
Review of Islamic Law on Customary Law Values in Community in North Lore Utara And Lore Peore, Poso-Indonesia

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Abstract

Long before state law, customary law was in effect, and no ordinary or customary law itself taught deviant behavior. Customs correct the wrong and provide solutions to social problems. The custom in the Pekurehua area is called the Pekurehua Tawailia custom, which is divided into the four largest divisions, namely the Posamboko custom/marriage, the mpogalo galo custom, or social order, the mpowia custom or farming methods, and the ngkapate custom or death. The reciprocal relationship between religion and custom creates a value that consists of several forms; namely, religion affects culture (tradition) in its formation, the value is religion. Still, the symbol is culture (custom). Religion can affect religious symbols; for example, Indonesian culture affects Islam, culture (tradition) can replace the value system and religious symbols. Religion and customs also have two similarities, namely both a value system and a symbol system.

Keywords: Islamic Law, Customary Law

1. INTRODUCTION

Indonesia is known as a pluralistic or heterogeneous nation. Indonesia has diverse ethnic, cultural, religious, and traditional traditions reflected in Indonesian people's daily lives, such as traditional ceremonies, traditional houses, traditional clothes, songs/songs and dances, musical instruments, and local specialties/foods (Griyanti et al., 2018). For this reason, the government must implement policies that lead to efforts to preserve national culture (Yuningtyas et al., 2020). Of course, great gratitude to Allah SWT. We were born in a country where the spirit of cooperation and togetherness is familiar. Each has its uniqueness and advantages that can be used as social capital as a tool and media to create peace and conflict resolution. Settlement of legal conflicts in society through typical sociological patterns (Kasim & Nurdin, 2020). In these customs, we will find three forms of culture explained by the first cultural expert, Koentjaraningrat, as ideas, values, or norms. Second, the form of culture as an activity or pattern of human action in society. Third, the structure of culture as objects made by humans (Hasibuan, 2017). Meanwhile, according to Kluckhohn in Oktafia and Mawardi, there are five orientations: first, everything related to the essence of life; second, about the nature of work and human work; third, about the nature of humanity in space and time; fourth, about human relations with the natural surroundings; and fifth, regarding the nature of human relations with other humans (Oktafia & Mawardi, 2017).

Every custom, language, ethnicity, and religion has a value system and knowledge system that has developed hundreds or even thousands of years ago. Our country is regulated and managed from generation to generation by thousands of customary laws, guided by hundreds of belief systems and religions. Indonesia is a nation built from hundreds or even thousands of sovereigns, independent and dignified nations, which in its history have been existed (Hanim & Noorman, 2018). Therefore, all the stakeholders must preserve the traditions or customs to keep people's culture alive across generations (Thomas, 2015). Customs are procedures, actions, or habits usually carried out by a person or group of people related to religion, beliefs, and others that are still valid from the past until now and are still

accepted by the majority of the local community. Remain timeless and have a strong integration with community behavior patterns. Members of the community who violate will receive severe sanctions for their actions (Taufik et al., 2020). The people in Lore Utara and Lore Piore Districts, Poso Regency, still use customary law as a social rule that regulates society. Moreover, it has become a tradition from generation to generation. It has even become a necessity that is still difficult to get rid of. These habits are still often carried out even though there are changes in the implementation of customs. However, values and meanings are still maintained as social law rules that regulate norms—community life. According to Dasion and Nugroho, although traditions or customs are still well implemented, globalization poses considerable challenges to traditions or customs (Dasion & Nugroho, 2020). can be adjusted in the shari'ah system are called 'urf. The formation of 'urf originated from the mutual understanding of many people despite their different social stratifications (Yasin, 2016).

In theory, customary law can be considered as part of the shari'ah. Adat can be valid or justified as behavior for a Muslim (al-Adah Muhkamah guidelines) as long as it does not conflict with Islamic principles (Dasion & Nugroho, 2020). Based on the research background above, the problems in this study can be formulated as follows: 1). How is the implementation of customary law values in the people of North Lore and Lore Peore Districts, Poso District?. 2). How does Islamic law review the implementation of customary law values in the people of North Lore and Lore Peore Districts, Poso District?

