cause psychological stress, elopement, and even social exclusion. This illustrates the conflict between the potential costs in practice and its intended moral purpose.⁹ Similar to this, Bahri and Masnani (2023) evaluated Panai from the perspective of *fiqh wadh'i* and came to the conclusion that, although Panai might be recognized as a social condition (*syarth*), it does not have the textual foundation to be regarded as a religious duty. Panai is fundamentally *mubah* (permissible), according to the study, but it can become problematic when it is imposed unilaterally by cultural standards rather than by consent, particularly when it prevents marriage. Additionally, they propose that in order to preserve social cohesion, its ramifications should be governed by local fatwas and Islamic legal norms.¹⁰

According to Rinaldi et al. (2022), the Panai ritual is a representation of female dignity in Bugis Bone culture. They discovered that Panai, which has its roots in socio-cultural status, is viewed as an honor payment rather than *mahr*. The significance of Panai has changed, they pointed out, from being a value-laden ritual to a socially prestigious practice where the amount of the contribution is decided more by status and appearance than by religious principles. This frequently causes conflict between *adat* and *syariah*.¹¹ In a different interpretation, Jumryadi (2022) used *fiqh munakahat* to differentiate between the Sharia-compliant tradition of Panai and the explicitly Islamic law-mandated responsibility of *mahr*. His research indicates that panai is just a custom in the area to pay for marriage costs, and it is OK (*mubah*) if both parties agree. However, if it causes harm like criminal activity, delaying marriage, or exploitation, it becomes illegal (*haram*).¹² At-Tufi's *maslahah mursalah* perspective (2021) conducted a comparative study that contrasted the Belis in other Indonesian cultures with the Panai tradition. Although both traditions emphasize the value of women, Belis was viewed as more benevolent and accommodating because of its more flexible payment schedule and closer ties to social

⁹ B. Maani, Syukri, and Aliyas, "Consequences of Panai Money in Siri and Value of *Maqasid Al-Syariah* in Tribe Marriage Bugis in Indragiri Hilir Riau," in *Religion, Education, Science and Technology towards a More Inclusive and Sustainable Future*, by Maila D.H. Rahiem, 1st ed. (London: Routledge, 2024), 218–22, <https://doi.org/10.1201/9781003322054-37>.

¹⁰ Syamsul Bahri Abdul Hamid and Sitti Wahidah Masnani, "Uang Panai' Dalam Tinjauan Fiqhi Islami," n.d.

¹¹ Agus Bambang Nugara and Lukman Ismail, "Uang Panai Sebagai Harga Diri Perempuan Suku Bugis Bone: Antara Adat Dan Agama" 5, no. 1 (2023).

¹² Jumryadi Jumryadi, *Mahar dan Uang Panai dalam Pernikahan Suku Bugis Kecamatan Loa Janan Perspektif Fiqh Munakahat* (Samarinda: Digital Repository Universitas Islam Negeri Sultan Aji Muhammad Idris, 2022), accessed November 15, 2022.

welfare. By comparison, Panai is less in line with *maslahah mursalah* since it is frequently rigid and can hinder marriage if not completed up front.¹³

When taken as a whole, these studies offer insightful information about the Panai tradition's cultural, legal, and symbolic ramifications. However, the majority of them concentrate on either cultural symbolism, *fiqh* classification, or *maqasid al-shari'ah* separately. The two main *qawa'id fiqhiyyah*, *al-'Adah Muhakkamah* and *al-Darar Yuzal*, have not been thoroughly compared in works that examine Panai as a vibrant, alive tradition. By providing an integrated legal-cultural analysis via the prism of these two fundamental Islamic legal maxims, this study aims to close that gap. In addition to adding to the scholarly discourse on native Islamic customs, the study suggests a reformative framework based on *maqasid al-shari'ah* to resolve the moral and pragmatic conflicts present in the Panai tradition. This paper aims to close the research gap by providing a comparative analysis of these two fundamental tenets of Islamic law and their applicability to the changing Panai practice. It contributes to current discussions over the compatibility of Islamic law with native customs in Muslim cultures by offering both a normative and socio-legal evaluation.

3. Methodology

This study employs a qualitative research methodology, primarily utilizing desk research to examine a wide range of relevant books, scholarly articles, and authoritative sources. The focus is on exploring the intersection of local traditions and Islamic jurisprudence, specifically in the context of the practice of panai in Bugis culture. By critically analyzing existing literature and legal texts, this research aims to uncover the underlying principles and dynamics that shape the practice of panai while drawing comparisons between the two foundational Islamic legal principles—*Ad-Darar Yuzal* (harm must be removed) and *Al-'Adah Muhakkamah* (custom is authoritative). Through this approach, the study will offer a more profound understanding of how these principles are applied in the context of local traditions and how they interact within the framework of Islamic legal thought..

4. Result and Discussion

a. General Discussion on Mahr

Mahr (dowry) holds a significant position in Islam as a symbol of commitment and respect in marriage. However, the amount of mahr has become a subject of considerable debate among scholars and within Muslim communities. In Islamic law, mahr is not merely a formal procedure; it also embodies values of justice and wisdom. The varying opinions regarding the

¹³ Muhamad Taufik Hasan, *Komparasi Tradisi Belis dan Uang Panai dalam Pernikahan Perspektif Maslahah Mursalah At-Tu'fi* (Undergraduate thesis, Universitas Islam Negeri Maulana Malik Ibrahim, 2021).

amount of mahr reflect the complexity and flexibility of Islamic law in addressing the needs of the ummah.

Issues concerning mahr are commonly discussed under the chapter of marriage contracts (*fiqh al-munakahat*) in classical Islamic jurisprudential texts. For instance, discussions on mahr can be found in *Al-Umm* by Al-Shafi'i, *Fath al-Qarib al-Mujib* by Ibn Qasim al-Ghazzi, *Tuhfat al-Muhtaj* by Ibn Hajar al-Haytami, and *Minhaj al-Talibin* by Imam al-Nawawi. In some texts, such as *Al-Ghayah fi Ikhtisar al-Nihayah* by 'Izz al-Din Ibn Abd al-Salam and *Hashiyat Qalyubi wa 'Umairah* by Al-Qalyubi, discussions on mahr appear as a standalone section following the chapter on marriage. Other references include *Al-Muhadhdhab* by Al-Shirazi and *Jawahir al-'Uqd* by Al-Manhaji al-Asyuti. In jurisprudential texts, discussions on mahr are often categorized under the chapter of "Sadaq" (dowry). Mahr is defined as the entitlement a woman receives as a result of marriage. It is known by several terms, including *sadaq*, *nihla*, *ajr*, *faridah*, *mahr*, *'alaqah*, and *'aqr*¹⁴. This article will specifically address the concept of mahr within Shafi'i jurisprudence, as the majority of the Indonesian Muslim community adheres to this school of thought. Focusing on this perspective allows for a more relevant and contextually grounded discussion.

It is recommended to specify the mahr (dowry) in the marriage contract. It is permissible for the mahr to be modest, as indicated by the statement of the Prophet (peace be upon him): "Seek [a dowry] even if it is a ring made of iron." This is because the mahr serves as compensation for the wife's usufruct, and its determination is akin to assigning payment for the use of her services. On the other hand, it is also permissible for the mahr to be substantial, as indicated by the verse in the Qur'an: "And you have given one of them a qintar [a great amount of gold]." (Surah An-Nisa, 4:20). Mu'adh (may Allah be pleased with him) interpreted a qintar as 1,200 uqiyyahs (ounces), while Abu Sa'id al-Khudri (may Allah be pleased with him) described it as the equivalent of a sack full of gold. However, it is recommended that the mahr be kept reasonable. Aisha (may Allah be pleased with her) narrated that the Prophet (peace be upon him) said, "The woman with the most blessings is the one whose marriage involves the least expenses."¹⁵ This recommendation is based on the understanding that an exorbitant mahr can lead to financial hardship, harm, and resentment. It is further recommended that the mahr not exceed 500 dirhams. Aisha (may Allah be pleased with her) was asked about the dowry of the Messenger of Allah (peace be upon him), and she replied,

¹⁴ Jumryadi Jumryadi, *Mahar dan Uang Panai dalam Pernikahan Suku Bugis Kecamatan Loa Janan Perspektif Fiqih Munakahat* (Samarinda: Digital Repository Universitas Islam Negeri Sultan Aji Muhammad Idris, 2022), accessed November 15, 2022. Muhammad ibn Ahmad al-Manhaji al-Asyuti, Shams al-Din [d. 880 H], *Jawahir al-'Uqd wa Mu'in al-Quḍāh wa al-Muwaqqi'in wa al-Shuhūd* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1417 H), 2:33.

¹⁵ Ahmad ibn Hanbal, *Musnad Ahmad*, 46:54, ḥadīth no. 25119. The isnād is weak, and it is a repetition of ḥadīth no. 24529, with the exception that the teacher of Ahmad here is Yazīd ibn Hārūn.

“His dowry for his wives was twelve uqiyyahs and a nash.” She then explained, “Do you know what a nash is? It is half an uqiyyah, which totals 500 dirhams.”¹⁶

It is permissible for the dowry to be in the form of a debt, tangible property, immediate payment, or deferred payment because it is a contract based on benefit, and thus it is permissible, as mentioned, similar to a lease agreement. And it is also permissible for the dowry to be in the form of a benefit, such as a service or teaching the Qur'an, or other permissible benefits, as stated in the verse, "Indeed, I wish to marry you to one of these two daughters of mine on the condition that you serve me for eight years" (Al-Qasas: 27). In this case, tending sheep was made the dowry. The Prophet (PBUH) also married a woman who offered herself to him to a man based on what he had memorized from the Qur'an.

However, it is not acceptable for the dowry to include forbidden items like alcohol; teaching a non-Muslim woman the Torah or the Qur'an if she would rather not convert to Islam; or including ambiguous items like unknown or nonexistent objects or things that are not entirely owned by the husband, like goods that are in their possession. Items that cannot be delivered, like a fugitive slave or a flying bird, are also prohibited since they are regarded as compensation in the contract and should be avoided, much like compensation in a sale or lease. If such a gift is given, the marriage is not void, as the lack of a dowry does not make it any more invalid. A marriage that is lawful without a dowry is nonetheless lawful even if it has an invalid one. Since the woman refused to consent without payment, the agreed-upon dowry was not supplied, and the compensation could not be returned, the dowry of mahr al-mithl (fair dowry) is then payable. This is comparable to trading a good for something illegal that is then destroyed while in the buyer's custody.

Jeuname is the dowry in Acehnese tradition, measured in the unit of mayam (gold). It is an essential condition for marriage and must be agreed upon in advance. Jeuname consists of gold, camphor, and a collection of traditional fabrics. In the village of Baya, the high cost of the dowry has led to negative effects, with approximately 40% of the population not marrying due to these financial obstacles. As a result, marriage rates have declined, and many men have delayed marriage until later in life. The local community refers to this dowry as Mayam.¹⁷ Batar Jujuran is a marriage tradition in the Banjar community of South Kalimantan, which involves the man giving money to the woman's family before the marriage. Unlike the dowry, jujuran is usually larger and is used for the reception and as the initial capital for the family. The amount of jujuran is determined based on the economic status, education, and physical condition of the prospective bride. Its purpose is to bring joy to the reception and honor the bride's family. In Islamic jurisprudence, jujuran is considered permissible as long as there is no

¹⁶ Muslim ibn al-Hajjāj, *Ṣaḥīḥ Muslim*, 2:1042, *Kitāb al-Nikāḥ* (16), *Bāb al-Ṣadāq* (13), ḥadīth no. 78/1426. The term ṣadāq refers to the mahr (dowry). Five hundred dirhams equals approximately 1585 grams of silver.

¹⁷ T S Nadhira, “Analisis Hukum Adat Penggunaan Mayam Sebagai Mahar Dalam Pernikahan Adat Aceh Di Kabupaten Pidie,” *Jurnal Ilmiah Mahasiswa Pendidikan* ... 1 (2021): 1–12. p. 11

coercion and it is agreed upon through mutual consultation. However, setting an excessively high amount may hinder the marriage, which is unjustified in Islam. There is also the practice of "Sampbari" (giving as one can afford), which aligns with Islamic teachings.¹⁸ The tradition of Pitih Japuik in the marriage customs of Minangkabau in Pariaman is distinctive compared to dowry traditions in other regions. Unlike the dominant patriarchal system, in this tradition, the woman's family provides money or valuable items to the groom (known as amoi), reflecting the strong matriarchal system. The amount of Pitih Japuik is determined based on the man's social status and mutual agreement. The uniqueness of Pitih Japuik in Pariaman illustrates how local customs can preserve traditional values while adapting to modern contexts, offering a unique example of the interaction between customs, religion, and social dynamics in Minangkabau society.¹⁹

From the various examples of dowry practices found in Indonesia mentioned earlier, it can be concluded that the dowry traditions in regions other than Bugis are almost identical to "Panai," albeit with different names. Each of these traditions has its own unique factors influencing the payment of the dowry, but they often do not reach the amount paid in "Panai" Bugis. The Bugis community in Makassar incorporates two inseparable elements in their marriage customs: the groom is expected to provide both a dowry (mahar) and Panai money. If either party violates the agreement after the proposal and Panai payment, a fine is imposed. From an Islamic legal perspective, the practice of including Panai as a mandatory condition in Bugis marriages aligns with Islamic principles, as it is based on mutual consent and agreement between the bride and groom on the value of the Panai, ensuring that it does not contradict the essential requirements of an Islamic marriage²⁰.

b. Panai as an Extension of the Dowry

The tradition of Panai emerged during the Dutch colonial period when the Dutch would randomly marry Bugis-Makassar women. After Indonesia's independence, this behavior left a mark and became a custom that diminished the value of Bugis women. The change occurred when a man proposed to the daughter of a noble family and the family requested a high dowry as a sign of his seriousness. This practice evolved further, especially during the reigns of the Bone and Goa Talo kingdoms, where Panai money became a symbol of a man's ability to improve his family's standard of living. This tradition spread with the migration of the Bugis

¹⁸ Gusti Muzainah, "Baantar Jujuran," *Jurnal Al-Insyiroh: Jurnal Studi Keislaman*, Vol. 5, No.2, 5, no. 2 (2019): 10–33.

¹⁹ Miftahunir Rizka and Asep Ramdan, "Analisis Hukum Islam Terhadap Tradisi Pitih Japuik Dalam Perkawinan Adat Minangkabau Pariaman," *Jurnal Riset Hukum Keluarga Islam*, 2022, 43–48, <https://doi.org/10.29313/jrhki.vi.900>.

²⁰ Fajri and Amelia, "Panai Tradition In Bugis Makassar Society In Bima: Islamic Law Perspective."p. 221

tribe to various regions, including South Sumatra, and it remained preserved as a way to maintain tribal unity and demonstrate the high value of Bugis women.²¹

Current debates and controversies regarding the practice of panai in modern Islamic societies have brought to light a number of ethical and legal concerns. Some argue that panai perpetuates gender inequality and restricts the rights of women, while others believe it is a necessary tradition that upholds family values and religious principles. Today, the application of panai in contemporary Islamic societies can vary greatly, with some adhering strictly to traditional teachings and others adapting to more modern interpretations of gender equality and marital relationships.

In the customary marriage practices of the Bugis tribe, the dowry (*mahr*) and the Panai money are inseparable obligations, although the Panai money holds greater significance. Typically, the Panai money is of higher value, reaching hundreds of millions of rupiahs, and is influenced by various factors. On the other hand, the dowry is more flexible and can take the form of land, a house, or jewelry, being of lesser value and mentioned at the time of marriage. While both are obligations, the dowry originates from Islamic traditions, whereas the Panai money is a local customary ruling. This distinction reflects a blend of Islamic law and local traditions in the marriage practices of the Bugis tribe.²²

Panai tradition, while rooted in local tradition, holds more significance than the Islamic dowry (*mahr*) in Bugis marriage practices. This distinction between Islamic law and local customs shapes decision-making, where financial behavior plays a crucial role. Stronger financial behavior within society reduces the likelihood of meeting the Panai demands, aligning with the Theory of Planned Behavior. Additionally, religiosity, although influential, does not strongly affect the decision to fulfill these demands, as religious responsibility encourages more cautious decision-making.

Financial behavior plays a role in decision-making, where stronger financial behavior in society tends to reduce the likelihood of fulfilling the demands of *uang panai* (dowry). This is consistent with the Theory of Planned Behavior, which suggests that decisions should be made after careful consideration and specific planning. Similarly, religiosity does not significantly influence the decision-making process. As an individual's religious conviction grows stronger, the decision to meet the *panai* demands becomes weaker. This sense of religious responsibility leads to more caution in making decisions.²³

²¹ Marini, (2018). "Uang Panai dalam Pernikahan Suku Bugis di Desa Sumber Jaya Kecamatan Sumber Marga Telang Kabupaten Banyuasin Provinsi Sumatera Selatan". Skripsi Kajian Kebudayaan Islam, Jurusan Sejarah dan Peradaban Islam Fakultas Adab dan Humaniora UIN Raden Fatah.

²² Rezki Amaliah Syafruddin et al., *FIQIH KONTEMPORER (Masail Fiqhiyyah)*, 2023.

²³ Kurniati and Eka Indriyani MS, "A Review of The Mashlahah of Uang Panai' in Decision Making: The Role of Financial Behavior, Social Strata, Education and Religiosity," *Bilancia: Jurnal Studi Ilmu Syariah Dan Hukum* 18, no. 1 (2024): 15–36, <https://doi.org/10.24239/blc.v18i1.2992>. P. 16

c. Comparative View: Islamic vs. Cultural Obligations

The bride legally owns the dowry (mahr), which is a required gift from the husband to the bride in accordance with Islamic law. It represents respect and responsibility. It is regarded as both a spiritual duty and a prerequisite for a marriage contract to be enforceable. Mahr has the authority of the Qur'an and Hadith, and traditional scholars concur that the amount should be commensurate with justice rather than luxury. The intersection between the Panai tradition and the legal perspectives of Islamic and customary law has become a topic of extensive discussion among scholars and the wider Bugis-Makassar community. The Panai custom has been the subject of numerous scholarly investigations, especially in South Sulawesi, where it is a distinctive feature of Bugis culture. The extent and geographical range of these studies show the variety of ways that Panai is interpreted and applied in various local contexts. There is ongoing discussion on Panai's compatibility with Islamic legal principles, despite its widely recognized symbolic and cultural significance. Scholars have examined this matter using both empirical research based on regional adat customs and doctrinal Islamic jurisprudence. Both scholarly research and practical reflection can benefit greatly from the comparative tension between these two legal frameworks, fiqh and adat. To further explore this discourse, several key studies are worth highlighting. These include analyses of Panai as an extension of social honor, discussions about its status in Islamic legal theory, and comparisons with similar dowry-related customs in other regions.

The idea of dowry (mahr) has a significant symbolic and legal meaning in Islamic teachings; it is a sign of a husband's regard, accountability, and dedication to his wife. Although it has a distinct place in this structure, Panai is occasionally linked to Mahr. From a religious standpoint, Panai—while presented as a token of respect and gratitude—comes from local tradition, while Mahr is a spiritual and legal duty governed by Sharia. Panai should ideally represent the groom's admiration and financial ability without turning into a transactional indicator of a bride's value or social standing.²⁴). Islam firmly discourages turning marriage into a commodified exchange, and emphasizes that symbolic gifts like mahr should facilitate, not obstruct, the union. However, Panai's cultural dimension frequently deviates from this ideal. Deeply ingrained in the principles of *siri' na pacce*—shame and mutual respect—and linked to a family's social status, Panai is regarded as a necessary and required component of marriage in Bugis society. Economic status, education, and aristocratic ancestry are some of the main characteristics that affect its amount. Panai is enforced as a customary prerequisite that must be met before formal engagement processes start, even though it is not one of the fundamental Sharia prerequisites for marriage. As long as Panai does not conflict with any specific Shariah scripture and satisfies the requirements of broad acceptability, moral neutrality, and societal

²⁴ Anggina Yusila Heryanto, Fatimatuzzahra, and Muhibban, "Analysis of Bugis Traditional Panai Money in Islamic Perspective Marriages," *Maklumat: Journal of Da'wah and Islamic Studies* 2, no. 2 (August 8, 2024): 96–110, <https://doi.org/10.61166/maklumat.v2i2.21>.

benefit, it may be justified from the perspective of ‘urf shahih, a legitimate custom, according to Islamic legal philosophy.²⁵ Nevertheless, scholars alike advise against the strict and exaggerated usage of Panai, particularly when it delays marriage, creates societal pressure, or causes the emphasis to shift from worldly wealth to spiritual preparedness. The Panai tradition is frequently misinterpreted as being interchangeable with mahr in practice, which causes misunderstandings in religious observance and cultural execution.²⁶ This misalignment is further amplified by a lack of Qur’anic literacy among some Bugis communities, where public understanding of dowry-related verses remains limited. Consequently, Panai sometimes assumes an inflated role that exceeds its original purpose of expressing goodwill and familial honor.

Meanwhile, Panai still serves as a cultural obligation in locations like Bima or Jeneponto, where it has been passed down through the generations and is occasionally enforced with social penalties when it is not observed. As long as both families agree on the quantity and application, the custom is still accepted within Islamic principles while being culturally bound. However, the risk of elopement, moral violations, or delayed marriage arises when Panai's amount becomes enormous, necessitating a legal and theological reorientation.²⁷ Furthermore, other viewpoints contend that, when applied proportionately and truly, Panai reflects profoundly ingrained Islamic ideals, including accountability, admiration, and respect for women. When framed within the spirit of shukr (thanks), shura (consultation), and ta’awun (mutual aid), it can serve as a vehicle for moral instruction and character development.²⁸ Yet, even with these virtues, the tradition must be continuously evaluated to prevent it from becoming a source of pride-based inflation and social injustice

Panai is a prime example of the dynamic interplay between Islamic law and customary practice, where religious precepts on justice and simplicity frequently clash with the sociocultural norms ingrained in adat. According to Islamic law, getting married shouldn't be difficult or need a lot of money. The best mahr, according to the Prophet Muhammad, is the one that is easiest to understand. Nonetheless, the increasing Panai nominal values in many Bugis groups can discourage or postpone marriage needlessly, which goes against this core

²⁵ Ainul Mardiah and Putri Nesya Hilda Dwi Hidayati, “Kebudayaan Suku Bugis: Uang Panai Dalam Perspektif Agama Islam,” *ULIL ALBAB : Jurnal Ilmiah Multidisiplin* 3, no. 6 (May 26, 2024): 241–51, <https://doi.org/10.56799/jim.v3i6.3652>.

²⁶ Devi Nirmayuni, *Resepsi Ayat-Ayat Mahar dalam Tradisi Uang Panai (Studi Living Qur'an pada Masyarakat Bugis Tanjung Batu Kecamatan Kundur Kabupaten Karimun Provinsi Kepulauan Riau)* (Tesis Pascasarjana, Institut Ilmu Al-Qur'an (IIQ) Jakarta, 2021).

²⁷ Amrin Amrin, Sugiyarto Sugiyarto, and Ishma Amelia, “Panai Tradition in Bugis Makassar Society in Bima: Islamic Law Perspective,” *Al-Insyiroh: Jurnal Studi Keislaman* 10, no. 2 (September 30, 2024): 221–48, <https://doi.org/10.35309/alinsyiroh.v10i2.293>.

²⁸ Wafik Azisa, “Tradisi Uang Panai’ Dan Nilai - Nilai Pendidikan Islam Dalam Pernikahan Etnik Bugis Pada Masyarakat Desa Manimbaya Kecamatan Balaesang Tanjung Kabupaten Donggala” (UIN Datokarama Palu, 2023).

Islamic tenet.²⁹ This tension becomes more pronounced in contemporary practice, where cultural obligation often outweighs religious prescription. In Bugis traditions, panai is seen as both an obligatory requirement that, if not met, may result in the dissolution of a marriage and a mark of honor. Despite having its roots in adat, this custom deviates from Islamic law, which states that a marriage is deemed lawful as long as the fundamental requirements (rukun) are met, whether or not Panai is paid. Here, adat plays a parallel role, setting its own conditions of legitimacy, even when they exceed what is prescribed by Sharia.

To address these contradictions, some scholars propose frameworks to balance both perspectives. One such strategy is the use of the notion of limits (hudud), which proposes setting reasonable bounds for Panai values in order to guard against excess and guarantee equity. To preserve social justice and respect Islamic ethical values, these limits ought to be in line with economic reality and freely discussed amongst families.³⁰ However, many members of the community still believe that Panai is socially required rather than just acceptable (mubah). Panai is incorporated into the marriage ceremony with mahr, but the two should not be confused, and is understood in many areas as a component of the custom of honor and respect for one another. This perspective holds that panai is not a legal necessity but rather a manifestation of collective cooperation and gratitude (ta'awun).³¹ Different regions share this integrative awareness. The cultural etiquette (sirri') that goes along with formal engagement rites is seen in Maros as including Panai. It serves in addition to *mahr* without taking its place and is understood as a social custom that respects the bride's family without going against religious duties. Adat and Sharia are both recognized, which promotes a context-specific legal culture that honors both tradition and theological validity.³²

Nonetheless, the abuse and exaggeration of Panai in modern settings have drawn increasing criticism. Although panai was once meant to be a genuine sign of dedication, in certain instances it has changed to become a status symbol and a barrier to transactions. Researchers call for a return to the core Islamic principles of fairness, consent, and spiritual equilibrium, urging Panai to be seen as a morally and symbolically significant gift rather than a taxing duty.³³ Thus, the convergence of Islamic law and Bugis custom in the Panai tradition

²⁹ Diningrat et al., "Tinjauan Hukum Islam Terhadap Uang Panai Dalam Perkawinan Adat Bugis."

³⁰ Yanuriansyah Ar Rasyid et al., "Reconstructing the Concept of Uang Panai in South Sulawesi: A Maqāṣid al-Sharī'ah Approach for Revitalizing Women-Friendly Islamic Values," *Al-Ahkam: Jurnal Ilmu Syari'ah Dan Hukum* 9, no. 1 (August 6, 2024): 1–13, <https://doi.org/10.22515/alahkam.v9i1.8706>.

³¹ L. Nadiyah, "Tradisi Uang Panai dalam Adat Pernikahan Suku Bugis di Kota Bontang Kalimantan Timur Menurut Perspektif Hukum Adat dan Hukum Islam" (Skripsi, Universitas Islam Negeri Antasari Banjarmasin, 2021), <https://idr.uin-antasari.ac.id/15301/2/AWAL.pdf>.

³² Muhammad Sholeh, "Uang Panai di Maros: Perspektif Hukum Adat dan Fiqih," *Qonuni: Jurnal Hukum dan Pengkajian Islam* 3, no. 01 (June 16, 2023): 49–57, <https://doi.org/10.59833/qonuni.v3i01.1166>.

³³ Al Fitrah Maharanny, "Uang Panai': Menyoroti Pergeseran Paradigma Masyarakat Kontemporer Perspektif Hukum Islam," *Sipakainge: Jurnal Pengabdian kepada Masyarakat*, accessed April 13, 2025, <http://ejurnal.iainpare.ac.id/index.php/sipakainge/article/view/9996>.

creates a nuanced intersection—where culture can either enrich or erode the spirit of marriage depending on how it is understood, negotiated, and practiced. These findings underline the need for a more balanced interpretation and practice of Panai, where cultural respect can coexist with Islamic ethics. Such a model must prioritize consent, justice, and accessibility, thereby preserving tradition without contradicting Sharia.

d. The Application of the Principle of Al-‘Adah Muhakkamah to the Panai

The meaning of this rule is that custom, whether general or specific, establishes a legal ruling unless there is a specific text that contradicts it. If no text contradicts it, or if the text is general, then the custom is considered valid³⁴. The basis of this rule is Allah’s saying in Surah An-Nisa (4:115): "And whoever opposes the Messenger after guidance has been made clear to him and follows a path other than that of the believers, We will give him what he has chosen, and We will expose him to Hell—an evil destination." From the Sunnah: "What the Muslims consider good is good in the sight of Allah."³⁵ The customs of giving *pattenreāda* (promise), *massarāpo* (tent installation), *cemme passīling* (special bath), *tudang penni* (nighttime sitting), sowing rice in the *maddupa botting* (welcoming the bride and groom) tradition, welcoming the guests, and the *mappacci* (henna night) ritual—given as gifts or ceremonies from the prospective groom to the prospective bride—serve as historical, sociological, and philosophical foundations and have also become sources of significant economic benefit.³⁶

If we refer to the decision of the Indonesian Ulama Council (MUI) in South Sulawesi regarding *panai*, it is based on considerations derived from the Quran, Sunnah, and the legal principle "custom is binding." They have determined that *panai* is permissible as long as it does not contradict the principles of Sharia, which include facilitating marriage, not burdening the man, honoring the woman, ensuring honesty and transparency, and having a reasonable value agreed upon by both parties. The *panai* tradition continues to be practiced in Bugis society until today, despite much opposition due to its high value, but it remains permissible as long as it aligns with Sharia³⁷. The South Sulawesi MUI Fatwa Number 2 of 2022 states that *panai* is either acceptable or acceptable with a number of restrictions. According to *munākahāt* jurisprudence, *panai* refers to the assets—both dowry and non-dowry—that the bride's father

Devi Nirmayuni, *Resepsi Ayat-Ayat Mahar dalam Tradisi Uang Panai (Studi Living Qur'an pada Masyarakat Bugis Tanjung Batu Kecamatan Kundur Kabupaten Karimun Provinsi Kepulauan Riau)* (Tesis Pascasarjana, Institut Ilmu Al-Qur'an (IIQ) Jakarta, 2021).

Zarqa, Muhammad al-Ahmad ibn al-Shaykh (d. 1357 AH / 1938 CE). *Sharh al-Qawa'id al-Fiqhiyyah*. Dar al-Qalam, Damascus, Syria, 1409 AH (p 219)

³⁵ Ahmad ibn Hanbal, *Musnad* 6:84, hadith no. 3600. Its chain of narration is hasan due to 'Asim ibn Abi al-Najud, and the remaining narrators are reliable except for Abu Bakr ibn Ayash. p.6

³⁶ Yayan Sopyan and Andi Asyraf, "“MAHAR AND PAENRE”; Regardless of Social Strata Bugis Women in Anthropological Studies of Islamic Law,” *JURNAL CITA HUKUM* 6, no. 1 (June 16, 2018): 109–38, <https://doi.org/10.15408/jch.v6i1.8270>.

³⁷ Indonesian Ulama Council (MUI), South Sulawesi Province Fatwa No. 02 of 2022 on Panai Money.

demands from the groom. This enables us to comprehend the distinction between the South Sulawesi MUI Fatwa and the *munākahāt* jurisprudential approach, specifically with regard to legal comprehension and outcomes. Additionally, this study supports the view held by *munākahāt* jurisprudence that it is haram or even religious.³⁸

MUI South Sulawesi's fatwa on *panai*' money is based on the Qur'ān, Hadith, *ijma'*, *qiyas*, and *mu'tabar* arguments. However, due to the lack of socialization and the weak binding force of the fatwa, the practice of *panai*' remains sustainable in Gowa society.³⁹ The Indonesian legal system, particularly Law No. 1 of 1974 on Marriage, reflects a flexible stance that allows for cultural elements like *Panai*, as long as they do not conflict with the fundamental validity of the marriage contract under Islamic law. This shows that Indonesia's legal pluralism recognizes the coexistence of *adat* and religion, provided they reinforce social harmony rather than legal contradiction.⁴⁰

Majelis Ulama Indonesia (MUI) has played a crucial role in linking these two spheres from a policy and normative perspective. Though it stresses the virtues of moderation, amicable bargaining, and adherence to Islamic principles such as eschewing excess (*tabzir*) and ostentation (*israf*), MUI does not forbid the practice of *Panai*. As long as *Panai* stays within the bounds of Islamic principles and the welfare of the community and does not interfere with the goal of marriage, it is upheld.⁴¹ To determine whether the custom or tradition of giving *panai* is recognized legally and can serve as a legal foundation, it is necessary to consider its alignment with the conditions that are considered criteria for applying custom as a legal basis. These conditions include⁴²: Making sure the tradition is more widespread than its abandonment or that those who follow it outnumber those who do not, that it serves a useful function, that it is prevalent among people in a particular context, and that it does not conflict with more compelling legal evidence.

According to Nurmiati and Nurazzura Mohamad Diah (2020), young people in South Sulawesi have a favorable opinion of *uang panai* and consider it to be a significant cultural custom. According to the survey, *uang panai* is not regarded as an expensive custom and is thought to be more meaningful than *mahar*. Men do not experience financial hardship as a

³⁸ Muhammad Istiqamah et al., "Hukum Uang Panai' (Studi Komparasi Antara Fikih Munakahat Dan Fatwa Majelis Ulama Indonesia Sulawesi Selatan Nomor 2 Tahun 2022)," *BUSTANUL FUQAH: Jurnal Bidang Hukum Islam* 4, no. 3 (December 4, 2023): 486–505, <https://doi.org/10.36701/bustanul.v4i3.1093>.

³⁹ Andi Wulanjiha Noer Paraga, Implementasi Fatwa MUI No. 2 Tahun 2022 tentang Uang Panai di Kabupaten Gowa (Master's thesis, UIN Sunan Kalijaga Yogyakarta, 2024).

⁴⁰ R. Umami, *Uang Panai' Dalam Perkawinan Adat Bugis Makassar*

⁴¹ N. Rahman and H. Hasan, "Otoritas Fatwa Majelis Ulama Indonesia tentang Uang Panai': Telaah Siyasah Syar'iyah di Kota Makassar," *Siyasatuna: Jurnal Ilmiah Mahasiswa Siyasah Syar'iyah* 5, no. 1 (2024): 228–241, <https://journal3.uin-alauddin.ac.id/index.php/siyasatuna/article/view/42188>.

⁴² A. R. Razak, *Perkawinan Adat Suku Mandar Perspektif Al-'Adah Al-Muhakkamah* (2021), p. 94-95.

result, demonstrating that uang panai is a respected and accepted component of local identity. These results are consistent with other studies, confirming that uang panai is still a beneficial and well-known custom in the area.⁴³ This approach connects with *al-‘Adah al-Muhakkamah* because it shows how the custom of *panai* is accepted and upheld within the community as a legitimate practice, supported by positive perceptions and social acceptance.

In the context of Bugis society, the application of the Islamic legal principle "custom is authoritative" (*al-‘Āda Muḥakama*) to panai shows that it is in line with Sharia ideals. As long as panai abides by values like promoting marriage, honoring women, and upholding integrity in business dealings, the ruling by the Indonesian Ulema Council (MUI) in South Sulawesi affirms its validity as a Sharia-compliant custom. Even though panai's monetary value has been criticized, the continued practice in the Bugis community shows the acceptance and recognition of traditional values deemed to be consistent with religious teachings.

e. The Application of the Principle “*Ad-Darar Yuzal*” to Panai

Each of the five major principles of Islamic jurisprudence (*qawa'id al-fiqh al-kubra*) encompasses sub-principles under its framework. This study focuses on one of the branches of the principle “*Harm shall be removed*” (*al-darar yuzal*), namely the sub-principle “*Warding off harms takes precedence over acquiring benefits*” (*dar' al-mafasid awla min jalb al-masalih*). The meaning of this principle is that if harm and benefit are in conflict, removing the harm takes priority in most cases, unless the harm is outweighed by the benefit. This prioritization is rooted in the Sharia's emphasis on avoiding prohibitions over performing obligations, as the harm caused by prohibitions contradicts the wisdom of the Sharia in forbidding them⁴⁴.

The basis for this principle is found in the Qur'anic verse: “*And do not insult those they invoke besides Allah, lest they insult Allah in enmity without knowledge.*” (*Surah Al-An'am: 108*) Here, insulting the idols of the disbelievers carries the benefit of denigrating their false beliefs, but it also entails harm, as it may provoke them to insult Allah. Hence, Allah forbids insulting their idols to avoid this greater harm. Examples of this principle include the prohibition of trading in unlawful items such as alcohol, drugs, and pork, even though such trade may yield profits (a benefit), because the harm of promoting these substances outweighs the financial gain. Another example is the case of a woman required to perform *ghusl* (ritual purification) but unable to find a private place away from men. She may delay the *ghusl* (a benefit) to avoid the greater harm of exposing herself in public, which is deemed a significant harm (*mafsadah*).

⁴³ N M Diah, “The Attitudes and Perceptions of South Sulawesi Youth on Uang Panai and Its Impacts on Them,” *Jurnal Al-Sirat* 19 (2020): 96–106.

⁴⁴ Abu al-Harith al-Ghuzzi, Muhammad Sidqi ibn Ahmad ibn Muhammad al-Burnu, *Al-Wajiz fi Idah Qawa'id al-Fiqh al-Kulliyyah*, 1st ed. (Beirut: Mu'assasat al-Risalah al-'Alamiyyah, 1416 AH), 265

The principle of al-Ḍarar Yuzāl (harm shall be removed) is central to addressing societal issues, including its application to uang panai in South Sulawesi. Harm must be eliminated entirely, mitigated, or prevented from recurring, as allowing harm to persist constitutes further damage. Islamic jurisprudence emphasizes that harm cannot be resolved by causing equivalent or greater harm (al-Ḍarar Lā Yuzāl bi Ḍarar Mithlah), as this contradicts the objectives of Shariah. Scholars agree that eliminating harm (izālat al-ḍarar) is a fundamental purpose of Shariah, highlighting its importance in legal interpretation⁴⁵. In this context, harm is understood as the opposite of benefit, a violation of rights, or a cause of emotional distress. By applying this principle, the practice of uang panai aligns with Shariah by ensuring justice and preventing harm in societal interactions.

f. An Analytical Study of the Harms and Benefits of the *Panai* Tradition

- The Potential Harms of Applying *Panai* Traditions in Weddings (المفسدة)

As a Muslim community, such as the Bugis, religious values should take precedence over customs and traditions. While religious values and traditions do not always conflict, the contemporary culture of ostentation has led to setting exorbitant amounts for *panai* funds. Consequently, many men struggle to meet the bride's family's demands, despite their desire to follow the Sunnah of the Prophet Muhammad (peace be upon him) in marriage. In Bugis traditions, *panai* funds are considered a prerequisite for marriage. The problem lies in the amount required, which often burdens the groom, especially those from middle or lower-income families. From an Islamic perspective, the obligation to provide *panai* funds to the bride's family should be reconsidered to ensure that many marriage plans do not fail due to financial constraints⁴⁶. Thus, there is a need to balance preserving traditions with upholding religious teachings while considering the groom's economic capacity. This balance is essential to ensure that the *panai* tradition does not become a barrier for couples wishing to marry while simultaneously respecting existing cultural values.

The young men in the Matirubolo area (a region in South Sulawesi) experience psychological impacts due to the high *panai* funds, particularly stress and anxiety. This situation leads to mental disturbances, reluctance to marry, and delays in marriage. They feel anxious about the future, envious of those who have married, and inclined to disregard marriage altogether. As a result, their enthusiasm diminishes, they become discouraged, and they focus solely on earning money to meet daily needs rather than saving for *panai* funds. According to research conducted in Takalar Regency, South Sulawesi Province, the negative effects of *panai* funds include many young men from the Bugis community resorting to unofficial marriages or

⁴⁵ Sayyed Mohamed Muhsin, Muhammad Amanullah, and Luqman Zakariyah, "Framework for Harm Elimination in Light of the Islamic Legal Maxims," *Islamic Quarterly* 63, no. 2 (2019): 233–72.

⁴⁶ Rinaldi Rinaldi et al., "Uang Panai Sebagai Harga Diri Perempuan Suku Bugis Bone (Antara Tradisi Dan Gengsi)," *Equilibrium: Jurnal Pendidikan* 10, no. 3 (2022): 361–73, <https://doi.org/10.26618/equilibrium.v10i3.8411>.

eloping; many Bugis women remaining unmarried until an advanced age; an increase in criminal acts by men unable to provide the panai funds demanded by the bride's family; and numerous marriage failures due to the groom's inability to meet the panai requirements and the bride's family refusing to compromise on the set amount.⁴⁷ This tradition (panai) puts more emphasis on getting married to make a lot of money than it does on using the Shari'ah to seek Allah's approval. Many young people refuse to marry Siri because of this phenomenon, the substantial panai money, and it is usual for them to act in ways that are against sharia, which has an impact on their mental health.⁴⁸ The amount of panai is set higher than the dowry. The amount typically ranges from 25, 30, or 50 to even hundreds of millions of rupiahs. It depends on the negotiation process between the representatives of both parties, the men and the women, to determine the ability to pay the panai amount set by the bride's family. Sometimes, due to the high amount specified, many young men fail to marry because they cannot afford the panai money. This situation may sometimes lead to elopement.⁴⁹

Despite being regarded as a sign of respect, panai money is frequently the cause of dispute in households because it can only serve as a contributing factor to divorce, not the primary one. Thus, the desire for panai money ought to be discussed openly to avoid burdening either side or serving as the primary reason for a divorce.⁵⁰ In Mattirotulu, Pinrang Regency, however, the excessive quantity of uang panai has led to worry and anxiety among young people. This psychological strain results from their feelings of depression and anxiety about their marriage's future due to the rising expense of marriage. This demonstrates how tradition and the changing socioeconomic landscape are at odds.⁵¹ Furthermore, the huge amount of panai money really burdens men who wish to marry Bugis women, causing a societal imbalance even though it is considered a sign of respect for women. If not handled properly, this could increase the social and emotional strain on both sides and possibly lead to mafsadah, or social harm, in the neighborhood.⁵² MUI Fatwa No. 2 of 2022 on panai money provides insight into the importance of managing panai money wisely. In this context, the community

⁴⁷ Helmalia Darwis, "Tradisi Uang Panai Dalam Adat Pernikahan Suku Bugis(Studi Kasus Di Kabupaten Takalar Provinsi Sulawesi Selatan)," *PESHUM: Jurnal Pendidikan, Sosial Dan Humaniora* 1, no. 3 (2022): 222–27.

⁴⁸ Maani, Syukri, and Aliyas, "Consequences of Panai Money in Siri and Value of Maqasid Al-Syariah in Tribe Marriage Bugis in Indragiri Hilir Riau."

⁴⁹ Istiqamah, M., Ikhsan, M., & Ibrahim, S. (2023). Jurnal Bidang Hukum Islam South Sulawesi Number 2 of 2022) Jurnal Bidang Hukum Islam. 4(3), 486–505. p. 495

⁵⁰ Jihan Gadis Anarya, 'Hutang Panai' Sebagai Alasan Perceraian dalam Masyarakat Adat Suku Bugis-Makassar (Skripsi, Program Studi Ilmu Hukum, Fakultas Hukum, Universitas Islam Indonesia, Yogyakarta, 2023).

⁵¹ Muhammad Faisal, Dampak Psikologis Laki-laki Terhadap Tingginya Uang Panai (Belanja Pernikahan) di Kecamatan Mattirotulu Kabupaten Pinrang, Undergraduate thesis, IAIN Parepare, 2020.

⁵² Heny Almaida, "Tingginya Uang Panai Bugis Sidrap: Mengangkat Derajat Perempuan Atau Membebani Laki-Laki Untuk Menikah?," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 5, no. 2 (July 25, 2023): 1155–68, <https://doi.org/10.37680/almanhaj.v5i2.2684>.

is expected to understand that panai money is not only a symbol of custom but must also be seen with more rational considerations so as not to cause negative impacts.⁵³

Even while Bugis society's custom of uang panai has traditional and social significance, it shouldn't be a financial barrier to marriage for well-meaning individuals. In Islam, convenience and personal financial means should take precedence over onerous customs when it comes to marriage. Excessive uang panai can cause stress and postpone weddings, including those that violate Sharia law. In order to prevent negative effects, it is vital to regulate this practice more carefully, preserving a balance between the community's socioeconomic circumstances, culture, and religion.

- The benefits expected from the continuation of these traditions (المصالح)

The positive effect is that it generates a spirit of diligence and hard work among men, motivating them to put in more effort and work hard to meet the requirements of the dowry. Human interests are constantly evolving, and Islam needs to adapt to time in order to achieve the benefit. The benefit resulting from the tradition of dowry payment lies in the social and cultural respect it fosters, which is considered part of this tradition, involving a joyful celebration of marriage, the grandeur of the events, and mutual respect between the families, aiming to create a stable and loving family bond. Additionally, this tradition also influences the work ethic of men who wish to marry the women they love, encouraging them to work harder to meet the expected financial demands⁵⁴. The tradition of the dowry is a heritage passed down from the ancestors of the Bugis tribe, who wanted to teach that women have high dignity.

Panai carries symbolic significance as a commitment from the groom's family to the bride's family, aiming to establish a new familial bond. Marriage unites two different families, and the dowry represents this union. The dowry is handed directly from the groom's family to the bride's family, without the use of bank transfers, to preserve the sanctity of the new bond. This direct transfer emphasizes the seriousness and commitment of the groom and his family. The dominance affecting Muslims regarding the duty to respect women is reflected in the saying "Paradise lies beneath the feet of mothers," highlighting the importance of respect as a sign of appreciation for women. The dowry tradition in the Bugis-Bone community expresses this respect, where the dowry symbolizes social status and family ties. Offering the dowry reflects the groom's family's respect for the bride's family and demonstrates the groom's

⁵³ Muhammad Ihsan Alfaini Syam, Patimah, and Jamal Jamil, "Polemik Pemberian Uang Panai Di Kelurahan Bonto-Bonto Ditinjau Berdasarkan Fatwa Mui Nomor 2 Tahun 2022," *Qadauna: Jurnal Ilmiah Mahasiswa Hukum Keluarga Islam* 5, no. 3 (August 14, 2024): 438–48, <https://doi.org/10.24252/qadauna.v5i3.37649>.

⁵⁴ Alimuddin, Asriani. 2021. "Makna Simbolik Uang Panai' Pada Perkawinan Adat Suku Bugis Makassar Di Kota Makassar". *Al Qisthi Jurnal Sosial Dan Politik* 10 (2):117-32. <https://doi.org/10.47030/aq.v10i2.85>. p. 125

seriousness in marriage. Additionally, it is an expression of gratitude to the parents who raised the bride until she reached marriageable age.⁵⁵

Overall, it may be concluded that the Panai tradition's use in Bugis marriage leads to more issues than advantages. According to the tenet that "the removal of harm takes precedence over the attainment of benefits," the Panay custom ought to be reexamined because it worsens the situation by putting the groom under a lot of financial strain, causing psychological issues, and raising the possibility of illegal weddings and criminal activity. The advantages—like respect for one's culture and social standing and heightened enthusiasm for work—are only symbolic and do not balance the disadvantages. Achieving a balance between maintaining customs and making sure they don't clash with religious beliefs and the community's financial resources is crucial.

5. Conclusion

Through a comparison of local customs and Islamic legal principles, this study has looked at the Panai tradition in Bugis marriage. From an Islamic standpoint, panai is a cultural expression of gratitude that is still acceptable as long as it does not violate Sharia law, rather than a religious duty like mahr. The concept of al-‘Adah Muhakkamah, which states that customs can be legally binding when they are good, consistent, and do not conflict with religious teachings, governs its approval. At the same time, the al-Darar Yuzal concept calls for the elimination of practices that are harmful or difficult, including exorbitant dowry demands that prevent marriage, put a strain on finances, or encourage societal injustice. The results show that, despite Panai's strong ties to Bugis identity and cultural pride, it needs to be regularly assessed to keep it from becoming a socioeconomic obstacle. When carried out within moral bounds, panai can represent Islamic principles of honor, accountability, and respect for one another. When misused, nevertheless, it runs the risk of warping the fundamentals of marriage and reorienting the emphasis from spiritual preparedness to material value. The greater goals of Sharia (Maqasid al-Shari’ah) should take precedence over local customs when incorporating Islamic law, particularly when it comes to upholding justice, dignity, family, and societal harmony. By examining Panai through al-‘Adah Muhakkamah and al-Darar Yuzal, this study adds to the conversation and provides a framework for evaluating how local traditions can coexist with Islamic morality. In summary, a reformative strategy is required, one that realigns tradition with Islamic jurisprudence and social justice rather than eradicating it. Communities, local academics, and religious leaders must work together to make sure Panai maintains its cultural diversity without being a barrier to marriage. A fair route that honors tradition while adhering to the letter of the law can be established by establishing customary practice in moral Islamic precepts. From a feminist perspective, the rejection of the Panay

⁵⁵ Nur Afifah; Alfikri Rausen Aditya; Mashud Hamzah Mashud, “Makna Denotatif Dan Konotatif Uang Panai’ Dalam Tradisi Bugis Bone,” *SEBASA Jurnal Pendidikan Bahasa Dan Sastra*, no. Vol 7 No 1 (2024): SeBaSa: Jurnal Pendidikan Bahasa dan Sastra Indonesia (2024): 12–22.

tradition is not only voiced by men, as seen in current trends, but also by women who feel objectified, as if they are being treated as commodities to be bought and sold.

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