

Engagement in marriage according to the *Reusam* of Kampung Tanjung Keramat Number 1 of 2018 in the review of *maqashid sharia*

(Perikatan dalam perkawinan menurut reusam Kampung Tanjung Keramat Nomor 1 Tahun 2018 dalam tinjauan *maqashid syariah*)

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Abstract

This article aims to review the effectiveness of *reusam* using the *maqashid al-syari'ah* analysis knife. Engagement in the Indonesian Malay community tradition is a follow-up to a series of proposals (*al-khitbah*), where both parties, the prospective bride and groom, make promises within a specific time limit until the marriage contract is carried out. The phenomenon that is developing for prospective brides and grooms who are getting engaged, among other things, is that a close relationship has occurred, even as if they were already married, where the intensity of the relationship between the prospective bride and groom is very intimate and pregnancies often occur before marriage. To overcome this problem, the village government and community leaders carried out control by issuing village-level regulations called *Reusam*. Through *Reusam* Number 1 of 2018 in Tanjung Keramat Village, the time limit for engagement and marriage has been set to a maximum of 2 months to overcome the engagement's negative impact.

Keywords: engagement, *reusam*, *maqashid syariah*

Abstrak

Artikel ini bertujuan untuk mengulas efektivitas *reusam* dengan menggunakan pisau analisis *maqashid al-syari'ah*. Pertunangan dalam tradisi masyarakat Melayu Indonesia merupakan tindak lanjut dari rangkaian peminangan (*al-khitbah*), di mana kedua belah pihak, calon mempelai laki-laki dan perempuan, saling mengikrarkan janji dalam batas waktu tertentu hingga akad nikah dilaksanakan. Fenomena yang berkembang pada calon mempelai yang bertunangan antara lain telah terjadi hubungan yang dekat, bahkan seolah-olah sudah menikah, di mana intensitas hubungan antara calon mempelai sudah sangat intim dan sering terjadi kehamilan sebelum menikah. Untuk mengatasi hal tersebut, pemerintah desa dan tokoh masyarakat melakukan penertiban dengan mengeluarkan peraturan tingkat desa yang disebut *Reusam*. Melalui *Reusam* Nomor 1 Tahun 2018 di Desa Tanjung Keramat, batas waktu peminangan dan pernikahan ditetapkan menjadi maksimal 2 bulan sebagai upaya untuk mengatasi dampak negatif dari peminangan tersebut.

Kata kunci: pertunangan, *reusam*, *maqashid syariah*

Introduction

An application, better known as a sermon in Islamic law, is a part of Islamic law carried out before a marriage occurs. This activity is a process of tying a sign by the prospective groom to the prospective bride who has gone through the *ta'aruf* process

intending to be serious about getting married. Application provisions for juridical legitimacy can be found in Article 13 of the Compilation of Islamic Law, which refers to *mazhab syafi'i*. The characteristics of Islamic Law, which are definite in the central part and flexible in the branch parts, make Islamic law very suitable as a source of reference for every contemporary Fiqh problem in every line of life. (Muhammad Nasir, 2022) On the other hand, in normative juridical terms, all new regulations that are born as a form of policy for problems that are always present in society, which are dynamic and full of sociological elements, should be not only based on the 1945 Constitution of the State but also have philosophical values that are based on God as mandated by the first principle. Pancasila (Simanjuntak, 2014) Based on Law Number 12 of 2011 concerning the establishment of Legislative Regulations Article 8 paragraph 2, the Regulations Issued by the Village (Reusam) have the force of Binding Law as long as they do not conflict with the Hierarchy of Legislative Laws above them (Nugraha, 2008). In this case, the Tanjung Keramat Village issued a village regulation (reusam) which regulates the rules for implementing applications or proposals. Article 2 of the *reusam* stipulates that the prospective bridegroom who has applied is given a time limit of two months to get married. According to Gampong law, the application is null and void if the marriage is not held within two months. In Islam, carrying out the marriage immediately after the proposal is recommended, but there is no concrete time limit between the proposal and the marriage process. No rule states that an application will be invalid if it violates the legal boundaries between the implementation of the application and the marriage process. So what is the urgency of the position of Reusam Gampong Tanjung Keramat Number 1 of 2018 from the Islamic Law Perspective, especially from the Maqashid Syariah perspective?

