

***Ngaku Indaok* in Sitinjau Laut Community According to Maqashid Shari'ah Review**

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Article	Abstract
<p>Keywords: Child Adoption, Ngaku Indaok, Kerinci Regency, Maqashid syari'ah.</p> <p>Artikel History Received: Jul 3, 2024; Reviewed: Sept 28, 2024; Accepted: Oct 18, 2024; Published: Oct 31, 2024.</p> <p>DOI: 10.20961/jolsic.v12i2.89675</p>	<p>This research aims to explain how the practice of "<i>Ngaku Indaok</i>" in Sitinjau laut Sub-district with the focus of Maqashid Syariah approach. The research method used is qualitative with data collection techniques through literature study and interviews with key informants from the local community. The results show that although different in implementation from legal child adoption, both <i>Ngaku Indaok</i> and child adoption reflect the aspirations of the Kerinci community to provide support and protection to children who need a more stable family environment. A holistic evaluation is required to safeguard Islamic values and the right to individual freedom while respecting local traditions, demonstrating the Kerinci community's efforts to harmonize traditions with values consistent with religious teachings and social norms. The affection and emotional support in <i>Ngaku Indaok</i> does not only focus on material aspects, but also creates educational and developmental opportunities for the child, reflecting its link to the preservation of wealth (<i>hifdz mal</i>) and the preservation of the intellect (<i>hifdz aql</i>). However, it is important to note that the biological mother is no longer called mother or anything similar after the child confesses <i>indaok</i> to another woman.</p>

INTRODUCTION

The practice of "*Ngaku Indaok*" is a tradition that shows local people overcoming problems through an approach based on local wisdom. The people of Kerinci Regency, Jambi Province, are known to have a unique practice known as "*Ngaku Indaok*". In Indonesian, this practice means claiming one's mother, or more easily understood as adopting one's mother. This is different from adopting a child. Based on interviews with local traditional leaders, the practice of "*Ngaku Indaok*" is usually done when a child is often sickly as a child, and is believed to be cured when the child claims to be the child of a woman from another family.

These customary references to child adoption are referred to by various terms according to the original language of the region where the tradition originated. For example, the tradition of mangaku induak or malakok is found in the Minangkabau region but differs in purpose from the tradition of "*Ngaku Indaok*" in Sitinjau Laut District, Jambi Province. If the purpose of malakok is related to the smooth marriage between a sumando or someone who comes from outside Minang with someone from Minang so that the sumando has a tribe that is recognized by custom and so that it is allowed to marry using local customs, namely by being appointed as a family by one of the families who are tribal (Atikah dkk., 2020: 449). While "*Ngaku Indaok*" aims to heal children who are often sickly. Here the author classifies previous research related to the topic that the author raises, the author classifies in 3 groups: First, the best interests of the child, namely Isharyanto Hendy (HENDY, 2022: 38), Noor Hidayah (Hidayah, 2019: 148), Jinie Aprilly Montolalu (Montolalu, 2018: 18), Windi Arista (Arista, 2017: 71). Second, aspects of legal protection and child welfare, namely Herlina Nur Afida (Herlina Nur Afida, 2023: 17), Christiforus Skukubun and friends (Skukubun dkk., 2019: 85), Cindy Lutfia Kasi (Kasi, 2023: 7588), Jaya Setiawan Sinaga and friends (Sinaga dkk., 2021: 18). Third, aspects of social benefit and justice Atikah and friends (Atikah dkk., 2020: 458), Rani Raranta and friends. Previous studies, classified into three groups based on their focus, address the best interests of the child, legal protection and child welfare, and social benefit and justice. Although these studies make important contributions to the practice of child adoption and child protection, they lack detail in discussing the "*Ngaku Indaok*" tradition specifically in Sitinjau Laut Sub-district, especially in relation to the form of the tradition and the maqashid sharia perspective. Therefore, this research aims to describe in detail the form of the "*Ngaku Indaok*" tradition in Sitinjau Laut Sub-district and analyze the maqashid sharia view of the practice. The research that the author examines has a different approach because it will analyze the phenomenon of customary child adoption in Sitinjau Laut or "*Ngaku Indaok*" from the maqashid perspective.

RESEARCH METHODS

This research uses a qualitative approach. According to Bogdan Tayior as quoted by Iey J. Moleong defines qualitative research as a research procedure that produces descriptive data in the form of written or spoken words from people and observable behavior (Rohman & Ishaq, 2022: 245). This research also falls into the category of field research to explore the issue of the tradition of child adoption in the Hiang area of Kerinci Regency, using a case study approach. The data obtained will be analyzed through a descriptive and interpretative process. This research was

conducted in Hiang, Sitinjau Laut Sub-district, Kerinci Regency, Jambi Province. The selection of this location is based on the uniqueness of the local tradition that prohibits children from calling their biological mothers "mother" or its synonyms, which requires a more in-depth study. The research subjects are the Hiang community or individuals who can provide information related to this tradition. The purpose of this research is to understand and evaluate the customs experienced by the research subjects. The informants were selected through a non-probability sampling technique based on certain characteristics, namely community leaders and individuals involved in the practice of "*Ngaku Indaok*".

ANALYSIS AND DISCUSSION

1. Child Adoption

According to Islamic law, the adoption of a child can only be done if the following conditions are met: First, child adoption according to Islamic law must not break the blood relationship between the adopted child and his or her biological parents and their families. This provision strictly prohibits the adoption of a child that aims to make the child as if it were a biological child in all aspects, because this will remove or break the relationship and rights of biological parents and can change the provisions regarding inheritance (Rais, 2016: 195). Second, adopted children are not entitled to receive inheritance from their adoptive parents according to Islamic law (McWhinnie, 2013: 11), Instead, the adopted child still inherits from his biological parents, and the adoptive parents do not have the right to inherit from their adopted child (Putrantia & Setiyowati, 2023: 72). Third, the adopted child is not allowed to use the surname of the adoptive parents (Arista, 2017: 75) Except as a form of identification or address. Fourthly, adoptive parents cannot act as guardians in the marriage of their adopted children (Nasution, 2019: 19).

From these provisions, it can be concluded that the appointment of children (adoption) in Islamic law aims to maintain children so that they are not neglected in the process of growth and development (Wulandari, 2020: 13). Childcare is intended to help parents who are unable or unwilling to ensure the fulfillment of children's rights, whether physical, spiritual, mental, or social. Therefore, the care includes the child's maintenance, education, intellectual development, and fostering his/her talents to learn skills, until the child matures or is able to be independent (Islam, 2019: 133).

In family relationships, adopted children cannot be treated the same as biological children (Aisyah, 2020: 102), Because basically they are not mahrams to each other. This means that the provisions regarding foreigners (*ajnabiy*) in Islamic law also apply to them. All scholars agree that child adoption is permitted only for the purpose of nurturing, caring for and educating children, not to give them the same status as biological children (Adoption Cannot Be Reformed 12 Columbia Journal of Race and Law 2022, t.t.). Child adoption in Islam does not change the legal, *nasab*, and mahram relationships between the adopted child and his or her parents and family of origin (Nurlaelawati & Huis, 2019: 375). Child adoption in Islam does not change the status of the adopted child into a biological child, nor does the status of the adoptive parents become biological parents. Therefore, they cannot inherit from each other

as biological children and biological parents (Yuniarsih dkk., 2022: 58). However, there is a transfer of responsibility in terms of the care, supervision and education of the children.

A court decision is a requirement for the validity of child adoption. Based on Government Regulation No. 54/2007 on the Implementation of Child Adoption, Chapter IV explains the procedure or process of child adoption as follows (Agatha dkk., 2020: 20):

According to Government Regulation No. 54/2007 on the Implementation of Child Adoption, there are several procedures and requirements that must be met. First, an application for child adoption that has met the requirements must be submitted to the court. After that, the court will issue a copy of the child adoption decision to the relevant agencies. Furthermore, a person is only allowed to adopt a child a maximum of two times, with a minimum gap of two years between each appointment. In the case of twins, prospective adoptive parents can adopt both children simultaneously. An application for child adoption by an Indonesian citizen or foreign citizen who has met the requirements must be submitted to the court to obtain an official ruling. In addition, the adoption of an Indonesian citizen child born within or outside the territory of Indonesia by a foreign citizen must be carried out in Indonesia and fulfill all applicable requirements.

Direct child adoption can be done in the following ways (Hulu, 2018: 76): adoptive parents must first apply for a childcare license to the Head of the Social Agency at the provincial level. Then, the Head of the Social Agency at the provincial, district or city level will assign a social worker to assess the eligibility of the prospective adoptive parents. Once the assessment is complete, the application is forwarded to the provincial social agency through the head of the district or city social agency, who will then issue a recommendation. Subsequently, the head of the provincial social agency issues a decision regarding the child adoption permit for further processing at the court. After the court issues the decree and the child adoption process is completed, the adoptive parents are required to report a copy of the decree to the social agency, the Population and Civil Registration Office. Finally, the social agency will record, document and report the child adoption to the Ministry of Social Affairs of the Republic of Indonesia.

2. The Concept of Maqashid Shari'ah

Maqashid sharia or al-Maqashid al-Syar'iyah has a synonymous meaning, which refers to the objectives that the Sharia seeks to achieve. Maqashid sharia is a phrase formed from the murakkab idhafi . Etymologically, maqashid is a plural form, more specifically jam' al-taksir which has the form of shîghat muntaha al-jumû'. The singular word (mufrad) of the term is maqshad, which comes from the root qasada-yaqsidu-qasdan, which means intending, intending, or wanting. Maqashid Sharia is a new trend in Ushul Fiqh studies that developed in the contemporary era (Tabrani, 2018: 315). The development of Islamic law in the contemporary era is considered more promising when the methods contained in maqashid sharia are applied. As a branch of science that developed from ushul fiqh, maqashid sharia is now in great demand by Islamic jurists to be studied more deeply (Arifin, 2020: 263).

According to Ash-Syatibi's view, Maqashid Shariah refers to the purpose of the enactment of sharia law, which is for the benefit of humans, both in this world and in the hereafter. The

key word in this concept is to realize the benefit, which is the essence in realizing the good for human beings (Mutakin, 2017: 552). In his work, al-Imām al-Ghazālī emphasized the importance of safeguarding Maqāshid al-Sharī'ah and relating various legal rules to this concept in fiqh reasoning (Azwar, 2020: 23) (Syarifuddin, 2020: 99). In contrast, anything that damages or negates the five objectives of Islamic law is called mafsada (Mustafa, 2020). Overall, the purpose of Shara' in establishing its laws is for the benefit of mankind, both in the life of this world and in the hereafter. This is the global objective of shara' (Efendi & Azwar, t.t.). The principle of benefit is the core of the concept of the purpose of sharia (maqashid sharia). Maqashid ash-shari'ah developed by ash-Syatibi is divided into three aspects, namely daruriyyah (necessity), hajiyyah (need), and tahsiniyyah (refinement) (Nazaruddin & Kamilullah, 2020: 114-116).

Maqasid ash-shari'ah is said to be a necessity because it is unavoidable in sustaining masalah ad-din (religion and the hereafter) and the world. In other words, if this masalah is destroyed, the stability of worldly life will be disrupted. The destruction of this masalah will lead to the end of the life of the world and in the hereafter will result in the loss of salvation and mercy. Based on the importance of masalah ad-daruriyyah, the category is organized into five things, namely maintaining the benefit of religion (ad-din), soul (an-nafs), offspring (an-nasl), property (al-mall), and intellect (al-'aql).

3. The *Ngaku Indaok* Tradition in Sitinjau Laut Sub-District

The process of *Ngaku Indaok* in Kerinci begins with the selection of the family that will become the child's adoptive mother. The selection criteria involve consideration of the region of origin, which can be from outside Kerinci, although it is common to be from within Kerinci. Factors such as the prospective adoptive mother's religious, social, environmental and economic background are also taken into consideration in this process. After selecting the prospective adoptive mother's family, the next step is to communicate the intention to the family. If the prospective adoptive mother's family agrees, the next step is to hold a kenduri at the adopted child's home. At the kenduri, ninik mamak from the village and close relatives are invited. The family of the adoptive mother is also invited as part of the traditional procession of handing over the child.

In the near future, a feast is also held at the adoptive mother's house involving the ninik mamak and close family as a form of welcoming the adopted child. After these two traditional processions, the adopted child and the adoptive mother are officially considered a traditional family. The adopted child calls the adoptive mother with a nickname such as mother or mak, and from then on, it is forbidden to call the biological mother with the same nickname. Instead, the child will use the nickname that the community has given their biological mother, such as cik, utih, itek, une, datung, and so on. From some of the processes described by the author above, the actual process of adopting a child does not follow the laws and regulations, which in its implementation does not go through the stages of the court and only through traditional ceremonies from the party claiming the child and adopting the child. Although it deviates from the provisions because it is not done legally, according to the author's analysis, there are

masalahs contained in the adoption of children, and of course there are good goals to protect, strengthen friendship and expand the family.

The practice of *Ngaku Indaok* has the main purpose of extending friendship and expanding family relationships. In addition, in some cases, Kerinci people have a habit of making vows, such as when someone wants their child in the womb to be a girl. In this case, they will vow the child to be cared for by a certain family if the child is a girl, or another family if the child is a boy. In addition, there is a Kerinci custom on the first day of Ramadan where the adopted child delivers curry to the adopted mother as a form of respect. When the foster child meets the foster mother on the street, the custom is to give the foster child pocket money. However, it is important to note that in some cases, there are adopted children who are treated like biological children, even including the financing of their education. This all depends on the policy and choice of the foster mother. Refusing to be an adoptive mother is considered unusual in society, as it is seen as a rejection of the responsibility to educate a child who is considered capable of being adopted.

4. The Practice of *Ngaku Indaok* in Sitinjau Laut District According to Maqashid Shari'ah

The first review is about the preservation of religion (hifdz din) (Qotadah, 2020: 666). When there is an agreement between biological parents and adoptive parents, it is necessary to ascertain the religion of the adoptive parents. If it can be ascertained that the religion of the adoptive parents is Islam, it can be ascertained that the association of the child and the food that enters the child's mouth is most likely not food prohibited by Islam. In this case, according to the data obtained by the author in the field and interviews with traditional leaders, all the adopted children are Muslim and the mother to whom they claim *indaok* is also Muslim. Their prospective adoptive mother is also considered to be a Muslim. So that the preservation of religion can be ensured in accordance with the objectives of maqashid shari'ah.

The second review is about the preservation of the soul (hifdz nafs) (Hayat, 2020: 153). The practice of *Ngaku Indaok* to protect the child's soul is correct, because in some cases in Kerinci, *indaok* claimants are not carelessly looking for adoptive mothers, they pay attention to the social, religious and economic status of the prospective adoptive mother. By doing *Ngaku Indaok*, the child's life will be safeguarded. From the side of the adoptive parents, of course, there will also be benefits where when the adoptive parents are old, they will not only get love and attention from their biological children, but also from the adopted children. Especially for adoptive parents who do not have biological children, of course there will be the possibility of emotional ties and relationships that are very strong like biological children.

Furthermore, in the aspect of guarding property (hifdz mal) and guarding the mind (hifdz aql) (Ruslang dkk., 2020: 672) which are interconnected in this context. The practice of "*Ngaku Indaok*" in Kerinci Regency is not only related to material exchange, but rather a rich expression of affection and support between the adopted child and the adoptive parents. The tradition of giving food on the first day of Ramadan to the foster mother marks a moment of togetherness that strengthens their emotional bond, while the custom of giving money on accidental encounters with foster children on the street reflects care. Furthermore, the tradition

of giving money on Lebaran day to the adopted child demonstrates the financial support that the adoptive mother provides to the adopted child, underlining that this relationship is not only tied to material aspects, but also to intimacy and togetherness that transcends formal boundaries. When children who claim to be *indaok* to someone who is considered more capable in the economic field, of course the child will be financed for life and education, although sometimes not fully because on average they are still the dependents of biological parents, with this, the guardian of the mind (*hifdz aql*), will be achieved because the child will get more opportunities for the development of insight, knowledge and behavior in accordance with ethics in the community, according to traditional leaders who the author interviewed, there are even cases that claim to be *indaok* financed to study abroad.

The last review is about the preservation of *nasab* or offspring (*hifdz nasl*) (Khakim & Ardiyanto, 2020: 37). The practice of "*Ngaku Indaok*" where the child calls another person (the adoptive mother) "mother, mama, mak, etc.," while the biological mother should not be called by a nickname as meaningful as mother, presents some important considerations from the perspective of Islamic ethics and values. First, from an ethical point of view, this practice can be considered to undermine the concept and meaning of a special call such as "mother." The separation in the use of this nickname not only creates confusion, but may also diminish the value and depth of the emotional connection between the child and his or her biological mother while the latter is still alive. There is a potential violation of *hifdz nasl* (preservation of offspring) and *hifdz al-'irdh* (preservation of honor and social ethics). This practice could be perceived as creating uncertainty in safeguarding the identity of offspring and ignoring social ethics that should involve special respect for the biological mother.

In assessing such practices, there needs to be a balance between respecting local traditions and Islamic values to encourage consent and agreement. Evaluation is needed to understand the impact on individual and family well-being, while ensuring that Islamic principles and individual liberties are maintained. One of the things that Kerinci society is now slowly working on is awareness of hidden values. According to informants, the habit of calling adoptive mothers mother is something that all adopted children do, but increasingly some people who practice *Ngaku Indaok* have also started to call biological mothers with a nickname that is similar to mother, although there are still many who do not do this.

Although the implementation of child adoption under Indonesian law and *Ngaku Indaok* in Kerinci Regency are different, they share some common goals, both *Ngaku Indaok* and child adoption reflect the community's drive to provide support and protection to children who need a more stable family environment. Both recognize the importance of family ties in providing a better life for the children they adopt.

CONCLUSIONS

An evaluation of the practice of *Ngaku Indaok* in Sitinjau Laut Sub-district with a view to *Maqashid Shari'ah*, reveals some significant findings. In the context of preserving religion (*hifdz din*), it is crucial to verify that the adoptive parents' religion is in line with Islam, ensuring that the child's socialization and food intake are in accordance with religious principles. Meanwhile, in

terms of the preservation of the soul (hifdz nafs), the practice of *Ngaku Indaok* is considered to provide extra protection to the child, involving important social, religious and economic considerations of the prospective adoptive mother. As a form of affection and emotional support, *Ngaku Indaok* does not only focus on material exchange, but also creates better education and development opportunities for the child, demonstrating the importance of safeguarding property (hifdz mal) and safeguarding the intellect (hifdz aql). In observing the separation of vocation between biological and adoptive mothers, the aspect of preserving lineage (hifdz nasl) requires reflection on Islamic ethics and values. Although different in implementation from legal child adoption, both *Ngaku Indaok* and child adoption reflect community aspirations to provide support and protection to children who need a more stable family environment. A holistic evaluation is needed to ensure that Islamic values and the right to individual freedom are maintained, while respecting local traditions inherited from previous generations. In this regard, the practice of *Ngaku Indaok* demonstrates the Kerinci community's efforts to harmonize local traditions with values that are more consistent with religious teachings and social norms.

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