2. METHOD

This research was conducted using qualitative research methods. A descriptive approach, namely research procedures that produce descriptive data in written or spoken words from people and observable behavior (Priambodo, 2018); (Ainun & Nur, 2021). The research location is in the District of North Lore and Lore Piore, Poso Regency. The data collection technique used in this study is Observation carried out to determine the community's routine activities (Mulyadin & Jaedun, 2018). Two parties conducted the interview: the interviewer who asked the question and the interviewee who answered the question (Moleong, 2021). Documentation is done by reviewing essential documents that support the completeness of the data. The data collected mainly use words, sentences, or pictures that mean more than just the number or frequency. According to Sutopo in Alidrus, after conducting the interview, data analysis began by making a transcript of the interview results to replay the interview recording (Al Idrus, 2020). Listening carefully, then writing down the words that were heard according to what had been recorded. Meanwhile, in analyzing research data, namely by reducing data, presenting data, and verifying data.

3. RESULT AND DISCUSSION

Research sites

From these historical records, it is known that the Napu Valley or Pekurehua, Poso Regency is an area that has been established since the time of the kingdom. Until 1960, the Napu Valley, which used to only consist of one district 1960, the Napu Valley, which used to only consist of one community, namely *Gembu*, until 1962. North Lore was divided into four sub-districts: North Lore District, East Lore District, and Lore Peore District (Napu Valley area) called the *Pekurehua* Indigenous area and Lore Tengah District (Besoa) (Ombo, 2011). According to Keraf in Pettalongi, Tradition or costume is a rule that is commonly followed or carried out since customary law is usually also called local wisdom. Namely, all forms of knowledge, belief, understanding or insight, and customs or ethics guide human behavior in an ecological community. Alternatively, it can also be a truth that has become a tradition or is steady in an area (Pettalongi, 2012). Based on the Interview, Takmir Talla stated that:

“Long before state law existed, customary law had been in force, and there was no customary or customary law itself that taught expected deviant behavior to correct what was wrong and provide solutions to social problems”. (Takmir Talla, Kepala KUA Kecamatan Lore Utara/Lore Peore Kab. Poso “Interview “June,01 2021).

“The custom in the Pekurehua area is called the Pekurehua Tawailia custom, which is divided into four largest divisions e.g., Posamboko/marriage customs; The custom of mpogalo galo or social order; Mpowia custom or how to grow crops; The custom of

ngkapate or death Posamboko/marriage customs; There is no custom in the land of Pekurehua that is contrary to formal law in Indonesia. As for the caste order in marriage in Pekurehua land, e.g., Lord/noble; Kabilah / second person of nobility; Anantambi/free people (cannot be slaves); Alii rota/abimpoke/slave. From this caste, there are still descendants, even though the caste system is no longer enforced in the land of Pekurehua” (Informant-1 (Indigenous Stakeholder) Pekurehua Tawailia Region “Interview” On June 1, 2021).

Furthermore, the researcher asked about the dowry in marriage. He said that:

"Marriage based on caste is the same dowry regardless of caste. It is because it is a value in every human being later how many buffaloes he gives as a dowry that determines the group of people who will marry even though the caste system is no longer valid. Still, the dowry is a symbol that he is a descendant of which caste symbolically”.

In Islamic teachings, the command to give a dowry or dowry to a married woman is an obligatory command to be carried out, and the management is stated in Al-Quran Surah An-Nisa: chapter 4 as follows:

"And give a dowry (dowry) to the woman (whom you marry) as a generous gift. If they hand over to you some of the dowries with pleasure, then eat (take) the gift (as food), which is delicious and with good results.

Pogalo-Galo Customs or Society Life

Association is very important for humans. Because God created humans as social beings, humans will not be separated from interaction (association), socialization, and communication with other individuals in everyday life. Even humans need other people to meet their needs and maintaining their lives. In other words, humans cannot live alone. So it takes the interaction between humans in everyday life following the rules that apply in the community (Rohmawati, 2018). Examples of the application of the *Pogalo-Galo* custom/Organizational Management in Pekurehua land according to Immanuel Pele (Informant).