Moving on from the explanation above, this article begins with a problem formulation consisting of the following: First, what is the urgency of Reusam Gampong Tanjung Keramat Number 1 of 2018, and second, what is the position of Reusam Gampong Number 1 of 2018 Tanjung Keramat from the Maqashid Syariah perspective. Furthermore, this research is empirical juridical research with a case approach. Empirical Juridical Research is research regarding the direct application of Normative Law to every specific legal event that occurs in society (Muhaimin, 2020)

Discussion

Reusam Village

1. Understanding Village Reusam (Village Regulations)

According to the Big Indonesian Dictionary (KBBI), Reusam is a custom in society that is not binding and is bound by legal sanctions. Reusam aims to maintain ties of friendship between one community and another to respect each other, glorify each other, greet each other, and give and receive each other so that relations between one community and another are formed and maintained well (Mahmudin, 2016).

Reusam is an Acehnese term which concerns everything with elements of customs, provisions or procedures and rules of life that have been carried out since ancient times as a hereditary norm for the community, which has become a joint determination that binds the entire community. Unofficial to be used as a standard guideline in organizing social life. (Darmawan, 2010). Sociologically, Reusam Gampong is a form of p that represents the needs and desires of all the people in the gampong (Hiraswati, 2007). In practice, the formation of Reusam is not always fully supported by the community. Many parties support it, and vice versa. This usually happens considering that something regulated does not give rise to Absolute Good, so some parties do not agree (Soekanto, 2019).

In article 12 of Qanun Number 5 of 2003 concerning Gampong Government, it is stated that in the process of implementing the customs of a gampong, the Geuchik (Village Head) is tasked with administering the government and implementing customs during the

community, the shift from the paradigm of centralism during the New Order government towards decentralization and regional autonomy. During the reform period, this indirectly ended the pattern of central government in the regions (Local State Government) towards autonomous regional government (Local Self Government) (Anggraini, 2011).

2. Reusam's Position in Village Government

As one of the countries that adhere to the Continental European Legal System, also known as Civil Law, in the course of implementing law which contains regulations or prohibitions as well as sanctions for legal subjects who violate it, Indonesia implements every legal regulation that has been written, and this is the main requirement (The main requirement) in the administration of the state (Asshiddiqie, 2010).

Based on the applicable provisions, Reusam (Gampong Regulations) have a very sacred position because not only do they have binding legal force after being approved by the elements of village-level government administration, but they also contain moral values that are considered vital by the community in the village (wijayanto, 2020). Therefore, village regulations (Reusam) have legal status binding materially and formally among the community. (Md, 2009).

Moreover, Aceh itself, which historically has been a region that has been given Special Autonomy Rights by the central government so that it has the authority to regulate all household problems in its region and establish all regulations that are considered capable of being a means of developing better law, considering that Aceh is known as a region that is active in implementing the Shari'a, it is not uncommon to find Reusam Gampong who regulates Shari'a values (Princess, 2016). So, philosophically, the position of the *reusam gampong* will bind all aspects of society in the *gampong* because of the emergence of an awareness of the goodness implied in a *reusam gampong* (Achir, 2020).

Overview of Tanjung Keramat Village

Tanjung Keramat village is located in the Banda Mulia subdistrict. The population residing in Tanjung Keramat village is 1047 people consisting of 281 families (heads of families) with details of 532 men and 515 women. The distance from Tanjung Keramat village to the sub-district capital is 1 KM. To get to the sub-district capital takes around 10 - 15 minutes by motorbike. The existing facilities and infrastructure in Tanjung Keramat village are currently considered entirely adequate. This can be seen from various Available public facilities, such as educational facilities available from PAUD, Kindergarten and TPA. For health purposes, posyandu, poskesdes and clean water have been built.

