



Comparison of Customary Law and Islamic Law on the Tradition of Donation in Walimatul 'Urs: in Padukuhan Nepi, Kranggan Village, Galur Sub-district, Kulon Progo Regency

Rizka Mubarokati

State Islamic University of Sunan Kalijaga Yogyakarta

Address: Jl. Laksda Adisucipto, Papringan, Caturtunggal, Depok Sub-district, Sleman Regency, Yogyakarta Special Region 55281

Email: rizka.icha92@gmail.com

Abstract

Marriage is a noble sunnah that has been carried out by the Prophets and Messengers and the early and late generations who followed their guidance. Walimah itself means a celebration, a banquet specifically for marriage and is not used for events outside of marriage. Walimah according to the custom in Padukuhan Nepi is very important so that to hold a walimah the community has its own way to create the event such as collecting donations with the tonjokan tradition, namely giving in the form of food or groceries given before the walimah takes place. The subject matter discussed in this thesis is how the practice of how customary law and Islamic law views the practice of giving donations walimatul 'urs? and how does the community respond to the practice of giving donations at walimatul 'urs itself? This research is a field research. Data collection techniques include observation and literature study conducted by documenting documents and literature related to the research material. This research is descriptive comparative with normative and sociological approaches. Then the analysis method used is comparative analysis to compare the two concepts and find the meeting point of the two concepts. The results of this study indicate that in understanding the practice of donations in walimatul 'urs, Islamic law provides more benefits and convenience compared to customary law. In Islamic law, giving a donation is not an obligation but a voluntary gift that is believed to be rewarded by Allah SWT, while in customary law, especially the custom in Nepi Padukuhan, giving a donation at walimatul 'urs is an obligation because if it is not implemented, it will get its own sanctions from the local community.

Keywords: Donation, Walimatul Ursy, Comparison, Customary Law, Islamic Law

Introduction

Humans will not be able to develop without a marriage, because basically marriage causes offspring and offspring give rise to families that develop into

relatives and society. Marriage is a forum for channeling biological needs for humans. Marriage or marriage bond is a noble sunnah that has been carried out by the Prophets and Messengers and the early and late generations who followed their guidance. For this reason, marriage, which is full of values and aims to realize a *sakinah* household life based on *mawaddah* and *rahmah*, needs to understand certain conditions and pillars, so that the purpose of making marriage lawful is achieved.¹

Realizing a marriage is a very pure step and is highly demanded by religion. As one of the efforts of social benefit, marriage is the basis for forming and building a society, because from there generations will emerge with various diverse characters as a form of dynamism of a social order. Allah SWT has prescribed marriage with high wisdom and noble goals. Marriage has the aim of fulfilling the instinctual demands of human life, relating between men and women in order to realize family happiness in accordance with the teachings of Allah and His messenger.² As for the sociological point of view, marriage is an effort to unite two large family groups who initially did not know each other from both the male family and the female family and stood alone and then united and intact.³

A marriage requires a *walimah*, which is a celebration that accompanies the marriage contract between a man and a woman. *Walimahan* according to Islam is sunnah, so that marriage is generally known by the community. Regarding the procedure, it is not regulated in certainty and detail, especially regarding the ceremony.⁴

The word *walimah* is taken from the Arabic *al-walmu* which means gathering, because many people gather to attend a banquet. While *walimah* in Arabic literature in the meaning of the word means a banquet specifically for marriage and is not used for events outside of marriage. Based on the opinion

¹ Ahmad Rofiq, *Hukum Islam di Indonesia*, (Jakarta: PT Raja Grafindo Persada, 1998), pp. 71

² Ahmad Azhar Basyir, *Hukum Perkawinan Islam*, cet. ke-9 (Yogyakarta: UII Press, 1999), pp. 13.

³ Khoiruddin Nasution, *Hukum Perkawinan I*, (Yogyakarta: ACAdemia TAZZAFA, 2004), pp. 19

⁴ Sudarsono, *Pokok-Pokok Hukum Islam*, 1st cet. 1, (Jakarta: PT. Rineka Cipta, 1992), pp. 219. 219.

of the linguists above for other than marriage occasions, the word walimah is not used even though it also serves food.⁵

Walimah can also mean holding a banquet as a sign of joy or otherwise, but usually when mentioning walimah the intention is walimatul 'ursy which means a wedding celebration. As a tradition that grows and develops in society, of course the implementation of walimah in marriage must also be in line with Islamic rules and norms that exist in the community itself, although at this time to carry it out feels a little difficult because of cultural acculturation so that to distinguish what is right and what is wrong will be difficult. Allah says in the Qur'an:

لَيْسَ الْبِرَّ أَنْ تُولُوا وَجُوهَكُمْ قِبَلَ الْمَشْرِقِ وَالْمَغْرِبِ وَلَكِنَّ الْبِرَّ مَنْ ءَامَنَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَالْمَلَائِكَةِ وَالْكِتَابِ وَالنَّبِيِّينَ وَءَاتَى الْمَالَ عَلَى حُبِّهِ ذَوِي الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسْكِينِ وَالْإِسْلَامَ وَالسَّائِلِينَ وَفِي الرِّقَابِ وَأَقَامَ الصَّلَاةَ وَءَاتَى الزَّكَاةَ وَالْمُوفُونَ بِعَهْدِهِمْ إِذَا عَاهَدُوا وَالصَّابِرِينَ فِي الْبَأْسَاءِ وَالضَّرَاءِ وَحِينَ الْبَأْسِ أُولَئِكَ الَّذِينَ صَدَقُوا وَأُولَئِكَ هُمُ الْمُتَّقُونَ⁶

Based on the verse above, it can be concluded that attending walimahan is obligatory for those invited. Likewise with donations, which are basically a willingness to carry out legal actions without coercion from other parties and is an element that must exist in its implementation. So the principle is voluntary.