“The traditional pekurehua association has set how to behave and be civilized in the community. For example, if someone meets a woman and greets the woman by hitting her on the shoulder with five hands, even though it is a greeting because she has a husband, she will be fined with five buffalo or pigs”

In addition, Mr. Evon L. also revealed that:

In the daily social order, it is not allowed for married people to hang out haphazardly. It should not joke excessively, especially until the mouth says words that offend others, even though it is humor if it harms the person. We will be fined because Orally, the term in the Pekurehua language, is Sala 'hume,' which means an error in speaking is fined one buffalo. Furthermore, there are many more social arrangements that exist in the land of Pekurehua. (Interview, Informan-2)

In the teachings of Islam, Islam regulates the procedures for getting along well, as the Messenger of Allah said in the Hadith, which means:

"Ibn Abbas said, "I heard the Messenger of Allah preaching, "Do not let a man be with a woman, but (to) be with him (there is) his mahram, and do not travel (travel) a woman, but with her mahram. "One person stood up and said, "O Messenger of Allah, my wife is out for Hajj, and I have registered myself in such an and-and-such battle." So he said, "Go and make Hajj with your wife (Syafe'i, 2000)

In the above Hadith, there are two prohibitions. First, the prohibition of being alone, between a man and a woman. Who is not a mahram and is not officially married. Second, it is forbidden for women to travel, except with their *mahram* (Syafe'i, 2000)

Mpowia Customs or Farming Traditions

Community farming cannot be separated from traditional and cultural values passed down from one generation to the next. Therefore, when the traditional values in the community come from local cultural roots, the community will lose its identity and identity and lose a sense of pride and belonging (Mokoginta & Indrianti, 2020). Based on the interview revealed by Immanuel Pele that:

In the past, the land in the Pekuruheua area here was 90% farmland. In the past, the people here used to move gardening, but there are traces of him gardening even though it has been 15 years if he has cultivated the land, then he has the right to the land because before, there was no SPPT or land ownership certificate. So people tend to the land for their daily needs. Suppose someone claims the ground without the person's permission who has acquired the land or plantation land. In that case, he will be subject to sanctions, so if we want to develop the land in Pekurehua, if it still does not have a certificate of ownership, we must get permission from the person who has cultivated the plantation land. Still, today, the Pekurehua community already has a land ownership certificate."

He further explained that:

"The pekurehua area is customary land. If a company cultivates the pekurehua area's land, it must get a permit with the pekurehua customary holder. Even though there is a permit from the government, if the pekurehua land customary holder does not permit cultivating agricultural land, the company is not allowed to carry out the processing—agricultural land in the Pekurehua area. The Pekurehua area is a fertile area which is one of the largest vegetable supply areas in Central Sulawesi"

In Islam, land can be owned by fencing (Tahjir), given free of charge by the caliph (Iqta') or reviving dead land (Ihya' Almawat) either by inheritance or buying. If there is vacant land that has no owner, then there is the person who manages and fences the ground until it is productive, the manager then becomes the owner of the land. In this case, the Messenger of Allah said, meaning:

"Whoever fertilizes barren land, then the land belongs to him, and for the work of the wrongdoers have no rights whatsoever."

Ngkapate Customs or Death Customs

Death is always individual but has consequences that are social or individual and collective. Death ceremonies always involve the community. There are no personal funeral rituals. This ritual generally has similar characteristics, namely gathering, praying, and eating (Abi Aufa, 2017). The Ngkapate/death custom in the Pekurehua area has the following provisions as explained by Mr. Imanuel Pele as a Regional Customary Stakeholder:

"In the land of Pekurehua, if someone dies, it is forbidden to do things that can cause chaos or chaos, whether the deceased is a child or an elderly person. For example, a mass commotion or maybe a commotion in the household. If that happens, they will be subject to customary sanctions for those who do. The purpose of this sanction is as a form of appreciation to the person who died and his family"