The Practice of Proposals and Marriage Contracts in Tanjung Keramat Village

Understanding Proposing or Khitbah Khitbah, according to language, comes from the root words *khataba*, *yakhtubu*, *khatban*, *wa khitban*, which means proposal of marriage. According to Islamic terms, a sermon is a request from a man to a woman to marry him. The man came to the woman and her family to ask for blessings from the woman's family. (MH, 1992)

The definition of the sermon is found in Ali Yusuf As-Subki's book. Moreover, it is also found in the books of Abdul Aziz Muhammad Azzam and Abdul Wahhab Sayyed Hawwas. What defines a sermon is a man's request to a confident woman from his family to control her for a life together. Moreover, it is also interpreted as a way to show his love for marrying a woman who is halal to marry according to sharia (Ghazali, 2010).

A proposal in Islamic law is called a sermon. This is done to give a sign of seriousness towards the level of marriage between the prospective groom and the prospective bride. In Islamic law, there is no regulation regarding the time between the proposal and the

execution of the marriage contract because it is up to both parties, the man and the woman. Who will host the wedding (Simmanjuntak, 2018)?

The implementation of applications in Tanjung Keramat Village is accommodated in Reusam Gampong Tanjung Keramat Number 1 of 2018 with the provision that the time or distance given between the application and the marriage contract is only two months if the marriage does not take place then the status of the proposal is cancelled. If it still occurs at the wedding, the village officials impose social sanctions for not being present at the reception. The aim and purpose of Reusam are the same, namely a process to get to the stage of marriage, which aims to introduce your future life partner to the partner's character, habits, and morals so that later they can understand each other and form a family as desired full of love and affection.(Persero)

In the momentum of an interview meeting that the author conducted with Geuchik Kampong Tanjung Keramat regarding the purpose of setting the time between the application and the marriage contract, it is to minimize the occurrence of undesirable things outside the main objectives of the Shari'a, one of which is promiscuity that occurs between the prospective groom and woman. The existence of Reusam Number 1 of 2018 is not a problem for the bride. It gives the bride the advantage of not waiting long between the proposal and the marriage contract. However, it is a problem for the groom who has not been able to prepare the specified dowry within two months.

Behind the application of this Reusam, which has reaped controversy, the author found the reason that was the basis for the formation of this Reusam by Gechik and other authorized parties because it was found that several couples were carrying out husband and wife relations, which was characterized by being pregnant out of wedlock in the gampong. This incident, of course, violated the existing rules. There is, both from a social perspective and from the perspective of Islamic law, which does not allow relationships like husband and wife before marriage or things that lead to adultery.

Consequences of Marriage Law in Islam and Compilation of Islamic Law

In Islam, the rules for marriage are found in the Koran, Surah Al Baqarah, verse 235."

Moreover, there is no sin for you in proposing to these women with innuendo or hiding (your desires) in your heart. Allah knows that you will mention them. However, do not agree (to marry) with them in secret, except just saying good words. Do not conclude a marriage contract before the period of the idāh expires. Know that Allah knows what is in your heart, so fear Him. Moreover, know that Allah is Forgiving, Most Merciful."

Based on the verse above, proposing marriage is permitted in the Islamic religion because it aims to be the first step towards realizing marriage. Apart from being found in the Qur'an, proposals or applications are also found in the Compilation of Islamic Law, precisely in articles 11-13

Article 11 Proposals can be made directly by people who wish to find a soul mate but can also be done by trusted intermediaries.

Article 12

(1) A marriage proposal can be made to a woman who is still a virgin or to a widow whose iddahya period has expired.

(2) A woman divorced by her husband who is still in the *iddah raj'iah* period is haram and prohibited from being proposed.

(3) It is also prohibited to propose to a woman who is being proposed to by another man, as long as the man's proposal has not been broken off or there has been no rejection from the woman.

(4) The marriage proposal for the man is broken because there is a statement about the breakup of the proposed relationship or secretly. The man who proposes has distanced himself and abandoned the woman he has proposed to.

Article 13

(1) The proposal has not given rise to legal consequences, and the parties are free to terminate the marriage relationship.