The practice of marriage in Padukuhan Nepi is a tradition of *tonjokan*, which is a kind of gift in the form of food or basic necessities such as rice, sugar given by the owner before the marriage and walimah takes place which is intended as a notification to those who are *punched* and is usually given to relatives who have a close relationship or are still related to the family so that those who are *punched* will feel obliged to provide assistance or donations to the recipient at least according to what has been given. In the request for *tonjokan* there is no clear contract between the two, where the *puncher* and the one being *punched* only use an oral contract not a written contract, from the pewalimah only asking to be given *tonjokan* reciprocity from his relatives

⁵ Amir Syarifuddin, *Hukum Perkawinan Islam Di Indonesia*, (Jakarta: Prenada Media, 2006), pp.155.

⁶ Al-Baqarah (2): 177.

and family. The relatives and family will only try to help the pewalimah as much as they can. But sometimes the pewalimah asks for *tonjokan* by clearly stating how much is expected. Based on this background, the author considers it necessary to study and analyze the perception of the Nepi Padukuhan community about the *tonjokan* tradition which results in an obligation to make a contribution in walimahan and then compares it with Islamic law considering that the majority of the Nepi Padukuhan community is Muslim. Thus, a clear explanation can be obtained as to how the custom of Nepi hamlet is related to Islamic law. Therefore, the author wants to write a thesis related to this matter with the title "Donations at Walimatul 'Urs in Nepi Sub-Village, Kranggan Village, Galur Sub-District, Kulon Progo Regency (Comparative Study Between Customary Law and Islamic Law)". From the above description, several problems arise that will be studied in this paper, namely: How do customary law and Islamic law view the practice of giving walimatul 'urs donations? How does the community respond to the practice of giving donations to walimatul 'urs?

Methods

The method is a systematic way of achieving goals and is used to find, develop and test something that is intended so that a work can achieve what is expected precisely and directed by using scientific methodology.⁷ The preparation of this article is included in the category of *field research* because the data taken is the result of direct observation in Padukuhan Nepi, Kranggan Village, Galur District, Kulon Progo Regency. This research is descriptive-comparative, namely by systematically describing the discussion materials, such as how customary law and Islamic law view the practice of giving donations in Padukuhan Nepi from various literatures, then the authors compare the two legal systems. In approaching the problem of the object of study, the approach used in this research is: Sociological,⁸ which is an approach that is pursued by

⁷ Sutrisno Hadi, *Metodologi Riset*, (Yogyakarta: Nadi Offset, 1994), pp. 4.

⁸ Ida Zahara Adibah, "Pendekatan Sosiologis Dalam Studi Islam," *INSPIRASI (Jurnal Kajian Dan Penelitian Pendidikan Islam)* 1, no. 1 (2017): 1-20.

looking at and paying attention to the situation of the Nepi Padukuhan community, especially the practice of giving donations at walimatul 'urs and is the object of this research. Normative,⁹ which is an approach by using religious benchmarks (the proofs of the Qur'an and hadith as well as the methods of fiqh and ushul fiqh) as a justification and norm giver to the problem being discussed, so that a conclusion is obtained that something is permissible or in harmony or not with the provisions of shari'a. This research uses *Purposive Sampling* technique, which gives equal opportunity to each research object to be selected as a sample.¹⁰ In this study, the population is the community of Padukuhan Nepi, while the sample the author takes some members of the community who have held walimatul 'urs and community leaders, especially in the Padukuhan Nepi area, but there is no need to examine all individuals in a survey of a population, because by examining part of the population is sufficient to represent, because the purpose of carrying out the investigation is to find generalizations that apply in general where often in the investigation using part of the population to be sampled.¹¹ The tools for collecting data use the following techniques: Observation In relation to this, the compiler makes direct observations in the field by observing the symptoms of the object under investigation.¹² The observation process begins with identifying the place to be studied, after the research site is identified, followed by mapping, so that a general description of the research target can be obtained.¹³ Thus, in collecting data, the authors examined directly related to donations at walimatul'urs in Padukuhan Nepi, Kranggan village, Galur sub-district, Kulon Progo district. Interviews require direct communication between the investigator and the subject or sample.¹⁴ This means that the interviews that the authors conducted were free, but still guided by the main framework of the problem. In applying

⁹ Arif Shaifudin, "Memaknai Islam Dengan Pendekatan Normatif," *El-Wasathiya: Jurnal Studi Agama*, no. 1 (2017): 1-14.

¹⁰ Marzuki, *Metodologi Riset*, 9th cet (Yogyakarta: BPFE UII, 2002), pp. 43.

¹¹ *Ibid.* pp. 41

¹² Sapari Imam Asyari, *Metodologi Penelitian Sosial*, pp.82.

¹³ J.R.Raco, *Metode Penelitian Kualitatif Jenis, Karakteristik dan Keunggulannya*, (Jakarta: PT Gramedia Widiasarana Indonesia, 2010), pp.112

¹⁴ Winarno Surakhmad, *Pengantar Penelitian Ilmiah Dasar, Metode dan Teknik* (Bandung: Tarsito, 1990), p.174

interview techniques, informants are figures related to this thesis research.¹⁵ The interviews conducted were assisted by interview equipment such as permission letters, question lists, respondent lists, blocknotes and pens. Then with a semi-structured interview form that uses open questions but there are still limits to the theme and flow of the conversation.¹⁶