The researcher can conclude that the person who died must be respected, and the family left behind must be helped because what we do will return to each of us. In the teachings of Islam, the honor of man is the vicegerent of Allah. Human as the noblest creation does not only occur while still living

in the world. However, his glory as a creature of God still exists even though he has physically died. As the Hadith narrated by Qais bin Saad ra. and Sahal bin Hunaif ra. the following:

"From Ibn Abu Laila that when Qais bin Saad ra. and Sahal bin Hunaif ra. were in Qadisiyah, suddenly a procession of corpses passed by them, so both of them stood up. Then, they said: The body belongs to the local people (i.e., the disbelievers). They both said: Verily, the Messenger of Allah. Once passed by the procession of corpses, then he stood up. When it was said: The body is a Jew, the Messenger of Allah. said: Isn't he also human? (Sahih Muslim No. 1596)

4. CONCLUSION

Based on the interviews, the people of the *Pekurehua* Indigenous area implement customary rules as guidelines in social life. The implementation of the custom turns out not only to be a traditional activity but is also implemented in everyday life. Customary law, as mentioned earlier, is a legal system in the form of norms and rules that are implemented by the community from generation to generation. Since ancient times, this legal system has existed while Christian Snouck Hurgronje first mentioned the term customary law in Aceh research, which was later published in his book *De Acheher*. This theory wants to refute the idea of *reptio in complexu* formulated by LWC van den Berg who argues that Islamic law applies to Muslims regardless of whether they are devout Muslims or not. Hazairin often refers to the *receptie* theory as the theory of the devil, namely demonic spirits who have the nature of misleading humans with their tricks. One of the reasons is because this theory is slowly killing Islamic law. Referring to this theory, it is as if Islamic law is only accepted and implemented by the community if they want it. This is very much against the values of Islamic law, which is an obligation for all Muslims to carry out. So it's not because they want or don't want to carry out, but it is a creed obligation for all Muslims to carry out all the contents of the law. The development of Islamic law in Indonesia can be seen from the context of the development of these four elements, whether there will be the competition that causes a component to winning. Or will there be fusion and harmonization by bringing together parts that may be brought together and leaving various contradictions to form a modern Indonesian national law. That can answer future legal challenges. Everything depends on future developments.

Harmonization between Islamic and customary law is an effort to harmonize and unite two different things to create harmony. The harmonization in question is an effort to harmonize Customary Law and Islamic Law in one National Legal System. If there seems to be a difference between customary law and Islamic law all this time, then something urgent to re-harmonize between the two. Among the steps that can be taken is to review the main legal differences and similarities between the two legal systems. Efforts to build and foster national law require specific legal politics. The main points of Indonesia's national legal politics are set out in the Outlines of State Policy, further detailed by the Minister of Justice of the Republic of Indonesia. An institution has been established to implement this, called the National Legal Development Agency (BPHN). Through the coordination carried out by this agency, it is hoped that a solid national law will be realized in the future. In general, the dimensions of national development include, First, the Maintenance Dimension, namely the dimension to maintain the existing legal order even though it is no longer following the situation's outcome. This dimension needs to exist to prevent a legal vacuum. Steps to harmonization of customary law and Islamic law can be done by exploring the legal values in these two legal systems. A comprehensive study of both is carried out by taking into account the philosophical basis of both. Furthermore, adjustments and dialogue efforts will be made between the two to create a mutually agreed legal understanding. This step requires particular expertise because what happens is that what happens is a reduction and a reduction in the value of each legal system. Although actually, this is nothing to worry about because these two legal systems have a dynamic nature and can keep up with the times. The next step is to formulate a draft law sourced from customary law and Islamic law as material for the formation of national law. In this case, federal law is the result of the formulation of the two legal systems. In several legal regulations in Indonesia, this step has been taken and implemented by the community. So it is not difficult to apply it to other parts. The essential thing is socialization to the community and providing awareness that national law implements customary law and Islamic law, guidelines for the Indonesian people

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