(2) Freedom to terminate the marriage relationship is carried out reasonably in accordance with local customs and customs so that harmony and mutual respect are maintained (Compilation of Islamic Law)

Judging from the legal basis, marriage offers several legal consequences, including not being allowed to propose to a woman who is in the period of iddah, not being allowed to propose to a woman who is being proposed to by someone else and for both men and women they can cancel the marriage proposal if the sharia permits a reason. With applicable local methods and customs so that it does not cause problems in the future. In a hadith narrated by Imam Bukhari,

The Prophet Muhammad SAW said: The Prophet Muhammad ﷺ has prohibited some of you from buying and selling on behalf of his brothers. Furthermore, let no one ask for another's proposal until the previous suitor leaves him or he has been given permission by the previous suitor." (HR: Bukhari, no: 4746).

Community Response Regarding the Existence of Reusam Number 1 of 2018

Substantially, village Reusam is a step implemented by the village to minimize undesirable things after the proposal; however, the author found two couples who failed to get married because they clashed with the provisions in this Reusam. In a meeting, the researcher interviewed one of the couples who failed to get married, namely Sister Mahdayani: "I am Mahdayani. I am one of the people who failed to get married because the time between the proposal and the marriage contract was only two months. At that time, my male partner came to my house with his family to confirm when the proposal and marriage contract would be. After talking at length, the village's traditional leader said that the time between the proposal and the marriage contract was only two months. The proposal should not be carried out if you cannot make it within that time. Formerly. So after that, my male partner went home, and no one returned.

On another occasion, researchers also asked Erna Wati. He also failed at his proposal and marriage because of this reusam. He also said the same as Mahdayani: his male partner could not prepare the dowry he requested within two months, so the proposal was not carried out. His male partner went abroad again and has not provided any definite news until now.

As for the implementation of these regulations in the community, the researcher asked one of the community leaders of Tanjung Keramat Village: "Yes, in our village, it is true that there are such regulations, and thank God they have been enforced until now, even if there is a bridal couple who wants to get married and violates the regulations. "The sanctions are in the form of village officials and young people not attending the event from the wedding ceremony to the wedding reception."

Overall, the residents of Gampong Tanjung Keramat support this Reusam because it has an educational impact on parties who want to get married so that they can prepare for the wedding as well as possible. In application, of course, this Reusam cannot be interpreted textually but rather adapted to the principle of deliberation and mediation is carried out between both sides of the family if there is a problem with a dowry that is too high so that within two months after the application the wedding reception can take place (Sacred)

The Urgency of Reusam Number 1 of 2018 Tanjung Keramat in the Maqashid Sharia Perspective

Al-Maqashid Linguistically, it is the plural form of the word “maqsid”, which means aim, target or thing of interest. In the study of Islamic legal epistemology, the definition of Maqashid or Maqashid sharia develops from the simplest to a holistic meaning. These definitions tend to follow the linguistic meaning and equivalent meanings. For example, Maqashid is defined as the wisdom behind legal provisions, the meaning of the law, or the goals pursued by the Shari’a. Apart from that, Ulama also defines Maqashid as attracting benefits and rejecting damage, often called Masalih (benefit) (Zumrotun, 2013).

Al-Maqashid sharia in the development of Islamic law in the early period was not recognized as an integral part of the development of Islamic law, like *ushul fiqh* and *qowaidul fiqh*. Abu Ishaq al-Syatibi is considered to have laid the foundation for the reform of Maqashid sharia, leading to Maqashid becoming an instrument of *ijtihad* methodology and principles of Islamic law (Zuhaili). Jasser Auda stated that one of Syatibi’s essential contributions to developing the concept of Maqhasid sharia was his effort to shift the understanding of Maqhasid sharia from merely unrestricted interest to the fundamentals of law (Auda, 2017).

