

## **SACRED SPACE OF TRADITIONAL WEDDING PROCESSION AND CEREMONY FROM THE PERSPECTIVE OF ISLAMIC LEGAL THOUGHT**

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### **Abstract**

*The tradition and culture of marriage are very popular in society, which in terms of its implementation can be categorized as simple or festive. Talking about the sacredness of marriage in Islam, it has a religious element because there is a very broad and great gift from Allah for the bride and groom. However, its sacredness is not only in Islamic matters, but is also closely related to customary law. Therefore, the ceremonial procession of this traditional marriage is very solemn and is still carried out today. It is not surprising that local and Islamic cultures synergize with each other because Indonesia consists of a pluralistic society from various races, tribes, nations, religions and has a wealth of cultural treasures of the archipelago. Therefore, an explanation and critical view of the study discussed is needed in order to add to the treasury of thought. The presence of this study is to see the existence of the process and ceremony of traditional marriage in society and a series of arguments in looking at the traditional marriage. This research is a library research with a descriptive qualitative approach method to the topic of study. The purpose of this study is to reveal various ceremonial activities in traditional marriage. While the results of the study; First, the ceremony in traditional marriage against Islamic legal thinking studied in terms of marriage for Islamic and customary law is very different. Because the marriage ceremony in Islam is more efficient and there are no fines. Second, the correlation between customary law and Islamic law in the Bima traditional marriage ceremony as a symbol of local culture, especially in the tradition of traditional marriage. Third, traditional marriage in Bima contains elements of descent from ancestors which is proven by their customs they must carry out ceremonies until now. In addition, there are also those who carry out traditional ceremonies to be remembered and told to their children in the future.*

**Keywords:** Ceremony, Bima traditional wedding, Islamic legal thought



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### **A. INTRODUCTION**

Indonesia is a country with a great diversity of local wisdom. This local wisdom is a marker of the originality of each region and there are also values and

messages contained. One manifestation of the many local wisdoms is marriage. Speaking in the context of marriage, it is a very sacred event and an obligation that is fulfilled if it is declared capable because it is related to the survival of humanity. The survival in question is building a household so as to obtain offspring with a sacred bond between a man and a woman.

The sanctity or validity of a marriage will not be separated from the legal perspective in assessing the act. Although different spaces and times have been, the laws of marriage that have existed since the time of the Prophet until now will remain the same, namely containing divine decisions and the Sunnah of the Apostle which must be implemented and obeyed to always multiply and protect the descendants (hifdzu al-nasli) of the Muslim community. From this, marriage becomes the main object in achieving peace and blessings towards mawaddah wa rahmah. Furthermore, to obtain mawaddah wa rahmah which is part of the promise of Allah SWT has been stated in His book which will be felt by people in living and obeying all existing regulations. As stated in Qs. ar-Rum verse 21 Allah SWT says;

And the Lord is the Most ۞ إِلَٰهًا ۞ وَجَعَلَ بَيْنَكُمْ مَوَدَّةً ۝ And He is the Most Merciful

أَيُّهَا ۞ لِقَوْمٍ يَتَفَكَّرُونَ ۝ Merciful God willing

It means; And among the signs of His greatness is that He created mates for you from your own kind, so that you would be inclined and feel at ease with them, and He created between you feelings of love and affection. Indeed, in this there are truly signs of Allah's greatness for a people who think.

When becoming an object in marriage, but the important thing to focus on is the good and correct marriage procession. Because the subsystems contained in marriage have been systematically arranged from the beginning to the end of marriage, namely starting with determining a life partner or what is called khitbah then continuing with the perfection of the pillars and their requirements.<sup>1</sup> This proves that Islam provides an easy way for its followers and there are important values to various Islamic teachings. Marriage in Islam does not have a bureaucracy that requires the implementation of many rules and twists. The marriage procession is carried out with a short and simple ceremony, no more than the contract (ijab qabul) of two witnesses, payment of the dowry given to the woman and there is no official determination of either place, person and special time.<sup>2</sup>

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<sup>1</sup>Amir Syarifuddin, *Islamic Marriage Law in Indonesia Between Fiqh Munakahat and Marriage Law*, (Jakarta: KENCANA, Cet.5, 2014), p. 19.

<sup>2</sup>Muhammad Abdul Halim, *Understanding the Qur'an by the method of interpreting the Qur'an with the Qur'an*, (Ujungberung: MARJA, 1st ed., 2008), p. 67.