Definition of Urf or Tradition

Society is a social system that becomes a container of patterns of social interaction or interpersonal relationships or relationships between social groups. Likewise, customary law is an unwritten law based on the process of interaction in society and serves as a pattern to organize and facilitate the interaction process.¹⁷ The customs that develop in the midst of society are good and some are bad. In Islamic legal theory, accepted customs are only good customs while bad customs must be rejected or even eliminated.¹⁸ Abdul Wahhab Khallaf said that good customs are those that do not contradict the arguments of *shara'*, and do not legalize the forbidden and do not fulfill obligations, while bad customs are the opposite.¹⁹

Thus, customs such as the *tonjokan* tradition at walimatul 'ursy that can be established as law is a principle that runs straight with religious shari'a. This is in line with the rule of *Al-'adatu Muhakkamah* (custom is law). This is in line with the rule of *Al-'adatu Muhakkamah* (custom is law). In language, *Al-'Adah* is taken from the word *Al-'Audat* or *Al-Mu'wadah* which means repetitive. It can be interpreted linguistically to mean speech or action that is implemented repeatedly so that it becomes a habit.²⁰ So with this rule it can be understood that when the *tonjokan* tradition is allowed, then the action is valid to be

¹⁵ Sutrisno Hadi, *Metodologi Research* (Yogyakarta: FIP Publishing Foundation, IKIP, 1968), pp. 210.

¹⁶ Haris Herdiansyah, *Metodologi Penelitian Kualitatif*, (Jakarta: Salemba Humanika, 2010), pp.123.

¹⁷ Soejono Soekanto, *Hukum Adat Indonesia*, 11th cet. (Jakarta: Raja Grafindo Persada, 2011).

¹⁸ Umar Syihab, *Hukum Islam dan Transformasi Pemikiran* (Semarang: Bina Utama, 1996) pp. 32

¹⁹ Abdul Wahhab Khallaf, *'Ilm Ushul al-Fiqh* (Beirut: Dar al-Fikr, 1978), pp. 89.

²⁰ Samsul Ma'arif, *Kaidah-Kaidah Fiqih*, 1st cet. 1st (Bandung: Ramadhan Library, 2005), pp. 31

realized as long as it does not bring suffering to oneself or others. The rule can also be understood as an idea of respecting and appreciating local practices as a manifestation of the local community's sense of justice.

As for some of the conditions for the acceptance of a custom or custom, among other things, things that are considered customary must occur repeatedly, the custom must be accepted by good human nature, meaning that it can be accepted by reason and in accordance with sane feelings or public opinion. The custom can only be used as a legal reason if it does not contradict the provisions of the *text of* the fiqh.²¹

Actually, the challenge that must be faced today is how we deal with the diverse cultures, social traditions and religious beliefs that have become so entrenched in our society.²² Therefore, all aspects of Islamic culture can be recognized in the historical scene and have become a new paradigm in assessing a fact and this is known as '*urf*'.

The word '*urf*' comes from '*arafa*, *ya'rifu*' and is often interpreted as *ma'ruf* meaning something that is known. The word '*urf*' is also found in the Qur'an with the meaning of *ma'ruf* which means Virtue (doing good), '*Urf*' is something that has been recognized by many people and has become a tradition for them whether in the form of words, actions, or circumstances of leaving. '*Urf*' is forms of muamalat or relationships of interest that have become customary and have lasted constantly in the midst of mansyarkat.²³ '*Urf*' itself can mean anything that has been familiarized by the community and is carried out continuously both in the form of words and actions. '*Urf*' is also known as custom.

Imam Malik based some of his rulings on the deeds of the people of Madinah. Imam Abu Hanifah and his students differed in some rulings on the basis of their different '*Urf*'. Imam Shafi'i when he was in Egypt changed some of the rulings that had become his opinion when he was in Baghdad, this was

²¹ Sobhi Mahmassani, *Falsafat at-Tasyrî fi al-Islâm*, translated by Ahmad Sudjono, 1st cet.1 (Bandung: PT. Al-Ma'arif, 1976), pp. 262-264.

²² Mabni Darsi, *Menjadi Pasangan Paling Bahagia*, (Jakarta: Gadika Pustaka, 2007), pp. 21.

²³ Department of Religious Affairs, *Ilmu Fiqh*, II:pp. 72.

due to differences in *'urf* between Egypt and Baghdad (qaul qodim and qaul jadid).²⁴ The scholars of ushul fiqh divide *'urf* into three types. In terms of object, *'urf* is divided into two types, namely:

1. *Al-'urf al-lafzhi* is the habit of the community in using certain memorization or expression in expressing something, so that the meaning of the expression is understood and comes to mind.
2. *Al-'urf al-'amali* is the custom of the community relating to ordinary actions or civil mu'amalah. What is meant by "ordinary actions" is the actions of the community in matters of their lives related to the interests of others.

In terms of its scope, *'urf* is divided into two, namely:

1. *urf al-'am* (general custom) *Al-'urf al-'am* is a certain habit that applies widely throughout society and in all regions.
2. *al-'urf al-khas* (special habits). *Al-'urf al-khas* is a custom that applies in certain areas and communities and countless and constantly evolving in accordance with changing situations and conditions of society.²⁵

Customs that have taken root in people's lives, as long as these habits do not cause damage or violate general norms and religious shari'a, can be accepted and continue as one of the bases for making legal decisions. The scholars who apply the *'urf* in understanding and interpreting *the* law, set several requirements to accept the *'urf*, namely:

1. *'Adat* or *'urf* is beneficial and acceptable to common sense. This is a general requirement for a sound *custom* or *urf* to be generally accepted.
2. *The custom* or *'urf* is general and widespread among the people within the community or among some of its citizens.
3. The *'urf* that is used as a basis for determining the law already existed (applies) at that time, not *'urf* that appeared later. This means that the *'urf* must have existed before the ruling. If the *'urf* comes later, then it is not taken into account.²⁶

²⁴ Abdul Wahhab Khallaf, *Kaidah-kaidah Hukum Islam (Ilmu Ushul Fiqh*, 6th cet.6, (Jakarta: PT. Raja Grafindo, 1996) pp.135.