Maqhasid al-shari’ah is usually studied in the chapters of *Mashalih Murlah* and is never considered one of the principles in preparing Sharia law. In his work *Muwafaqat*, through quotations of verses from the Qur’an, Syatabi proves that Allah SWT has a purpose in every creation, sending of messengers, and directions. Because of this, Syatibi considers Maqhasid to be “helpful addin wa qowaid al sariyah wa kulliyat millah, (fundamentals of religion, basic rules of the law, and universals of belief). Syatibi’s efforts to make Maqashid a methodology for developing Islamic law continued by formulating various rules used as a basis for *ijtihad* (Nasir, 2016)

In the 21st century, Maqasid Sharia has become a study that attracts many scholars and intellectuals. Maqhasid sharia is the primary reference and basis for connecting Islam with global problems, such as social, political, economic and ecological issues. The Maqasid methodology is more promising and offers a better approach to finding valid sharia responses to problems and demands. Modern civilization includes accountability, good governance, democracy and human rights. The *maqhasid*’s approach to *ijtihad* is substantively and methodologically in line with context-based *ijtihad* (Jaser, 2013).

In other words, this approach is essential for making Islam suitable and bringing goodness in all places and times (*shalih li kulli masa wa makan*). Jaser Audah explained that there were several famous figures from the 5th century AH to the 8th century AH who were known as the originators of Maqashid, including Imam Aljuwaini, Imam Alghazali, Imam Alqarafi, Imam Ibnul Qayyim and Imam Syatibi. Imam Ash Syatibi divided Maqashid Sharia into three provisions, namely: *Dhururiyyat*, *Hajiyat*, and *Tahsiniyat* are based on five principles of Sharia law, namely preserving religion (*Hifz Addin*), preserving the soul (*Hifz Nafs*), preserving offspring (*Hifz nasb*), preserving the mind (*Hifz al aql*) and preserving wealth (*hifz mal*) (syatibi).

Every regulation that is legalized is undoubtedly influenced by several factors, in the sense that it does not come into being in a vacuum without being motivated by several considerations. So, on this basis, a narrative emerges that an excellent legal product is a product that suits people’s needs and desires. Typically, law-making apparatus, including the Executive, Legislative or Judicial Institutions, whether on a large scale at the national level or the most miniature scale at the regional level, will use several approaches to realize and create an excellent legal product. One of them is the Triangular Concept of legal pluralism. Namely a legal approach by establishing a harmonious interaction between 3 components:

ethical values, social norms (social norms/customs), and posited state-made legal rules (existing laws).

Considering the three components above, a legal product that is born will be helpful to and supported by its implementation by the community. Viewed from the Maqashid Syariah perspective, it is evident that Reusam Gampong Tanjung Keramat Number 1 of 2018 fulfils and maintains social values in society. This can be seen from the following points.

- a. The implied message in Reusam Kampong Number 1 of 2018 is to minimize the number of pregnancies and incidents of extramarital adultery after marriage proposals/sermons are held. In this case, it is clear that one has protected one's religion (Hifz Addin), reduced the criminal act of abortion in the event of a pregnancy outside of marriage (Hifz An Nafz), maintained offspring by obeying and implementing the Shari'a (Hifz An nasb), guarding reason (Hifz Aql) and guarding wealth (Hifz Mal).
- b. Judging from the impact of Reusam's existence, it is pretty progressive, so in this case, the writing provides a hypothesis that Reusam is already very good, especially for prospective brides who do not have to wait long to get to the wedding ceremony. However, some parties are against it because the time interval tends to be short.
- c. For prospective grooms, this will be used as learning material that all preparation is needed for a wedding. Not only is post-education provided by the household mindset, but also an adequate financial life.

Conclusion

Every action and result of thought or the creation of human hands cannot be separated from elements of shortcomings and mistakes. Even though some parties are against this Reusam, considering the benefits according to the Maqashid Syariah Theory, Reusam Gampong Number 1 of 2018 is quite good because it can minimize undesirable harm, so its presence is essential. On the other hand, maybe a little advice. The author is trying to present a constructive way so that the mechanism for managing the time between the implementation of the application and the marriage contract should be re-deliberated according to the benefit of the community. This Reusam should also include a more detailed explanation of the arrangements because time restrictions alone are insufficient to close the scope for post-proposal adultery.

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