Although it looks very simple, it is in contrast to the reality. Because not everyone lives with that simplicity. Why? because seeing local wisdom that has such a big influence on Islamic culture, so that a close relationship can be established with local customs in every region of Indonesia. Understanding the formulation of Islamic culture and customs as an understanding of Islam that is united in Islam Nusantara. Islam Nusantara as a characteristic of Indonesia that forms the religious identity of a region is accompanied by the existence of figures who are able to understand between cultural and religious localities. The merging of Islamic values in culture, because of the practices that have been carried out by the local community both contextually, the interaction between sharia and culture and social reality.<sup>3</sup> So it is not surprising that wedding processions and ceremonies are still carried out based on local customs.

Custom is a habit that is continuously carried out by its people until it forms a law, namely customary law. There are several standards or limitations on the elements of customary law, including; behavior that is continuously repeated, systematic and orderly behavior patterns, there is a sacred value to its behavior, the existence of a customary chief's decision, applicable law or sanctions, unwritten, respected for its propriety and authority.<sup>4</sup> When compared to the Islamic wedding procession, it is very simple. However, because the paradigm of tradition that is too sacred actually makes the wedding procession complicated, seen from the practical side, it is very troublesome and drains energy, while in terms of finance, a lot of money is spent. However, this is where the important role of traditional figures lies in realizing a sacred vow and the main capital for prospective brides and grooms to reach the finish line towards marriage. Therefore, ideas or concepts from various critical views are needed in responding to existing events and then used as a treasure trove of knowledge.

## **B. RESEARCH METHODS**

This writing uses library research by collecting data from various information such as; journals, books, articles, and other supporting materials. While the method used is a descriptive qualitative approach using the analysis of the Receptie A Contrario theory by Sayuti Thalib by observing the theory of the development of customary law on the topic of study to explain a phenomenon in depth related to Islamic legal thought in providing a view of the procession and ceremony of customary marriage which is a cultural locality for each region in Indonesia so that from the presentation it will be analyzed to get answers to the topic being studied.

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<sup>3</sup>Ali Mursyid Azisi, *Islam Nusantara: The Characteristics of Indonesian Islam and Its Role in Facing Puritan Groups*, (Empirisma Journal of Islamic Thought and Culture, Vol. 29 No. 2, 2020), p. 125.

<sup>4</sup>Suriyaman Mustari Pide, *Customary Law Past, Present, and Future*, (Jakarta: KENCANA, 3rd ed., 2017), p. 8.

## C. DISCUSSION

### 1. According to Islam

#### a. Definition of marriage

The efforts made by Gujaratis to spread Islam in the archipelago are with great care and politeness because the people of the archipelago have a culture that has existed for a long time since before Islam entered Indonesia. Meanwhile, in the process it also uses acculturation without changing the objectives of the law or Islamic teachings themselves with the principles of *al-adatul muhakkamah* or customs which are made into law and *Taghayyirul al-ahkam bi taghayyiru amkinah wa amakin* or a legal change determined based on place and time, making society little by little. migrated to embrace Islam.<sup>5</sup>

In Arabic, marriage consists of two words; *zawwaja* and *nakaha* which mean two different people become a couple so that the legality of intimate relations is in the form of creating happiness and affection based on Islamic teachings.<sup>6</sup>The enactment of Law no. 1 of 1974 concerning marriage, chapter 1, article 1, is a physical and spiritual bond between a man and a woman as husband and wife aimed at forming a happy and eternal family based on the One Almighty God. The simple approach to achieving this goal includes; husband and wife both willingly sacrifice in the household and have good morals or ethics to build a household. In addition, the compilation of Islamic law (KHI) article 2 provides additional contracts or *mistaqan ghalizhan* as obedience to Allah's command and contains worship. Marriage is not only the *sunnah* of the Prophet Muhammad SAW, but part of Allah's decree in multiplying offspring against legitimate relationships. It has been hinted at in the Qur'an and is often stated in one of its verses in Qs. An-Nur: 32;<sup>7</sup>

God bless youAnd Allah is *وَأَنْكِحُوا الْأَيِّمَ*لِجَيْنَ مِنْ عِبَادِكُمْ وَأَمَّا تَكُمُ

the Most GraciousAnd I will grant you peace

Which means; And marry those among you who are single and those who are fit from your male and female slaves. If they are

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<sup>5</sup>Moh. Ali Wafa, *Marriage Law in Indonesia: A Study in Islamic Law and Material Law*, (South Tangerang: YASMI, 2019), pp. 1-2.

<sup>6</sup>Tinuk Dwi Cahyani, *Marriage Law*, (Malang: UUM PRESS, 1st ed., 2020), pp. 1-2.

<sup>7</sup>Budi Sunarso, *Knitting Family Happiness (Socio-Religious Perspective) Volume 1*, (Yogyakarta: DEEPUBLISH, 1st ed., 2022), pp. 11-12.

poor, Allah will enrich them from His bounty, the All-Encompassing, the All-Knowing.

Based on the description above, it is explained that marriage according to Islamic law contains an agreement between a man and a woman so that there is a bond in a lawful husband-wife relationship in order to have children to achieve the goal of life in carrying out devotion to Allah SWT in accordance with their rights and obligations.<sup>8</sup> According to three experts, the term marriage includes:<sup>9</sup> Thalib (1990) marriage is a form of sacred agreement that is strong and solid to live together in order to form an eternal family, mutual assistance, mutual love, peace and happiness. Furthermore, Soetoyo Prawirohamidjojo argues that the life partnership of both men and women that is formally legal with the law is religious. The last opinion from Dunvall and Miller (2012), according to him, the legal relationship between both men and women is accompanied by a biological relationship that complements each other.

Definitively, fiqh scholars also vary in their opinions regarding marriage, explained as follows; Hanafiyah scholars define marriage as a contract to intentionally have mut'ah or other means that a man can fully control a woman to obtain pleasure. Malikiyah scholars define a contract that contains the meaning of mut'ah to achieve satisfaction but does not require a price. Shafi'iyah scholars are of the opinion that contracts use the pronouncement or zawaj in the sense of wat'i. Meanwhile, Ulama Hanabilah explained that the contract uses pronouncement or tazwij, which means getting satisfaction from each partner.<sup>10</sup> Meanwhile, the meaning of marriage from a sociological perspective is a process of exchanging rights and obligations, giving appreciation to partners for their different socio-cultural backgrounds, different desires and needs so that a mutual agreement is born.

Marriage has a basis of rules that can provide the right purpose in concluding something as the realization of the marriage. As stated in the compilation of Islamic law article 3; "marriage aims to realize a household life that is Sakinah, Mawaddah and Rahmah". While the purpose of marriage or

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<sup>8</sup>M. Najamudin Aminullah, Acculturation of Islam with the marriage traditions of the Sasak aristocratic community (study in Kopang sub-district, Central Lombok district, (Palapa: Journal of Islam and Educational Sciences, vol. 5 No. 1, 2017), p. 114.

<sup>9</sup>Ibid., pp. 12-13

<sup>10</sup>Sakban Lubis, Fiqih Munakahat (Marriage Law in Islam), (Jambi City: PT. Sonpedia Publishing Indonesia, 1st ed., 2023), pp. 1-2.

marriage in Islamic law according to Abdul Djamali divides it into; devoted to Allah, fulfilling the nature of life between men and women, having children, developing and living in peace, mutual understanding to maintain the safety of life.<sup>11</sup>The role of Islamic law was initially by Gujaratis through traders and marriages so that the process of Islamization of the archipelago took place peacefully because Islamic law is flexible and therefore has become a realistic manifestation of the lives of Indonesian society (living law).

**b. Pillars and conditions of marriage**

Marriage does not just happen. But it has a special path to be obeyed and implemented. There are several stages that must be followed as long as the law is in effect in the form of pillars and conditions. The majority of scholars are of the opinion that pillars are the main capital that must be met, while conditions are things that must exist but are not included in the essence.<sup>12</sup>The following are the requirements and pillars in Islam;

**1. Pillars of marriage**

The pillars of marriage are actually the agreement of both parties to bind themselves to each other, or what is called *ijab* and *kabul*. The conditions for *ijab* and *kabul* are as follows:<sup>13</sup>

- a) Both parties have known the laws of marriage.
- b) Consent and *Kabul* are carried out in one place.
- c) The person who does it does not cancel the *ijab* before the *qabul* is performed.
- d) There are similarities in the *Kabul* marriage ceremony.
- e) Both parties listen and understand the meaning of consent and *qabul*

Meanwhile, the opinions that come from Ulama circles regarding the pillars of marriage include;<sup>14</sup>According to the majority of scholars, there are four categories, namely *shighat*, groom, bride, and guardian. Then al-Zubaili stated that there are only two agreements of Fiqh scholars, namely *ijab* and *qabul*, while the others are conditions of marriage. In contrast to an-Nawawi, who stated that it consists of *shighat*, groom and bride, witnesses and two witnesses. Furthermore, al

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<sup>11</sup>See more in R. Abdul Djamali, *Rumah Sejahtera*, (Jakarta: 1989), p. 75.

<sup>12</sup>Wahbah Al-Zuhaili, *al-Fiqh al-Islam wa Adillatuhu*, (Damascus: Dar Al-Fikr, VII, 1980), p.

<sup>13</sup>Abu Dawud, "Sunan Abu Dawud", quoted from *Islamic Fiqh*, Sulaiman Rasyid, Sinar Baru, Bandung, 1992, p. 349.

<sup>14</sup>Kumedi Ja'far, *Islamic Marriage Law in Indonesia*, (Lampung: Arjasa Pratama, 1st ed., 2021), pp. 34-35

Shirazi stated that there must be a guardian, two witnesses, bride and groom and contract. Finally, according to Zainuddin bin Abd al-Aziz al-Malibari, there are five of them, namely wife, husband, guardian, two witnesses, and contract.

2. Marriage requirements, namely;<sup>15</sup>
  - a) The woman he marries is a halal woman
  - b) Marriage must be accompanied by two witnesses and the requirements are that the person must be mature and of sound mind.
  - c) The presence of a guardian, a person who has full authority to marry a woman under his guardianship.
  - d) The requirements for a guardian are: freedom, puberty, sanity and Islam.

However, apart from the above, the law provides mandatory requirements which are stated as;<sup>16</sup>

- 1) Material or core requirements are requirements intended for prospective brides and grooms which consist of absolute and relative material.
- 2) Formal or birth requirements based on BW articles 50 to 70 apply only to European groups. In BW articles 50 to 51 it is explained that marriage must go through a Civil Registry Officer and then be recorded in the marriage register.

## **2. According to Custom**

### **a. Traditional Wedding**

According to Ter Haar, marriage in customary law is not only related to civil matters such as rights and obligations, the position of children and their rights and obligations to their parents, joint property, but also concerns customary, family, kinship and neighborly relations as well as traditional and religious ceremonies.<sup>17</sup> While marriage customs are legal regulations according to customs and traditions that regulate the form of marriage, the procedure for proposals, marriage ceremonies, and the dissolution of marriage in Indonesia. Marriage is one way to maintain the kinship system, so that marriage or marriage is a bond of life between men and women which is communal in nature

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<sup>15</sup>Bulughul Marram, Trans. A. Hasan, Cv. Diponegoro, Bandung, cet. XXIII, 1999, p. 431.

<sup>16</sup>Marriage Law ..., pp. 8-9

<sup>17</sup>Febriyanto Eko et al., The Existence of Javanese Customary Law in Modern Marriage, (ALSYS: Journal of Islam and Educational Sciences Vol. 2 No. 4, 2022), p. 468

which aims to produce generations so that community life and clan life do not die out.<sup>18</sup>

In customary marriage law, it is not only an event for those who are still alive, but it is an important part that is followed by the ancestors of both parties because with the existence of ancestors, marriage is expected between husband and wife to live in harmony, the implementation of which is accompanied by traditional ceremonies involving the local traditional leader.<sup>19</sup>

Furthermore, in the book entitled "rejang" Hazairin interprets marriage in three streams of magical actions with the aim; first, peace (koalte), second, happiness (wevaart), third, fertility (ruchtbaarheid). As previously explained, customary law considers that customary marriage is not based on personal law, but becomes a matter of family, community, tribe or caste. The concept of customary law that includes individuals is an inseparable part of society, individuals are part of society that have their respective functions to continue and sustain society, there are no customary provisions that require conditions to guarantee its validity by using coercion (sanctions).<sup>20</sup> Therefore, the wedding ceremony is a symbol of the change of life from the old to the new. Van Genep called it the Rites De Passage (Ceremony of Transition) which is divided into three levels, namely,<sup>21</sup>

- 1) *Rites of Separation* (farewell ceremony from original status)
- 2) *Rites of the Marga* (ceremony of passage to a new status)
- 3) *Rites of Agreement* (acceptance ceremony in new status)

#### **b. Principles of Customary Marriage**

The parameters used as a benchmark by local customary law regarding the principles for implementing customary marriages vary as follows;<sup>22</sup>

- 1) The principle of custom and kinship, according to customary law marriage not only binds individuals but also indigenous communities, meaning they are responsible for the marriage of their citizens. Because marriage is a manifestation of the wishes of relatives and indigenous communities. From this, respond to the selection of partners, their honesty and other supporters.
- 2) The principle of voluntary/agreement, both bride and groom do not have full rights to express their consent to marriage.

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<sup>18</sup>Hilman Hadikusuma, Customary Marriage Law, (Bandung: Citra Aditya Bakti, 1995), p. 23.

<sup>19</sup>Soerojo Wignjodipoero, introduction and principles of customary law, (Jakarta: PT Toko Gunung Agung, 1983), p. 122.

<sup>20</sup>Sri Hajati et al., Customary Law Textbook, (Jakarta: KENCANA, 3rd ed., 2021), p. 15

<sup>21</sup>Yulia, Customary Law Textbook, (Sulawesi: UNIMAL PRESS, 1st ed., 2016), pp. 49-51.

<sup>22</sup>Ibid., pp. 52-54



While marriage itself must be approved by parents and relatives. The community holds the decision whether or not it can be recognized in the custom if both are different. Violation of this principle is in the form of sanctions of expulsion from the traditional community environment, especially in communities with strong tribal systems, for example in East Nusa Tenggara.

- 3) The principle of participation of relatives and indigenous communities, in this case none other than parents, family and the community as a very important influence in choosing the prospective bride and groom, their approval and the longevity of the household.
- 4) Principle of Polygamy, the principle of polygamy in indigenous communities is common. We can see in history books that there are also kings and nobles, both Hindu, Buddhist, Christian, and Muslim, who have more than one wife. Wives who are polygamous have their respective positions based on the customary law structure. Because of the development of the era and the weakness of customary institutions and the participation of changes in the customary environment, this kind of practice is abolished. If it still exists, it follows the provisions of each religion.
- 5) The principle of selectivity, the target of this discussion determines the process and who has the right to choose the candidate. As explained above in customary law, namely parents, relatives and society. In this process, it is aimed at the desired marriage and avoiding prohibited marriages.

#### **A. Portrait of traditional wedding procession and ceremony**

The various patterns of customs in Indonesia give color and impression to each region. These customs are derived from ancestors who continue to be maintained and preserved. In a custom carried out by a region, be it marriage, prayer, thanksgiving and all forms of ceremonies that exist, there must be a process and ceremony in order to create results and satisfaction for what is desired from the event. One of the most discussed processions and ceremonies is the procession and ceremony of traditional marriage. Because there are many unique things or things that we rarely know. In addition, marriage is a big celebration that involves religious figures, traditional figures, families and village communities. One example that can be taken in the form of this ceremony is the marriage of the Mbojo (Bima) tribe which in the Bima language is nika ro neku. The

following is an explanation of the stages and procession of the Bima traditional wedding. Stages of marriage;<sup>23</sup>

a. *Panati*

In Bima language, panati means a proposal where the man sends a messenger to the woman's family. The aim is to ask the girl whether she intends to propose to him. Next is wi'i nggahi where there is an agreement between the man and the woman. Usually in this wi'I nggahi there are those witnessed by community leaders and religious leaders as well as village officials. However, there are also those where only the family witnesses. After wi'I nggahi, the pita nggahi tradition continues. This panati event also presents ompu panati who will convey sentences such as "mai kabouku nggahi ra wi'i kai warasi destinasi Allah, bunesi ntika nggahi ra rawi'i de takalampa rawiku wura ake"

b. *The Nuru*

Furthermore, prospective sons-in-law are required to live together in the prospective in-laws' house. The aim is so that the male candidate can get to know the prospective son-in-law's environment well, including the prospective son-in-law's personality, honesty, discipline, responsibility, worship and obedience. Of course, with certain limitations because they are still not legally bound. However, this stage is rarely carried out by the community or not at all.

c. *Wa'a Co'i*

This ceremony is a dowry delivery from the prospective groom to be given to the prospective bride. Usually this ceremony is carried out by the extended family while accompanied by hadrah and shalawat while there is a dance of honor by the elders carrying a yellow cloth called pasapu monca.

d. *Tekar ra Ne'e*

Part of this ceremony or event is karawi kabuju or gotong royong involving religious figures, traditional figures and the community. Tekar ra ne'e usually people give donations in the form of rice, oil, water, money, prayer cakes, sugar and others.

Next is the procession or series that is carried out. Usually it takes time, including;

a. *Hey, you're welcome*

This procession is an event before the peta kapanca is held, namely by carrying the bride to be seated and being paraded by the bride's

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<sup>23</sup>Suprpto, *Dialectics of Islam and Nusantara Culture from Negotiation, Adaptation to Commodification*, (Jakarta: KENCANA A, 1st ed., 2020), pp. 171-175

older sibling or cousin to the peta kapanca event location and continued with kalondo wei or the bride getting off.

b. *Kapanca Map*

This processional activity decorates the nails and palms using finely ground henna leaves. This event was attended by women, while the men were only present by the bride's relatives. This event was performed by the mothers of the bride's relatives while accompanied by dhikr, prayers and reciting the alms in the Neurosul Anam book. The final part of the procession is reading a prayer and taking the egg that has been tied to a bamboo stick and then inviting the guests to enjoy the meal.

c. *Marriage contract*

It is not foreign to us that the core of the wedding ceremony is towards the halal of both partners. The marriage contract is usually accompanied by hadrah/tambourine then there is the delivery of marriage advice and finally to the main event of the ijab qabul witnessed by two witnesses.

d. *Bobo is so beautiful*

This procession is carried out after the marriage contract by bathing the bride and groom who are in one sarong. This activity is carried out by ina bunti sprinkling coconut water on the bride and groom, usually also using seven types of flowers while reciting prayers so that both can maintain the marriage.

e. *Pamaco*

After going through the above series, a reception was held as well as giving gifts or donations to the invited guests for the two brides. The activities in this session were carried out in the paruga or building and a buffet was provided for all guests.

## **B. Views of Islamic Legal Thought**

### **1. Differences in understanding of marriage law**

The law of marriage according to the Islamic perspective refers to the Qur'an, Al-Hadith, Ijma' of Islamic jurisprudence scholars, and Ijtihad which discuss that marriage is a form of worship that is recommended by Allah and His Messenger. This is in line with the word of Allah in Qs. Az-zariyat: 59 and Qs. An-Nisa: 1 which is also stated in the hadith of the Prophet from Abdullah bin Mas'ud RA, he said:

يَا مَعْشَرَ الشَّبَابِ مَنِ اسْتَطَاعَ مِنْكُمُ الْبَاءَةَ فَلْيَتَزَوَّجْ، فَإِنَّهُ أَغَضُّ لِلْبَصَرِ، وَأَحْصَنُ لِلْفَرْجِ، وَمَنْ لَمْ  
يَسْتَطِعْ فَلَعَلَّيْهِ بِالصَّوْمِ فَإِنَّهُ لَهُ وَجَاءٌ

“O young men, whoever among you is able to support himself, let him get married. Because marriage lowers the gaze and the private parts. As for whoever is not able, let him fast. Because fasting is a shield for his lust.”

The next opinion in determining the law of marriage is; the majority of scholars take the basis that from the many commands of Allah and the Sunnah in matters of marriage, there is no obligatory law because the Qur'an and Sunnah do not indicate any threat to those who refuse, although there is a hadith of the Prophet but it is not strong. While the group of scholars called the Zhahiriyyah group takes the basis as the existence of Allah SWT's al-amr for those who are able and finance themselves and the threat of the Prophet if they do not carry out the command to marry, then it is deemed obligatory.

Thus, the two opinions of the above groups are the original laws that are still general in nature. Because marriage also has a noble purpose, the law of marriage based on the specific circumstances of each person is different. The laws that are clearly detailed are explained based on the circumstances and intentions of the perpetrators. In the book Fath al-Mu'in: 44-46 there are five types of laws, namely; obligatory, Sunnah, better left, makruh, and haram.<sup>24</sup> Meanwhile, the views of previous scholars detail the law of marriage as follows:<sup>25</sup>

- a. Shafi'iyah scholars state that the law of marriage is based on the circumstances of a particular person:
  - 1) Sunnah for people who have the desire to marry and feel worthy of marrying, accompanied by the provisions for carrying out the marriage.
  - 2) Makruh for people who do not feel worthy to marry, do not have the desire and provision. However, it also applies to those who already have provision but are disabled. (al-Mahalliy, 206)
- b. Hanafiyah scholars also add specifically to certain circumstances and people:
  - 1) It is obligatory because the person is worthy of marriage, has the desire, has the means, and is afraid of committing adultery.
  - 2) Makruh is basically being able to carry out a marriage but feels like he is cheating. (Ibn Humam III, 187)

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<sup>24</sup>"Five Types of Marriage Laws in Islamic Teachings", Kemenagkotabaru, September 23, 2022, accessed October 11, 2023, <https://kemenagkotabaru.info/2022/09/2022/lima-ragam-Hukum-menikah-dalam-ajaran-islam/>

<sup>25</sup>Amir Syarifuddin, Islamic Marriage Law in Indonesia Between Fiqh Munakahat and Marriage Law, (Jakarta: KENCANA, Cet.5, 2014), p. 44-46.

c. Other scholars also add specific laws regarding marriage for certain circumstances and certain people:

- 1) It is forbidden if it does not fulfill the provisions of Islamic law, does not believe that marriage achieves the goals of Islamic law, and he also believes that marriage can ruin the life of his partner.
- 2) It is permissible for a person who has not yet been motivated to marry and the marriage does not result in harm to anyone.

After various explanations of Islamic legal views above, the next comes from customary law. It can be seen that the views of the figures on customary law do not have divisions like scholars in general, but they focus more on the meaning of customary law. As conveyed by several legal scholars including;<sup>26</sup>

- a. Soekanto is of the opinion that customary law consists of a complex of customs which are not written down or codified, are coercive in nature and have sanctions.
- b. Van Vollenhoven argued that customary law was entirely original, meaning it did not originate from Dutch East Indies legislation.
- c. Supomo defines unwritten customary law as, for example, rules of life. Even though it is not written, people still obey it with the belief that the rules have legal force.
- d. MM Djodigono defines customary law as being based on regulations.
- e. Soeroyo Wignyodipuro, in his opinion, states that customary law is a series of norms whose source is the people's sense of justice which always develops through human behavior in everyday life, respected because it has sanctions if not obeyed.
- f. The theory of reception in comlexu by Mr. LCW Van Der Berg, namely in this theory, society embraces a certain religion, then the customary law in question is the religious law embraced. However, this theory was criticized by Van Vollenhoven who stated that the theory of reception in comlexu is contrary to custom. Because customary law is the original law with the extent or smallness of religious law in customary law, it is difficult to ascertain the reason; the areas influenced by religious law vary and are not the same in all societies, the thickness or thinness of the field of religious law also varies, customary law is local and in a society there are also different religions.

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<sup>26</sup>Textbook of Customary Law..., Pages 2-3

## 2. The Meaning of Fiqh Rules

The rules of fiqh are a reality as an Islamic civilization that regulates the legal field in dealing with all problems of life in society. Today, scholars make guidelines as a basis for taking laws against increasingly complex conditions in society. One of the rules is Al-adah Muhakkamah. The existence of this rule is a benchmark for responding to various traditions that develop in determining what is haram, halal, and bid'ah. Traditions that are often discussed regarding marriage and daily implementation around society.

Community rulesThe best of the bestcomes from the text of the Qur'an and the hadith of the Prophet. The basic rules contained in the Qur'an refer to Qs al-A'raf verse 199:

الْجَاهِلِينَ God bless you

"Be forgiving and order people to do what is right, and turn away from stupid people." Meanwhile, in the Hadith of the Prophet SAW narrated by Ibn Mas'ud:God bless you"What is considered good by Muslims, then according to Allah SWT is also good (HR. Al-Hakim)". Meanwhile, according to the Arabic term adah or tradition or urf as a habit that applies generally to a certain society or for a long time.<sup>27</sup>The scholars are of the opinion that traditions have been around for a long time among the general public and if traditions do not apply generally then they cannot be used as a guide to determine whether or not they can be implemented. Common sense can accept good traditions, which do not conflict with the texts of the Koran and hadith of the Prophet SAW, this is a text that is qat'i in nature and has no takwil or other interpretations.<sup>28</sup>

## 3. The Role of Custom in the Formation of Law

The journey of Islamic law in its history was influenced by customs as the formation of law. In our Al-Umm and Al-Risalah Imam Syafi'i was influenced by local customs and time. When Islam entered the Arab world, the norms of life or muamalah had been in effect and Islam positioned itself as the arrival of sharia rules by sorting out existing traditions. Therefore, the emergence of group conflicts against customs and sharia law, including;<sup>29</sup>

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<sup>27</sup>Husnul Haq, Principle of "Al-adah Muhakkamah in Javanese Marriage Traditions", (AHKAM, Vol. 5, No. 2, 2017), pp. 297-300

<sup>28</sup>Moh. Kurdi Fadal, Principles of Islamic Jurisprudence (Jakarta: CV Artha Rivera, 2008), p. 69.

<sup>29</sup>Faiz Zainuddin, Islamic Concept of Custom, Jurnal Lisan Al-Hal, Vol. 7, No. 2, (December 2015), pp. 391-370

*First*, a substantial tradition in its implementation contains elements of benefit, meaning that all actions include benefits and do not contain harm and are fully accepted by Islamic law.

*Second*, a long-standing tradition whose main principle contains elements of benefit, but its implementation is not considered good by Islam. This is acceptable but its implementation may undergo changes and adjustments.

*Third*, Old traditions whose principles and implementation contain mafsadah (damage) meaning there is no benefit and greater damage, such as gambling, drinking alcohol and so on.

*Fourth*, The tradition has been going on for a long time and is accepted by everyone but does not have elements of mafsadah and dalil but it is not certain whether it has entered into Islam directly or not.

The scholars accept the first and second forms of tradition but they agree to reject the third form of tradition. However, the fourth tradition has different opinions. Generally, this tradition is practiced by all fiqh scholars, especially among scholars of the Hanafiyyah and Malikiyyah schools of thought. Hanafiyyah scholars use istihsan as their ijihad and one form of this istihsan is istihsan al-urf (istihsan on the basis of urf). Meanwhile, the Malikiyyah Ulama used the traditions of the people of Medina as the basis for determining law rather than the Ahad hadith.<sup>30</sup> Meanwhile, the Shafi'iyah scholars use tradition in matters for which there are no provisions for limitations in Islamic law or in the use of language.<sup>31</sup>

### C. Analysis

Based on the above explanation, as a basis for directing the discussion, the author uses the theory of reception a contrario originating from Sayuti Thalib. According to him, this theory includes Islamic Law applies to Muslims, beliefs are based on desires and ideals of law, inner ideals and morals, while customary law applies to Muslims if it does not conflict with religion and its laws.<sup>32</sup> As in principle, the ijihad method used by scholars in legal istinbat is based on rules The Lord is the Most Merciful (Customs are established as law)<sup>33</sup>. In addition, Amir Syarifuddin also explained that the meeting between sharia and custom will cause

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<sup>30</sup>Wahbah al-Zuhayli, *Usul al-Fiqh al-Islami*, (Damascus: Dar al-Fikr and Beirut: Dar al-Fikr al-Mu'ashir, 2001), v. 1, Pg. 454.

<sup>31</sup>Wahbah al-Zuhayli, *Usul al-Fiqh al-Islami*, vol. 2, p. 249.

<sup>32</sup>Sayuti Thalib, *Receptio A Contrario: The Relationship between Customary Law and Islamic Law*, (Jakarta: PT. Bina Aksara, 1982), p. 17.

<sup>33</sup>Imam Masbikin, *Qawa'id al-fiqhiyah*, (Beirut: Dar al-fikr, t.th.), p. 94

differences and clashes. Therefore, there must be a process of filtering customs that still needs to be implemented and one of the references used as a guideline is "the old customs in principle substantially contain elements of welfare".<sup>34</sup>

From various sources, the views above have different points of view. In the series of Bima traditional processions as a whole, there is no indication that it is contrary to sharia. The results of the Ulama's views have met the pillars and requirements and are considered valid. In addition, the Bima traditional ceremony has been based on the role of custom which substantially contains benefits and benefits, so it can be accepted in Islamic law, namely the form of gratitude, the accompaniment of sentences using sholawat and prayers, a form to achieve Sakinah mawaddah warahmah and safety for the household. Then, seen from a practical perspective, Islam has very simple pillars and requirements, while the Bima traditional ceremony adapts to the traditions that apply in the family.

In addition to the theory developed by Sayuti Thalib, this theory is studied again in the form of a theory of legal development which is divided into two; linear model meaning that the development of new law does not contain old law and interactive model meaning that the development of new law still contains old law. Based on this, the Bima traditional wedding ceremony is included in the interactive model, because the form of the Bima traditional ceremony has undergone modification after the entry of Islam in Bima as a sign of the entry of Islam, sentences containing bad elements are replaced using toyyibah sentences that are directly related to Allah SWT, the procedures for implementing the customs are based on Islamic law, increasing sholawat and dhikr. However, this change does not change existing traditions such as the stages of the Bima wedding process above, but only as an option or alternative for the Bima community in carrying out some or all of the series and can also not do it only in accordance with Islamic procedures, namely ijab qabul. It is different if there are still families who still use customs, then this must be carried out according to applicable regulations.

#### **D. CONCLUSION AND RECOMMENDATIONS**

There is no doubt that the richness of Indonesia's cultural diversity that stretches across is one of the interesting discourses to study. With the existence of cultural studies, it gives us extensive knowledge of local cultural portraits such as in this discussion, namely about traditional

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<sup>34</sup>Syukri Albani, Muslim Marriage Law between Fiqh Munakahat and Neo-Receptie Theory in Complexu, (Jakarta: KENCANA, Cet. 1, 2020), p. 146, see in full in Amir Syarifuddin, Ushul Fiqh, volume 2, p. 153



marriage. Marriage is a sacred event and has deep meaning. In customs there are also rules and procedures that must be followed. Marriage for Islamic law and customs is very different, if Islamic law provides a way that is very easy with a series of events that do not have to drag on, then it is in contrast to customary law with a lively event, full of caution, requiring a lot of money spent, special materials, special time, special prayers in the form of sholawat, dhikr and a series of things that must be prepared for the smooth running of the procession whose purpose is for safety.

Marriage in Islam does not involve any sanctions for not carrying out the procession. Meanwhile, traditional marriage is limited by the sanctions that must be accepted and endured. The author also considers that traditional marriages in Bima contain elements of descent from ancestors. For people who still adhere to their traditions, they still have to carry out ceremonies to this day. Even though they don't come from traditional families, they also use traditional ceremonies or ceremonies as memories to share with their children in the future. Apart from that, the correlation between customary law and Islamic law in the Bima traditional wedding ceremony is a symbol of local culture, especially in traditional wedding traditions. Everything is clear that for those who carry it out or not, this ceremony will continue to be carried out because it is a unique icon for the cultural elements as the identity of each region in the archipelago. If this ceremony undergoes another change in meaning that is far from beneficial then it is already a bad thing to do. Apart from that, both of these laws still have an impact on the perpetrators, but anything that is considered not good to do is better avoided, on the other hand, if it has a positive impact on survival, it is permissible to do it.

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