²⁵ Nasrun Haroen, *Ushul Fiqh 1*, 3rd cet. (Jakarta: Logos Wacana, 2011), pp. 139

²⁶ *Ibid.* pp. 143

In Islamic tradition, there are no clear rules regarding the provision of donations in weddings, but it is explained about the essence of the implementation of the wedding party or commonly referred to as walimatul 'urs which is held as a form of gratitude for the holding of a sacred event in one's life. In regulating all aspects of human life, Islamic law is a universal law, namely Islamic law can provide easy solutions and instructions in explaining which is right and which is false in accordance with the Qur'an and as-Sunnah, but even though the instructions are complete and in accordance with the rules of the times and time, Islamic law still provides a portion of reasoning for humans. Therefore, humans can still determine the law based on the Qur'an and as-Sunnah on issues that do not have clear texts and laws.

The rules of implementation regarding walimah in Islamic law are very flexible. Basically, Islamic law authorizes the Muslim community to carry it out according to their wishes. Anything can be done as long as it keeps the action from deviating from religious norms. The importance of walimah has been proven because the Prophet never left it, either when he was in his hometown or while traveling.²⁷

Therefore, in an effort to obtain Islamic legal provisions regarding the tradition of donations at walimah in the community, it is necessary to know how much benefit and harm can be felt by him in this tradition so that it can be ascertained what steps must take precedence in addressing these benefits and harms.²⁸

General Conditions of Donation in Islam

Islam is a universal religion, covering all aspects of daily human life. It approaches human life as a whole, including beliefs, worship, human relations and others. All of them can be classified into two aspects, namely the vertical aspect (worship) and the horizontal aspect (muamalah). The problem of muamalah is always developing in people's lives, but in its development there

²⁷ Al-Imam Taqiyuddin, *Kifarah al-Akhyar Fi Akhyar fi Halli Gayat al-Ikhtisar*, (Bandung: Syirkah al-Ma'arif).

²⁸ *ibid*

is a need for attention and supervision. Associated with the association (muamalah), then arise in the association of this life relationship of rights and obligations. Everyone has rights that must always be considered by others, at the same time also bear obligations that must be fulfilled against others. The relationship of rights and obligations is regulated by legal rules called *muamalat law*.²⁹

This life is seen by Islam as an interdependence between individuals that creates a sense of mutual love, mutual help and mutual support on the basis of human values that have been conceptualized in Islam. It is prescribed that various donations contain great wisdom, including being used by humans to tame their hearts, foster love for fellow humans, strengthen brotherhood and strengthen family relationships. In addition, donations or gifts are a means for humans to get closer to Allah SWT, multiply good deeds that will later be rewarded by the Almighty. Humans are required to support the poor, help the weak, strengthen the bonds of brotherhood, foster and strengthen family relationships and others by giving part of their property or the whole. These actions also contain the values of worship, if done solely to add to the charity of taqarub to Allah SWT, add to the good deeds or add to the lack of perfection of the required acts of worship. Donations or gifts in Arabic are called *al-hibah*, linguistically *hubub al-rih*, namely the passage to pass it from hand to hand.³⁰ Various designations of giving are caused by differences in intention (motivation) of those who submit objects. The types of gifts include:³¹

1. Hibah, which is the giving of something to another to have its substance without expecting reimbursement or return. The meaning of grant etymologically in the popular scientific dictionary is gift, alms and transfer of rights. Meanwhile, according to the large Indonesian dictionary, a grant is a voluntary gift by transferring rights to something to another person.³² Hibah can also mean a contract whose subject

²⁹ Ahmad Azhar Basyir, *Asas-Asas Hukum Muamalat: Hukum Perdata Islam*, 1st cet. (Yogyakarta: UII Press, 2000), pp.11.

³⁰ Hendi Suhendi, *Fiqh Muamalah* (Jakarta: PT.Raja Grafindo Persada, 2010), p.209.

³¹ *Ibid*, pp.211.

³² Tim Penyusun Kamus Pusat Bahasa, *Kamus Besar Bahasa Indonesia*, 3rd cet. (Jakarta: Balai Pustaka, 2005), pp. 398. 398.

matter is the giving of one's property to another person while he is still alive without any reward.³³

In the Qur'an there are words of Allah SWT which reads:

هُنَالِكَ دَعَا زَكَرِيَّا رَبَّهُ قَالَ رَبِّ هَبْ لِي مِنْ لَدُنْكَ ذُرِّيَّةً طَيِّبَةً إِنَّكَ سَمِيعُ الدُّعَاءِ³⁴

The word is taken from the words "*hubuubur riih*", meaning *mururuhaa* (the journey of the wind). Then the word hibah is used with the intention of giving to others, whether in the form of property or not. When someone gives a grant of property, there is usually a surrender.³⁵ The purpose of the handover is an attempt to transfer something to another person and is limited by the characteristics that explain the nature of the grant itself. Then the word property means that what is handed over is the material of the property. The word during life implies that the transfer of property rights is valid when the person concerned is still alive, if the transfer after his death is said to be a will. Without reward means that the act is solely a one-sided will without expecting anything. In fact, grants, gifts and alms have almost the same meaning. All of them are a transfer of ownership or transfer of one's property to another person while still alive without expecting reimbursement. So a grant is an agreement that states the transfer of one's property to another person while he is still alive without expecting any reimbursement. Grants in Islamic law can be made either orally or in writing, as for movable objects it is enough to be verbal, while for immovable objects it is done with written documents. However, for the sake of legal certainty, all matters relating to the transfer of property rights should be in writing.³⁶

2. Sadaqah, which is the giving of objects from one person to another without replacing and this is done because he wants to get rewards from

³³ Sayyid Sabiq, *Fikih Sunnah*, translated by Mudzakir, (Bandung: Al Maarif, 1987), pp.167.

³⁴ Ali 'Imran (3): 38.

³⁵ Nor Mohammad Abdoeh, "Hibah Semua Harta Kepada Anak Angkat (Telaah Komparasi Antara Kuh Perdata Dan Khi)," *Ahkam: Jurnal Hukum Islam* 8, no. 1 (2020).

³⁶ Nor Mohammad Abdoeh, "Hibah Harta Pada Anak Angkat: Telaah Sosiologis Terhadap Bagian Maksimal Sepertiga," *Cakrawala: Jurnal Studi Islam* 13, no. 1 (2018): 1-18.

Allah SWT. Sadaqah according to the language is something that is given with the aim of getting closer to Allah SWT. According to Shara', Sadaqah is giving ownership to someone while alive without anything in return from the one given and there is a goal of taqorrub to Allah SWT. Sadaqah can also be interpreted as giving something useful to others who need help (fakir-piskin) with the aim of getting a reward.³⁷ A Muslim is obliged to connect with relatives from the father's and mother's side. If one of them is in need of food, clothing and housing and he has surplus wealth, then he is obliged to help him. This should start with the closest relative, and so on. Islam wants to create a society where everyone is able to help the poor and needy. People should not spend all their wealth just to satisfy their desires but should set aside some for their mothers, fathers, families, neighbors, the poor and the needy in society. So charity should start at home, helping their parents who may need financial assistance in their old age, then after that neighbors, and finally to the rights of the poor in society. So the faithful believer is always willing to help others in need of assistance, after meeting the needs of his own family. The Prophet encouraged his followers to spend their wealth first on their mothers and fathers, second on their children, then third on the rights of their immediate family. The Prophet ordered to provide financial assistance to close relatives according to their abilities. The fourth right is reserved for his neighbors. The Prophet required protection for the welfare and dignity of neighbors and encouraged his followers to give some of their wealth to their neighbors. Next are the rights of orphans, relatives, the poor, travelers, servants, ibnu sabil and slaves. The benefits of charity for the social community include the creation of jobs, reducing crime rates, and strengthening family and community ties.³⁸ Islam does not require charity, but encourages its people to do this noble deed.

³⁷ Shodiq, *Kamus Istilah Agama*, 2nd cet. (Jakarta: C.V. Seinttarama, 1988), pp. 289. 289.

³⁸ M Syafi'i Maskur, *Kekuatan Sedekah*, (Yogyakarta: Briliant Books, 2011), pp.58.

3. Wasiat, which is a gift from one person to another that is made while alive and given after the testator dies. Islamic jurists suggest that a will is an ownership that is based on the death of the person who made the will by way of kindness without according to compensation or *tabarru*.³⁹ Sayyid Sabiq argues that this definition is in line with the definition that suggests that a will is an act of a person who gives his right to another person to own something either an object or a benefit voluntarily without reward whose implementation is deferred until the death of the person who states the will.⁴⁰ The definition is different from the definition of a grant. A grant takes effect when the person who gives the grant to the person who receives the grant is executed, and the person who receives the grant is in good standing without waiting for the person who gives the grant to die first. Meanwhile, a will does not take effect until the person who makes the will has passed away. In other words, a will is a deferred gift. In customary law, a will is a gift made by a person to his or her heirs or to a specific person which is executed after the death of the person making the will. A will is made for various reasons, usually to avoid disputes, to manifest the affection of the person making the will, the person making the will is going to perform the pilgrimage and the person making the will is nearing death but there are still obstacles during his lifetime that have not been fulfilled.⁴¹ The person making the will can revoke the will that has been declared or vowed, but if it is not revoked until the person making the will dies, the heirs must respect the will. The execution of a will in customary law does not need to be done in front of a notary, but it is sufficient to say it orally in front of the family or those present at the time the will is made. In Islamic Shari'a, the source of law governing wills can be found in the Qur'an letter al-Baqarah verse 180 which reads:

³⁹ Abdul Manan, *Aneka Masalah Hukum Perdata Islam di Indonesia*, (Jakarta: Kencana, 2006), pp.151

⁴⁰ Sayyid Sabiq, *Fikih Sunnah*, translated by Mudzakir, (Bandung: Al Maarif, 1987), pp.415.

⁴¹ Eman Suparman, *Inti Sari Hukum Waris Indonesia*, (Bandung: CV Mandar Maju, 1991), pp.93.

كُتِبَ عَلَيْكُمْ إِذَا حَضَرَ أَحَدَكُمُ الْمَوْتُ إِنْ تَرَكَ خَيْرًا الْوَصِيَّةُ لِلْوَالِدَيْنِ وَالْأَقْرَبِينَ بِالْمَعْرُوفِ حَقًّا عَلَى الْمُتَّقِينَ

42

4. Gift, which is a gift from one person to another without reimbursement with the intention of honoring.⁴³ Islam commands its adherents to give and spend their wealth solely for the sake of Allah, in a way that evokes the meanings of kindness, benevolence and devotion to all society at large. Thus a Muslim is educated to be a generous and merciful person and to love one another among his fellow citizens. In order to develop and maintain high moral qualities for its people, Islam has encouraged its people, among other things, to spend their surplus wealth. The best way for people who have excess wealth is to distribute it to others, so that they can fulfill their needs. This situation is considered one of the highest morals in Islam. Voluntary gifts made to others, out of respect and affection for earning and demonstrating an achievement are called Gifts. A gift is a charity given to a person who is showing achievement or an honor that raises the image of a person, company, religion, or country. Basically, gifts and alms are not the same. Charity is just a voluntary charity that is very good for someone to do, which has the same position as other good deeds. And gifts are given to people to honor their merits. Islam recommends always prioritizing the very basic needs of the community, and postponing luxuries so that the main needs of the community are met equally. Even within the family, there must be an equitable distribution for the members, and there must also be encouragement for members or children so that those who are still in school and those who are already working can show their achievements. Every Muslim who can afford it is encouraged to spend some of his wealth to give to his fellow Muslims, because that makes a community that loves each other. Muslims can also donate their wealth to fellow human beings, even if they are of different religions, and foster a culture of helping each other. Helping each other by giving either in the

⁴² Al-Baqarah verse 180

⁴³ Sulaiman Rasjid, *Fiqh Islam*, (Jakarta: At-Tahairiyah, 1976), pp.311.

form of grants, alms, or gifts is recommended by Allah and His Messenger. The wisdom or benefits of the Shari'a of giving or donating include:

1. Giving can eliminate the disease of envy, which is a disease found in the heart and can damage the values of faith. Giving is done as an antidote to the poison, which is envy.
2. Giving can bring about mutual affection, love and compassion.
3. Gifts or gifts can eliminate resentment.

The Practice of Giving Donations in Nepi Padukuhan, Kulon Progo Regency

Among the general public, both the lower and upper strata of society, there is a tradition that when a wedding or marriage is held, a celebration will also be held in order to be grateful for the implementation of this moment. The celebrations vary greatly. Some are carried out in a small way by only entertaining the invitees with just food or there are even those who celebrate on a large scale, by taking days and with a variety of entertainment and food served until it seems excessive. Such celebrations have existed since the time of the Prophet Muhammad, known as walimatul 'urs. The celebration has indeed been recommended by the Prophet Muhammad with the intention of applying gratitude for the blessings given by Allah, namely by the implementation of the marriage contract. In order to announce the marriage that will be held for the prospective husband and wife, of course, it requires a lot of money, because the costs will be used to entertain the arrival of invitees, namely neighbors, family, and friends. The costs incurred are mostly to honor the invitation, in the form of food consumption for each guest who comes to the place of invitation, namely the pewalimah's house.

The organization of walimatul 'urs in Nepi padukuhan costs the pewalimah a lot. But there are also neighbors and relatives who help the pewalimah both material and non-material assistance. People who will carry out walimatul 'urs usually invite friends, neighbors and family whose homes are far or near. This is so that they know that the pewalimah's child is leaving his

bachelorhood and so that they pray for the bride and groom, if they are married so that they can build a happy family.⁴⁴

In this walimahan in Nepi Padukuhan, it is the parents (mother and father) of the bride and groom who carry out the ceremony. The bride and groom also celebrate their wedding party, which is funded by their parents. The father or mother will invite their friends and family to come at the time of their child's walimahan. Similarly, the bride will invite her friends, family and neighbors. The man who is getting married will also invite his friends, neighbors and family.⁴⁵

Before carrying out the wedding or walimatul 'urs, there are many things that must be prepared by the pewalimah, such as making the venue, ordering invitations for prospective guests to be invited, and preparing food. Then in order to invite his guests, pewalimah visited the homes of friends, family and neighbors. Sometimes the pewalimah gives the invitation itself, some also send someone else to deliver the invitation. In walimatul 'urs in Nepi Padukuhan there are two types of donations, among others:

1. Donations in general are donations in the form of gifts or gifts of money put in an envelope.
2. Donations in the form of *tonjokan* is a gift of donations in the form of basic necessities such as rice, sugar and cigarettes and the pewalimah asks officially through oral.⁴⁶

In the request for *tonjokan* there is no clear contract from both of them, where the *puncher* and the one being *punched* only use an oral contract not a written contract, from the pewalimah only asking to be given *tonjokan* from his relatives and family. The relatives and family will only try to help the pewalimah as much as they can. But sometimes the pewalimah also asks for *tonjokan* by clearly stating how much is expected.⁴⁷ From the *tonjokan* material, for relatives and families in providing assistance one or two days

⁴⁴ Interview with Mbah Ali, Community Leader in Nepi Padukuhan on 28th May 2023

⁴⁵ Interview with Mrs. Jumirah, Pewalimah in Padukuhan Nepi, on May 28, 2023

⁴⁶ Interview with Mrs. Suprihatin, a resident of Nepi hamlet on May 28, 2023

⁴⁷ Interview with Mrs. Tri, a resident of Nepi hamlet, on May 29, 2023.

before the implementation because basic food materials are needed to make various kinds of food that will be served at the walimah celebration. Then on the night of the reception neighbors and relatives as well as friends who get an invitation will celebrate together by enjoying a meal in a place that has been determined. They follow the event until it is over. After the event is over, they will go home and before going home they give a donation to the pewalimah in the form of money put in an envelope.

The punched party who has provided assistance to the pewalimah will ask for the goods back when he has the same wish, the pewalimah will usually return the goods according to what he received. The request agreement that occurs is by using an oral contract.⁴⁸ The practice of donations in walimahan in Padukuhan Nepi will add to the excitement of the walimahan event. The bride and groom can feel happiness that has never been felt in their lifetime. This happiness is also felt by the parents of the bride and groom because as parents they can make their children happy by marrying them off. This happiness is supported by the help of the pewalimah in the fields of finance and consumption. Invited guests can also feel happiness when they see the happiness of the bride and groom doing the marriage contract and pray that they will be happy forever.

Ukhuwah Islamiah will also be established in organizing walimahan, because all families, neighbors and friends gather together so that they can indirectly establish family relationships. Even though those who are invited are preoccupied with their personal affairs on a daily basis and they are difficult to meet on weekdays except for the walimahan event. Surely they will take the time to attend the walimahan event even though they are busy. In the practice of tonjokan at walimatul 'urs there is no clear law for the puncher or the one who is punched who cannot return. The absence of a clear law will make it likely that there are those who do not carry out their obligations between the two. In general, the sanctions that exist are only moral sanctions if someone does not fulfill the obligation to return the tonjokan.⁴⁹

⁴⁸ *Ibid*

⁴⁹ Interview with Mr. Dalijo, Mbah Kaum in Nepi hamlet, on May 28, 2023

The absence of clear rules makes this *tonjokan* practice run improperly. Then there will be another disadvantage for those who are punched, namely when the *pewalimah* holds a second *walimahan*, and generally the *pewalimah* will ask for a second *tonjokan*, while the punched has not done it at all. According to Ali Sumarto, who is commonly known as the mosque *takmir* in Padukuhan Nepi, such practices are actually not good. Someone should be able to explain that such things are not Islamic teachings.⁵⁰

Comparative Analysis of whether or not Donation is mandatory

As explained in the previous chapter, the substance of a donation or gift must have the spirit of benefit in it. The benefit is not only for others, but more than that, the benefit of the family and its descendants is more important to prioritize. The concept of benefit in KHI is closely related to *maqāsid ash-shari'ah*, because in simple terms, *maslahat* is a means to maintain *maqāsid ash-shari'ah*. A concrete example of this *maslahat* is the maintenance or protection of the five primary needs:

- 1 . Protection of religion
- 2 . Life protection.
- 3 . Protection of the mind.
- 4 . Protection of offspring and
- 5 . Protection of property.⁵¹

In general, the *tonjokan* activities prevailing in the community can be concluded that this tradition is still in the corridor of Islam which is considered good because in the Qur'an itself it has been recommended to help and work together among others. The implementation of donations in *walimatul 'urs* has generally been implemented by the community in Nepi Padukuhan, as well as in other areas. The tradition is considered good by the community and does not violate the *shar'i* arguments, and can encourage social benefits. The tradition that occurs in Padukuhan Nepi requires people who have been given an

⁵⁰ Interview with Mbah Ali Sumarto, *Takmir Masjid* in Nepi hamlet, May 28, 2023

⁵¹ Abi Ishaq Ibrahim ibn Musa ibn Muhammad al-Lakhmi ash-Syathibi, *Al-Muwāfaqāt fi Usūl ash-Shari'ah*, (Egypt: Maktabah at-Tijāriyah al-Kubro, 1973 CE/1332 AH), p. 20. 20.

invitation to come to the walimahan and give donations to the pewalimah. But those who do not fulfill the invitation and do not give the donation they have received, the existing tradition has never been reprimanded to return the donation. So the practice of donating walimatul 'urs is only as a memento for the bride and groom and pewalimah. But if the donor has the same wish as the pewalimah, he should replace helping to donate, namely giving gifts or money put in an envelope voluntarily. The existence of donations will greatly help the implementation of walimatul 'urs, because there is help between the two. The donor will be motivated to cooperate with each other so that there will be reciprocity from both of them to help each other.

From the explanation in the previous chapters, Islamic law has a greater measure of benefit than customary law. When someone does not have property to be used as a donation at walimatul 'urs, Islamic law does not make it difficult because in Islamic law making a donation is voluntary. Islam as a universal religion, regulates all aspects of human life, aspects of worship, muamalah, siyasah and others. Aspects of worship fi'liyyah, qauliyyah, and maliyyah. Donations are included in the worship of maliyyah, a donor takes the initiative to give some of his property to be given to the recipient to be owned without expecting anything in return. Unlike the case with customary law which indirectly obliges someone who comes to the walimatul 'urs event to make a donation in accordance with existing traditions regardless of the status and position of that person.

Comparative Analysis of the Pros and Cons of the Practice of Giving Donations

Realizing a marriage is a very pure step and is highly demanded by the religion of nature. Marriage is a noble sunnah that has been practiced by the Prophets and Messengers and the early and late generations who followed their guidance. Marriage is a fitrah that has been readily instilled into all human souls. In the tradition of organizing walimatul 'urs in Nepi Padukuhan there are two types of donations, first, general donations, namely donations in the form of gifts or gifts of money put in envelopes. Second, donations in the form of

tonjokan, which is a gift in the form of basic necessities such as sugar, rice, and food. General donations are given directly by neighbors, friends and family to the pewalimah at the time of the walimahan event. Meanwhile, the tonjokan gift was given to the pewalimah before the walimatul 'urs event began, and at the request of the pewalimah herself by asking for help from relatives and family to provide tonjokan assistance in her daughter's walimahan. Thus, as previously described, the understanding of the community is divided into two groups, namely between those who are respectful or pro and those who are less respectful (contra), because these two things can cause distortion in the legal aspect, meaning that if it is not understood deeply, the community will never find a common thread from the differences in understanding the practice of giving donations.

The reasons promoted by those who respect the tonjokan tradition are that this tradition has existed for generations, while the people who practice it are the majority of Muslims in addition to aiming for the peace of family life for the community itself. Meanwhile, those who are less respectful assume that this tradition is not something that absolutely must be carried out by all people, even though it is individual and optional. So if seen from the process of giving donations, it can be analyzed in more detail to find out the deeper side of donations in walimatul 'urs if reviewed from Islamic law, which means that if it is not understood correctly, there will be a blurring or distortion of understanding which will give birth to the assumption that something Islamic becomes an un-Islamic social activity, so that it becomes clear the meaning of giving donations in walimatul 'urs, especially to people who are still laymen, besides later being able to give birth to legal provisions about the tradition of donations in walimatul 'urs that occurs in Nepi Padukuhan.

Conclusion

Closing the description of what has been presented in each chapter as well as answering the two research problem formulations in the introduction, there are several things that can be concluded, among others: The practice of donations in Nepi Padukuhan at the time of walimatul 'urs there are two types

of donations, first, general donations, namely donations in the form of gifts or giving money put in an envelope. Second, donations in the form of *tonjokan*, which is a gift in the form of basic necessities such as sugar, rice. General donations are given directly by neighbors, friends and family to the pewalimah at the time of the walimahan event. Meanwhile, *tonjokan* is given to the pewalimah before the walimatul 'urs event begins and at the pewalimah's own request. The similarities and differences between the two legal systems include: From the aspect of whether or not it is obligatory to give donations Both legal systems say that the purpose of giving donations at walimatul 'urs is that both can foster a sense of love for fellow human beings, strengthen kinship and strengthen family relationships. The difference between the two legal systems is that Islamic law is more *maslahat* because in Islamic law does not impose a will on others that is felt to be quite burdensome, meaning that the provision of donations is not mandatory but a voluntary gift while in customary law the obligation to make donations to walimatul 'urs gives the impression of an element of coercion to the local community. Meanwhile, from the aspect of the pros and cons of the community towards the practice of donations, the practice of giving donations in general from each of the two legal systems can be interpreted as a form of a person's statement to do something and or not to do something. With the participation of people who participate in terms of material, thought, energy or others, it shows that the community still appreciates the existence of cultural or customary heritage. The difference between the two legal systems that exist in the community regarding the practice of giving donations is in customary law which assumes that this tradition has existed for generations so that the community must follow it, then for those who do not want to carry it out, they will receive moral sanctions by becoming the topic of conversation in the local community and will be ignored by others. People who oppose this practice think that this tradition is not something that absolutely must be carried out by all people, rather it is individual and optional. In Islamic law itself there is no affirmation of "not doing something", meaning that Islamic law gives freedom to choose what is

considered good for people's lives so that no one will feel burdened by a tradition.

Bibliography

Abdoeh, Nor Mohammad. "Hibah Harta Pada Anak Angkat: Telaah Sosiologis Terhadap Bagian Maksimal Sepertiga." *Cakrawala: Jurnal Studi Islam* 13, no. 1 (2018): 1-18.

———. "Hibah Semua Harta Kepada Anak Angkat (Telaah Komparasi Antara Kuh Perdata Dan Khi)." *Ahkam: Jurnal Hukum Islam* 8, no. 1 (2020).

Adibah, Ida Zahara. "Pendekatan Sosiologis Dalam Studi Islam." *INSPIRASI (Jurnal Kajian Dan Penelitian Pendidikan Islam)* 1, no. 1 (2017): 1-20.

Arikunto, Suharsimi, *Prosedur Penelitian: Suatu Pendekatan Praktik*, Jakarta: PT.Bina Aksara, 1983.

Ash-Shiddieqy, *Mutiara Hadits 4*, Semarang: PT. Pustaka Rizki Putra, 2003.

Basyir, Ahmad Azhar, *Asas-Asas Hukum Muamalat: Hukum Perdata Islam*, Yogyakarta: UII Press, 2000.

Bawani, Imam, *Tradisionalisme Dalam Pendidikan Islam*, Surabaya: Al Ikhlas, 1990.

Departemen Agama RI, *Al-Qur'an dan Terjemahnya*, Jakarta: CV. Darus Sunnah, 2002.

Hadi, Sutrisno, *Metodologi Research*, Yogyakarta: Yayasan Penerbitan FIP.IKIP, 1968.

Hadi, Sutrisno, *Metodologi Riset*, Yogyakarta: Nadi Offset, 1994.

Haroen, Nasrun, *Ushul Fiqh 1*, Jakarta: Logos Wacana Ilmu, 2001.

Herdiansyah, Haris, *Metodologi Penelitian Kualitatif*, Jakarta: Salemba Humanika, 2010.

Kamal, *Fiqh Sunnah Wanita*, Jakarta: Tiga Pilar, 2007

Khallaf, Abdul Wahhab, *'Ilm Ushûl al-Fiqh*, Beirut: Dar al-Fikr, 1978.

Ma'arif, Samsul, *Kaidah-Kaidah Fiqih*, Bandung: Pustaka Ramadhan, 2005.

Marzuki, *Metodologi Riset*, Yogyakarta: BPFE UII, 2002

- Maskur, Syafi'i, *Kekuatan Sedekah*, Yogyakarta: Briliant Books, 2011.
- Muhyidin, Muhammad, *Keajaiban Shodaqoh*, Yogyakarta: DIVA Press 2008.
- Nadwi, M. Fadil, *Kamus ad Diya'*, Surabaya: Mekar, 1992.
- Nasution, Khoiruddin, *Hukum Perkawinan I*, Yogyakarta: ACAdemia TAZZAFA, 2005.
- Raco, J. R, *Metode Penelitian Kualitatif Jenis, Karakteristik dan Keunggulannya*, Jakarta: PT Gramedia Widiasarana Indonesia, 2010.
- Rajasa, Sutan, *Kamus Ilmiah Populer*, Surabaya: Karya Utama, 2002
- Riyadi, Ahmad Ali, *Dekontruksi Tradisi*, Yogyakarta: Ar-Ruzz, 2007.
- Rofiq, Ahmad, *Hukum Islam di Indonesia*, Jakarta: PT Raja Grafindo Persada, 1998.
- Sābiq, as-Sayyid, *Fiqh as-Sunnah*, alih bahasa oleh Mudzakir A.S., Bandung: Al-Ma'arif 1997
- Shaifudin, Arif. "Memaknai Islam Dengan Pendekatan Normatif." *El-Wasathiya: Jurnal Studi Agama* 5, no. 1 (2017): 1-14.
- