



BAKABUANG PHENOMENON IN MINANGKABAU SOCIETY: A COVERT HUMAN TRAFFICKING ACTION

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Abstract

Bakabuang, more commonly known as cino buto, is a traditional yet destructive custom that is still practiced by the Minangkabau people by which an informally divorced couple may reconcile. This study aims to analyze the understanding of the bakabuang custom and its impact on women and children, while exploring the role and function of Tungku Tigo Sajarangan [community leaders] on the custom of bakabuang in the Minangkabau culture. This research uses a qualitative approach employing interview data, observation, and documentation. Data sources are ex-husbands and ex-wives, kadi [marriage guardians], community members, and traditional and community leaders. The results showed that bakabuang was one option offered to a married couple to reconcile after the husband had pronounced Triple Divorce/Talaq-e-Biddat/Triple Talaq [an instant irrevocable divorce that is not necessarily analogous with judgments and perceptions of Islamic scholars or jurists]. Bakabuang is usually done at the requests of children, families, and often, the couples themselves. The findings further showed that the community does not recognize that bakabuang is prohibited nor violates Islam's foundational teachings. Some claimed that bakabuang is an acceptable solution in Islam for married couples

who want to reconcile but have already executed a Triple Divorce. It was also found that the impact of such practices is detrimental to women and children as most Ninik Mamak [clan leaders or elders] are aware of the bakabuang tradition. Yet, they are powerless to stop it on account of social repercussions if the practice is banned. Just as the Ninik Mamak cannot do much in responding to bakabuang, scholars are powerless; they can only convey the negative impact of bakabuang. The study recommends that the bakabuang tradition be considered a crime against humanity and classified as covert human and sex trafficking of women by the Minangkabau people of West Sumatra, Indonesia.

Keywords: Bakabuang, Talaq, triple divorce, cino buto, covert human trafficking

INTRODUCTION

In Islamic belief, marriage is one of God's means for helping couples play a positive role in society by realizing the purposes of the union as the procreation and preservation of offspring, and the limitation of promiscuous relationships between men and women (Cherlin, 2004; Fincham et al., 2007; Yudhiani et al., 2020). Marriage is prescribed through the *Fiqh Munakahat* [Islamic personal law] as being in accordance with maintaining human dignity. Therefore the bond of marriage is regarded as religiously, culturally, and socially sacred.

Marriage is likewise considered valid if it meets mandated legal requirements, and the pillars of Islamic marriage are observed. According to Hafidzi & Nurdin (2020), Novitasari (2019), Suminto (2015), and Susanti et al. (2019), the pillars of marriage are a prospective husband, a future wife, a marriage guardian, and two witnesses, and the recitation of the *Ijab-e-Qabul* [Islamic marriage contract between husband and wife]. Legal requirements for marriage are: there is to be no *nasab* [blood relation] between the prospective husband and wife; the *sighat ijab qabul* [Islamic agreement of marriage] is not for a specific time; there are witnesses; the marriage is without coercion; there is clarity between the future husband and wife; the future husband and wife are not in *Ihram* [a sacred state in performing pilgrimage]; there is a dowry; there is no monetary agreement to conceal the marriage contract; the couple does not suffer from a chronic illness; and the wedding ceremony takes place in the presence of guardians (Hafidzi & Nurdin, 2020; Hidayah & Arifi, 2017; Mulia, 2013; Setiawan, 2018). In this manner, the marriage procession must be carried out in accordance with Islamic provisions so that the marriage becomes *mitsaqan galidhan* [a strong bond].

The marriage registration is not included in the pillars of Islamic marriage nor the conditions of marriage. In the era of the Prophet, and even in the classical books of *Fiqh* [Islamic jurisprudence], there was no discussion about marriage registration. However, the *Qur'an* [holly book of Islam] advocates taking notes about agreements related to the marriage contract. So, most *Fuqaha* (Fiqh experts) consider marriage registration as a 'suggestion' rather than an obligation. While marriage registration is not included in the Islamic pillars and conditions of marriage, marriage registration must be considered mandatory to avoid future issues (Colbran, 2010; Husni et al., 2020). Consequently, Law No. 1 of 1974 Marriage Law and the Compilation of Islamic Law on Marriage mentions the importance of marriage registration and its various procedures for establishing personal and legal rights to protect women and prospective children born of the marriage.

Despite the fact, the Qur'an teaches that marriage is a strong and sacred bond, Muslims believe that God provides the 'petition of divorce' as a way to release the couple from their union and for the dissolution of the marriage. There are two types of recognized divorce procedures in Islam: *Talaq-e-Raj'i* and *Talaq-e-Ba'in* (Parinduri, 2015, 2017). *Talaq-e-Raj'i* is a revocable first or second divorce, wherein the husband pronounces *Talaq* [divorce] once or twice. In this case, the couple may reconcile before the expiry of the wife's *iddah* [a 100-day waiting period after the husband's death or after divorce]. In contrast, *Talaq-e-Ba'in* is an irrevocable third divorce wherein the husband pronounces *Talaq* thrice. In this case, a couple

is forbidden to reunite. Ultimately, a *Talaq-e-Raj'i* will convert into a *Talaq-e-Ba'in* if the reconciliation of the spouses is not in effect by the end of the wife's iddah period.

Talaq-e-Ba'in is further categorized into two categories: *Talaq Ba'in Sughra* and *Talaq Ba'in Kubra*. *Talaq Ba'in Sughra* is a divorce that takes place less than three times, but the marriage cannot be reconciled, even if the wife makes a new marriage contract with her ex-husband during her iddah. *Talaq Ba'in Kubra*, on the other hand, is a divorce that happens for the third time and likewise cannot be reconciled. However, the couple can be remarried after the ex-wife has married and divorced a different husband. Only after they *ba'da al dukhul* [consummate the marriage] and her *iddah* is completed (Banjaransari, 2020; Umam, 2017).

Muslim communities in accordance with Islamic rules and laws make not all provisions regarding divorce and reconciliation. This can be seen in the custom of *bakabuang* marriage, which still occurs in several areas of Minangkabau. A *bakabuang* marriage is an unsanctioned transitional marriage of a Muslim woman to a temporary husband who has been thrice divorced before remarrying her original husband. This act takes place once a mature husband, without consideration, quickly invokes *Talaq-e-Biddat*, more commonly known as *Triple Divorce* or *Triple Talaq* [an instant irrevocable theologically objectionable and unceremonious divorce], upon his unsuspecting wife.

Even though this practice of Triple Divorce is prohibited in Islam, many couples want to reconcile after a Triple Divorce is proclaimed due to the request of children, family, or the couple themselves. Often it is the 'temptation' of the husband that initiates reconciliation with the ex-wife. The temptation as to why the husband wants to reconcile maybe because of loneliness, regret, and the need of the wife. In addition, sometimes, after becoming a *janda* [divorcee], the ex-wife appears to be more beautiful and attractive than during the marriage. However, regardless of the reason, the desire to reconcile has been hindered because the husband initially proclaimed Triple Divorce.

If the husband cannot wait for their ex-wife to remarry another man and then divorce naturally, they will often try falsifying their ex-wife's marriage with another man. The ex-husband will find a man who wants to marry his ex-wife for one night. He will then pay the man, and there will be an agreement that the 'new husband' will not have sex with the woman and that he must divorce her the following morning. This harmful traditional practice is known as the Minangkabau cultural custom of *bakabuang*. Although this custom violates Islamic theological and statutory provisions, it still occurs in various regions of Padang, Pesisir Selatan, Tanah Datar, Agam, and multiple areas in Minangkabau of West Sumatra, Indonesia.

Not only does the *bakabuang* tradition violate the teachings of Islam and the legislative prerequisites, but it has also caused various social problems detrimental to women and children. When viewed from the perspective of Islam and the Law of the Republic of Indonesia, *bakabuang* has violated the provisions of the law. Since a *bakabuang* marriage is not registered, it has no legal standing since the *sighat ijab qabul* is for a specific agreed-upon time. In community life, the custom of *bakabuang* often creates conflict and further leads to patriarchal dominance in society. The concept of patriarchy is a historically manifested male-dominated society or government that oppresses women and children through the abuse of social, political, and economic institutions (Kandiyoti, 1998; Mielants & Grosfoguel, 2006). Similarly, the practice of *bakabuang* is a form of discrimination and violence against women regularly displayed in physical, sexual, and emotional violence. This diminished view of women stems from a patriarchal culture that promotes inequitable power relationships between men and women, further indicating an absence of justice and gender equality in the Indonesian family, community, and country.

Customary practices similar to that of *bakabuang* are not a new phenomenon. Although research of *bakabuang* is scarce, previous studies of similar practices such as *nikah halala* have focused on comparing such customs to the perspective of Islamic Law and customary Indonesian Positive Laws enacted by the Indonesian governmental authority (Blenkhorn, 2002; Carmichael, 2011; Fincham et al., 2007; Islam & Ismail, 2008; Susanti et al., 2019; Walseth, 2016; Zaidi & Shuraydi, 2002). Wulandari (2016) examined the validity of a *cino buto* or *cina buta* [unlawfully marrying a thrice-divorced Muslim woman] marriage in Tanah Datar West Sumatra. They found that a *cino buto* marriage is illegal according to Islamic law and Law No. 1 of 1974 Marriage Law. Likewise, there have been several studies of marriage using a *muhallil lahu* [the temporary husband who marries a divorced woman to make it halal or lawful for her to remarry her former husband] (Putra, 2017; Said, 2003; Wahyuningsih et al., 2018). These studies concluded that there are differences of opinion among scholars of the different schools of *Fiqh* regarding the legal status of a *muhallil lahu*.

Research relating to marriage with the ‘intention of divorce’ was also carried out (Aula et al., 2019; Heaton et al., 2001; Stevenson & Wolfers, 2007; Tait, 2015; Wicaksono et al., 2020; Wolfinger, 2003). These studies concluded that according to Ibn Qudamah (n.d.) in his book *al-Mughni*, marriage with the intention of divorce is permissible and legal as in the case of *nikah mut'ah* [private and verbal temporary marriage], or *nikah halala* or *tahlil* [a consummated brief marriage for the purpose of remarrying a former husband]. Ibn Qudamah presumed that when no text explicitly stated a case was forbidden, it was therefore deemed legitimate and permissible by Islam. So marriage with the intention of divorce, according to Ibn Qudamah, can be done. Imam Shāfi‘ī (n.d.) in his book *Kitāb al-Umm* concurred that the marriage is still valid even though it was initiated with the intention of divorce.

Related to the explanation above, community life in Minangkabau is inseparable from the role and function of the *Tungku Tigo Sajarangan*; *Tali Tigo Sapilin* [the three stone furnace; the triple-braided rope]. *Tungku Tigo Sajarangan* in the Minangkabau tradition is known as a symbol of three community leadership elements which include *Niniak Mamak*, *Alim Ulama*, and *Cadiak Pandai*. The three leadership elements are known as the *Tungku Tigo Sajarangan*, and a binding system known as the *Tali Tigo Sapilin*, culminate into a parallel and coordinated Minangkabau traditional leadership and custom code system of balance. The *Tali Tigo Sapilin* is an *adat* [customary law of indigenous people] operation and implementation of the culture] (Ibrahim & Haykal, 2016; von Benda-Beckmann & von Benda-Beckmann, 2006). Culture and tradition are the guidelines for the *Niniak Mamak* [community leader], the *Sharī‘ah* [religious laws of Islam] is the guideline for the *Alim Ulama* [religious leader], and the Positive Law are the guidelines for *Cadiak Pandai* [intellectual leader]. Therefore, the *Tungku Tigo Sajarangan* must solve all problems like the one homogenous group of community leaders that manifest within their community and their *Nagari* [semi-autonomous regional administrative unit]. They must find a prudent solution through deliberation and consensus, including all matters of *bakabuang*. Thus, they are required to be able to resolve problems carefully and appropriately that is equal and fair to all parties.

The *Niniak Mamak* traditionally functions in a community as the principal purveyor of the intricacies of the *adat*. The *Alim Ulama* is the chief purveyor of the religious laws of Islam, and in judging whether an action is *halal* [permissible] or *haram* [forbidden], follows religious guidelines, and avoids the prohibition of God and His Prophet. *Cadiak Pandai* is the principal purveyor of customs, religious directions, and science in general. As a group, they are expected to comprehend the laws and regulations of the community.

Although *bakabuang* violates Islamic and national law provisions and has a negative impact on people’s lives, especially for women, the *Tungku Tigo Sajarangan* continues to allow the *bakabuang* tradition to be practiced by the Minangkabau people. The practice of

bakabuang consequently questions the role and function of the *Tungku Tigo Sajarangan*. The custom of *bakabuang* further implies that the *Tungku Tigo Sajarangan* is indifferent and powerless in handling the *bakabuang* tradition. Therefore, seeing as there are not any current studies that profoundly discuss this issue, this research aims to analyze the perceptions of *bakabuang* within the community, the impact of *bakabuang* on women and children, and the role and function of the *Tungku Tigo Sajarangan* related to the *bakabuang* experience in in the Minangkabau community.

METHODS

This field study was conducted using a qualitative approach in the Pesisir Selatan and Padang of West Sumatra, Indonesia. The research population was three couples in the Pesisir Selatan Regency and Padang City who have divorced via the declaration of Triple Divorce and wish to reconcile. The research sample was determined through purposive sampling. Research informants included all subjects and documentary objects involved in the *bakabuang* process: ex-husband, ex-wife, guardian of marriage, *kadi*, community members, and community leaders. The number of research informants was determined by snowball sampling. This means that the number of informants was dependent on the completeness of the data obtained. Other data sources were documents related to the *bakabuang* process, including regulations, laws, procedures, and policies pertaining to various marital phenomena.

This research used several data collection techniques, i.e., questionnaires, interviews, observations, and secondary documentation. Interview techniques were conducted to discover data relevant to the role of religious and traditional leaders, and to find data related to internal and external factors that influence *bakabuang*. Then observation technique aimed at obtaining data about *bakabuang* in the research location. Finally, the documentation technique was conducted in order to find data about policies, regulations, and agreements contained in written form about *bakabuang*.

RESULTS AND DISCUSSION

Bakabuang in History

Bakabuang, or *cina buta* as it is generally known in Islamic communities, is a term used for one type of marriage in Minangkabau where an ex-wife is forced to marry, and later divorce, a temporary husband after she was given a Triple Divorce from her first husband. *Bakabuang* in the Minangkabau language means *to break*. In this case, as in *breaking* the barrier for an ex-husband who wants to reconcile with his ex-wife once Triple Divorce is declared. Therefore, some regions call this type of marriage a quick ‘Triple Divorce Remedy.’ Although the *bakabuang* marriage has terms and arrangements agreed upon in advance, the practice violates Islamic theological and statutory laws.

These questionable practices are not new in societies. The concept of *cino buto* is first found in folk writings of Southeast Asian Muslims. One of the earliest accounts of a *cino buto* marriage tells the story of a Muslim man, who pronounced Triple Divorce to his wife, then regretted and wanted to reconcile (Salim, 2015). The Muslim man made a monetary agreement with a poor blind Chinese man who was a recent convert to Islam to be a temporary husband and marry his beautiful wife, hoping that the blind Chinese husband who was paid for his service would not recognize her beauty and later divorce the woman. This soon became a problem when the Chinese husband refused to divorce ‘his wife.’ The case went before a Dutch court, where the verdict was in favor of the Chinese husband. Furthermore, unscrupulous marriage practices such as *bakabuang* and *cino buto* still exist as an unorthodox solution for ex-husbands who want to reconcile with their divorced wives once Triple Divorce is pronounced. These practices have since become part of the cultural traditions in Minangkabau.

The *cino buto* tradition, which has since been eradicated in many Islamic countries, was vehemently opposed at the beginning of the 21st century by the youth movement and also voiced in *Al-Munir*, a magazine published by young groups as a medium for channeling their thoughts (Ramadhan & Fathurrahman, 2019; Ramanta & Samsuri, 2020; Waliyunisa & Syawali, 2019). According to Islam, a *muhallil lahu* marriage is forbidden in Islam because it is only a pseudo or temporary marriage for a certain period, which violates the previously discussed purpose of marriage. Even the Prophet Muhammad emphasized in his hadith from Abdullah bin Mas'ud, which was later narrated by Imam Tarmizi, that "Allah shall curse the *muhallil* and *muhallal lahu*." Yet, many Islamic scholars state that the use of a *muhallil lahu* for a *cina buta* or *bakabuang* marriage is *halal* [permissible or lawful] and that this type of marriage utilizing a *muhallil lahu* is a *tahlil* marriage or *halalah* [legalizing or making something halal] (Blenkhorn, 2002; Bone, 2020; Dew et al., 2012; Putra, 2017; Qureshi, 2020; Sabiq, 1994; Salam, 2020; Uddin, 2018).

Forms of *Bakabuang* Phenomenon

Bakabuang has become a common phenomenon in the South Pesisir. Although the Religious Court data states that the South Coast has the lowest divorce rate in West Sumatra, the practice of *bakabuang* is regularly found in the community. In reality, there are high divorce rates because the Religious Court does not record many divorces. When the divorce is not registered, the subsequent marriage, as with the practice of *bakabuang*, is also not recorded.

Field data on the South Coast shows that 18 women had participated in the *bakabuang* custom, with many within the group coming from the same family, as in the case of the following women who have all been parties in *bakabuang* marriages. Pseudonyms have been used for anonymity as in the recount of Mak Tiar at her home in Pesisir Selatan.

"... it's an old story. At the time, our children were still unmarried. They felt bad for their father. We were divorced when they were just little kids. After the divorce, their father married someone in his hometown. He'd been married for quite some time, but I don't know if they had any children or not, but then they divorced. When the kids grew up, they went to look for their father, who was living on the street. He didn't have any siblings, and his relatives abandoned him. At first, I didn't want to reconcile. I thought, why would we have to reconcile now? But the kids were persistent, and the elders (mamak-mamak) in our family had also given their permission. In the end, I went to Sungai Panuah to fulfill the bakabuang. I spent a night there and came back later the next morning." - Mak Tiar

In addition, Sida shared her *bakabuang* experience with indignation towards *pangabuang* [person desiring to remarry the previous spouse].

"...I went to Sungai Panuah with my husband. We went there early in the evening and arrived in the morning. We went to the place for bakabuang after, by following local direction. My husband was the one who made the deal. The Akad was made after Magrib, but the man was not an older man. He was my husband's age. They already had a bedroom, and I was asked to stay there for one night, but my husband didn't stay there. In the end, the man trying to force me to have sex with him, but I refused him. He said, "What's the matter? We're married now, and I have every right. If you refuse me, I won't divorce you tomorrow." I was scared at the time. He was very demanding, and I can't do anything about it. It was unfortunate that later, the day after, he refused to divorce me. He also told my husband that we had done it last night. My husband

was so angry and punched him. Lucky that people separated these two. It was nearly Zuhr (noon prayer), and he hadn't divorced me yet. We were intended to come back home. Nearly Ashr (evening prayer), he finally divorced me, but it's only because we paid him more. I really don't want to get to have bakabuang anymore. If I knew that the person was this rude, I should have gone to the other place. People said that there are lots of bakabuang services in that area, but we initially have no idea what could have happened.” - Sida

Sulis also participated in a *bakabuang* marriage. She recounts the reason why she chose a *bakabuang* marriage.

“...I had to do a bakabuang marriage because I felt bad for my child. He was just a kid back then, and he was really fond of his father. His father regularly visited us, and people began to question why. Also, if I were married to somebody else, there's no guarantee that he will accept the kid. There's a saying that the love for a step-child is different from the love for the real child. The father was willing to find the person to do a bakabuang, and he was willing to pay as long as I wanted to do it. I asked my mom, and she said that it was up to me. I also asked my sister, and she didn't say anything about that. The father regularly came to visit, which made me agree. Also, I didn't have to go to Sungai Panuah; I only needed to marry someone nearby. We didn't do anything, and we went straight to do the divorce by the morning. After my iddah expired, I remarried my ex-husband, but the marriage only lasted for a short period. In the end, I married someone else, and the child finally got his step-father at last.” - Sulis

Besides, there is also a more interesting phenomenon in the practice of cross-*bakabuang* where there is more than one *bakabuang* marriage happening simultaneously, as recalled by a *mamak* from the Jambak tribe of Ganting Pesisir.

“...Mak Ajab had her Triple Divorce, and her ex-husband wanted to reconcile. The husband went to look for a man to do bakabuang, and he met Tek Niur. He asked Tek Niur's ex-husband to do cross-Bakabuang, and they agreed. Tek Ajab with Tek Nur's ex-husband and Tek Niur with Tek Ajab's ex-husband. They were married for a night and promised not to have sex. In the end, the next morning, they divorced and married their exes after the iddah.”

Consider the story of Wati, who did the *bakabuang* marriage in vain. Wati still loved her ex-husband and pitied her children, who go to their grandmother's house every day looking for their father.

“...The child was close to his father. Every day, he went to his grandma's to look for his father and had a sleepover every time. Then, the father asked me to do a bakabuang, and that's why we looked for a man. The father paid for it. The agreement was we would not have sex, but after the bakabuang, the man changed his mind. The first night he already acted weird, but he didn't have sex yet. The next morning, the man refused to divorce me. He stayed here and refused to leave. I've asked him to divorce me many times, but he kept refusing. My ex-husband had also told him, yet he didn't do it. In the end, the man finally got to have sex with me, and it triggered my ex-husband, and he got married to another woman. Even later, I was divorced by the man after about a month. It was useless anyway because my ex-husband refused to divorce

his new wife. I also don't want to be the second wife. It was unfortunate, but I couldn't do anything about it." - Wati

Based on the stories and acknowledging the women as the victims of the practice of *bakabuang* as described above, it can be understood that being a divorcee has a heavy burden. These women must be the sole party responsible for the children left by the husband. It is a moral and material burden for women, both economically and socially. In general, after a divorce occurs in a family with children, it becomes the mother's full responsibility to provide a decent life and education for the children. Doing so becomes a heavy burden and unflavored stereotype, which leads to a bad image in society for being a divorcee. Divorcees will experience obstacles in social and economic relations. The presence of a father who visits children at a divorcee's house or the presence of a child at the father's house is inappropriate in the general public view in Minangkabau. Meanwhile, reconciling with an ex-husband has been hindered because the ex-husband had proclaimed an irrevocable Triple Divorce.

In general, women accept the offer of a *bakabuang* marriage in order to fulfill the wishes of their children. Women are still quick to respond to peace with their ex-husbands because they think of their children's future. There are subtle feelings or strong feminist values amid the bitter experience of divorce by women victims of the *bakabuang* practice. For the sake of saving the children's future, fulfilling the child's request, or feeling sorry for the ex-husband who has been neglected or neglected, women victims of *bakabuang* are willing to sacrifice themselves even though they realize they have experienced injustice, oppression, and violence and even are treated as merchandise.

On the other hand, women victims of *bakabuang* also experience various forms of violence such as sexual violence, emotional or psychological violence, and neglect. Sexual violence is experienced by women victims of *bakabuang* when requested or forced by the temporary husband to have sexual relations, even though the women who are victims of *bakabuang* do not want to, and in the agreement before the *bakabuang* stated that there would not engage in 'marital relations.' Nonetheless, women victims of *bakabuang* are powerless to refuse because they are in a position of being threatened 'not to be divorced tomorrow morning.' Even more tragic, because they have had sex as 'husband and wife,' and then they were divorced, the women victims of *bakabuang* still experience neglect from their former ex-husband who had left him because she had sex with her husband. Women victims of *bakabuang* are vulnerable to multiple layers of violence, while due to the social construction of their communities, they are powerless to resist.

This condition occurs because of power relations in the patriarchy, which is understood as the absolute power of the father or man, including ideology, family patterns, social relations, religious rituals, traditions, law, language, and customs. Although women victims of *bakabuang* live in the Minangkabau realm with a significant 'matrilineal kinship system,' patriarchal ideology continues to take root in the lives of their communities. Ultimately, per Law No. 21 of 2007 concerning the Limitation of Criminal Acts of Traders of People, *bakabuang* is classified as an act of trafficking in disguise.

Community Perception of *Bakabuang* Phenomenon

Some are not sure about the concept of Islam and National law regarding *bakabuang* or *muhallil lahu* marriage. This can be seen in various community expressions about *bakabuang*. When we asked the community about *bakabuang*, few clearly said that *bakabuang* is prohibited and violates Islamic teaching. As in the Pesisir Selatan, in the past, *bakabuang* was not conducted in the village. The couple had to go to Sungai Panuah in Jambi province because certain places provided facilities. So, in the local community, the name Sungai Panuh is identified with the practice of *bakabuang*. Even if you hear the news or if someone says,

“...sianu lah carai lo liak, itu lah nan katigo” [so-and-so are having a Triple Divorce]. Others who hear will immediately say, “ah, paliang ka Sungai Panuah juo ujuangnyo ko ma” [Ah, they likely will go to Sungai Panuah, I guess]. The phenomenon is common and often likened to the expression “*Sungai Panuah Bakabuang*.” But now, Sungai Penuh is not the only place for the people of Pesisir Selatan to facilitate a *bakabuang* marriage. They have begun to do *bakabuang* with people from nearby villages. Therefore, there is no need to provides funds and time to travel to Sungai Panuah, making *bakabuang* more accessible.

Of the 18 participants who were both willing and unwilling parties to *bakabuang*, most of the *bakabuang* affair was facilitated near their villages. According to one provincial informant,

“... of Uni Sias, Jaeli, Wati, Anis, Dewi, and Isam, these people had *bakabuang* with people nearby. They only provided about five hundred thousand rupiahs. There're rumors that some people can accept two-hundred and fifty and even one hundred and fifty thousand.”

As can be seen, there seems to be a misunderstanding of the legality of *bakabuang* marriage. Some consider *bakabuang* marriage legitimate, thus creating an image that a *bakabuang* marriage is an easy solution for those who have been thrice divorced to reconcile with their ex-spouse. They do not feel ashamed when taking part in a *bakabuang* marriage. The sensitivity of religion, customs, and especially their gender has not yet been considered.

Based on the data above, the *bakabuang* phenomenon among the people stems from limited knowledge of Islamic law relating to marriage and divorce in the community. As well, the socialization of Law No. 21 of 2007 concerning Eradication of Trafficking in Persons that have not touched the root of life in rural communities. Inequality of relations between women and men makes women feel cornered and trapped when faced with a potential *bakabuang* situation. The position can be categorized as a form of hidden trafficking.

The Impact of Bakabuang on Women and Children

Apart from legal issues surrounding the *bakabuang* tradition, the custom is not in accordance with Islam and the national law provisions. *Bakabuang* marriages raise many social problems in the community, especially for women and children. However, most people, even women, are not aware of the impact of *bakabuang*. This phenomenon is still happening and even made more accessible in the community. If we view *bakabuang* from an Islamic perspective and national law, it is clear that *bakabuang* marriages violate both provisions.

A *bakabuang* marriage raises various problems, conflicts, and legal issues which are very detrimental to women. *Bakabuang* marriages lead to the patriarchal dominance of a society where it is translated as a male domination system that oppresses women through social, political, and economic institutions. The reality is that patriarchal culture manifests in historical forms, whether in a feudal, capitalist, or socialist system (Arivia, 2009; Candraningrum, 2016; Makama, 2013; Sev'er & Yurdakul, 2001).

For women who practice *cina buta* or *bakabuang*, this tradition places men in a superior position and women in subordination. In this position, women are vulnerable to various forms of violence, especially sexual and emotional violence. Women victims being in situations of compulsory unprotected sexual intercourse with their *cina buta* husband show this. Since it is believed that the relationship must be without contraception, the woman is at risk of contracting a sexually transmitted disease or becoming pregnant, and ultimately the risk of being bound in a pseudo marriage.

Bakabuang marriage also questions *syariah mawadah warrahmah* [the formation of peace, security, and tranquility among members of a family] and the meaning of sacred values of sexuality. A *cino buto* or *bakabuang* marriage is fabricated. It has no intention of forming

family *sakinah* [a natural and lawful manner of harmony] or a foundation of affection when a child is born from a *bakabuang* marriage. Many community members who practice *bakabuang* have said that *bakabuang* marriages often cause problems, conflicts, or quarrels from broken promises between new husbands and ex-husbands, as in the cases of Sida and Wati as mentioned above.

Along with broken promises, another factor that causes problems in *bakabuang* marriages is the age of the *bekabung* [the ex-husband who wants to remarry the ex-wife]. As explained above, men who participated in the *cino buto* as the *muhallil lahu* were usually older men who were no longer passionate about sex or men who had no sexual desire and were in financial need. Therefore, during the night of the *bakabuang* marriage, there would not be *ba'da al dukhul*, and the couple would simply divorce the following day. However, *muhallil lahu*, who were younger men with strong sexual passion and enthusiasm, would violate the agreement. The young man would often beat the wife if she refused to consummate the marriage, and then he would refuse to divorce her in the morning according to the contract. The most significant impact of the condition is on women, as is the case with Sida. This dilemma also illustrates the dominance of men over women in preserving a cultural system that keeps women under control in various ways. Unfortunately, women who are victims of misguided *bakabuang* marriages are often unaware and powerless to reject participating in *bakabuang*.

Like the *bakabuang* case experienced by Wati, whose suffering may never end, she will recall that horrifying month for the rest of her life, as it not only impacted her as her sacrifice was in vain, but it also affected the children. Her children continually feel fear and hurt as long as the mother of the *pangabuang* remains in their home. Wati's case clearly shows the impact of a *bakabuang* marriage, where a woman had to suffer immensely for the consequences of the actions of men. First, Wati suffered because she was forced to marry the second man to reconcile with her ex-husband, and then she was trapped in a relationship with this man for about one month. Second, for the sake of the first husband, Wati was willing to participate in a *bakabuang* marriage. Yet, due to the actions of the *muhallil lahu*, the *pangabuang* refused to reconcile with her. It seems that there was no justice for Wati as she continues to face contradictory expectations and for she was powerless to deny the desires of the *pangabuang*. As a result of Wati's situation, her son hoping that his father will return to his mother, has become heartbroken and refuses to go to school.

Based on the findings of this study, the *cino buto* or *bakabuang* phenomenon can be categorized as an act of human trafficking in disguise since the woman is forced to marry and soon after divorce a temporary husband. This action has a significant impact on the women and children participating in this destructive custom. There are at least three critical elements behind the *bakabuang* phenomenon that describe the actions of human trafficking. First, there is the practice of coercion against women victims of *bakabuang* by both the ex-husbands and the temporary husbands. Second, the *bakabuang* tradition takes advantage of women victims' powerlessness and the victims' families and children. Third, the existence of cruel exploitation and victimization of the women befits a *budak* [chattel or a commodity that can be traded at will].

Role and Function of Tungku Tigo Sajarangan against Bakabuang

The data shows that the *Tungku Tigo Sajarangan* takes on several positions when faced with the phenomenon of *bakabuang*. First, they often reluctant or indifferent when dealing with *bakabuang*; second, they see *bakabuang* as a quick solution for those ex-husbands who want to return to their wives after Triple Divorce; and third, some refuse to recognize that the *bakabuang* tradition still exists today.

In general, based on the findings of field research, it was found that some members and leaders of the Minangkabau community and even some women viewed *bakabuang* marriage as a routine procedure as a solution for couples who want to return to their former spouses. Some members and leaders of the Minangkabau community know that the *bakabuang* marriage does not follow Islam nor national law provisions. Still, they are unable to protect women from the *bakabuang* tradition. One *mamak niniak* said,

“*Actually, the problem of bakabuang is like eating simalakama fruit [alluding to a proverb which discusses a difficult situation]. On the one hand, we know that bakabuang is prohibited in Islam and the Indonesian Marriage Law, but on the other hand, the permission of the father and mother mamak for the bakabuang is one way to help the niece. If it is not permitted, it is considered to be indifferent to the niece’s child.*”

Furthermore, in some instances, the *bakabuang* tradition may have its benefits. For example, a married couple who proclaimed a Triple Divorce in their youth when their children were young and never remarried. When the husband was a young man, he did not consider his life, but when he became old, he realized he needed his family's love and attention. He lived at his nephew's house, where he did not get the attention he should, so his life was wasted. This condition of parents raises concern with their children, so to save their parents or fathers, they petition the parents to remarry once the children are grown. Unfortunately, their parents were unable to remarry because they proclaimed a Triple Divorce in their youth. Therefore, when the *bakabuang* practice was permitted to such an elderly couple, the young couple also voiced their reason. They pitied the children who needed their fathers. Hence, the culture of the *bakabuang* marriage still existences today.

Meanwhile, in a meeting with the *Tungku Tigo Sajarangan*, they stated that they knew *bakabuang* was forbidden, but the couples continue to practice the custom of *bakabuang*. They continued that these are married adults so that they can determine their attitude. If they desire to do what is prohibited, it is feared that undesirable things will also happen. Traditionally, *bakabuang* marriage is no longer permitted, but the community leaders cannot do anything to hamper the conditions. Besides, in some areas, not only is the practice of *bakabuang* marriage practiced, but there are also even ‘brokers’ and ‘facilities’ who will issue counterfeit marriage certificates for other types of unscrupulous marriages. However, when asked the opinion of some scholars who know the condition, they acknowledge the situation, but say they cannot do much, except only convey in certain studies.

Ignorance of the *Tungku Tigo Sajarangan* about the phenomenon of *bakabuang* marriages takes place in a community where the social and cultural construction adopted by the community is not based on justice and gender equality, understanding of subject-objects, dominant and non-dominant, superior-inferior, and unequal division of labor between men and women. The phenomenon of *bakabuang* marriages occurs in a community that positions men as having special privileges and where women are second-class citizens, so that community leaders allow their nephews to have a *bakabuang* marriage. Then again, at this time, the credibility of the *Tungku Tigo Sajarangan* has significantly diminished. Their various tasks and responsibilities are now perceived as not working as they should in our modern world.

CONCLUSION

The *bakabuang* phenomenon that still exists in West Sumatra shows that structurally, the community's understanding of Islamic law, Law No. 1 of 1974 Marriage Law, and the Human Trafficking Act is still weak. Religious law and national law have provided clear

protection for women to avoid being unwilling participants in the bakabuang tradition. It is only the community leaders who have not been able to penetrate the practice of bakabuang, because culturally, bakabuang is seen as a solution to solving community problems. So, with various humanitarian and emotional considerations, bakabuang traditions still exist in communities in West Sumatra. Therefore, since the community leaders have not been able to penetrate the structural culture of Minangkabau society, women have yet to be protected from the bakabuang tradition.

Furthermore, the bakabuang phenomenon also shows the insufficient structural authority of community leaders. Islamic and Indonesian national laws of marriage have long since protected women from the bakabuang tradition. Yet, due to their strong culture and weak role of the Tungku Tigo Sajarangan, the community leaders have not penetrated the culture that supports the bakabuang tradition. Bakabuang has become a form of cultural and structural violence focused on women, which is not realized by the community members or the community leaders.

Minangkabau women are not being protected from this destructive bakabuang tradition. Preventive action is needed to hamper or stop bakabuang activities, protect women victims of bakabuang, and prosecute the perpetrators of bakabuang activities. The bakabuang phenomenon is a violation of human rights and persecution of human dignity.

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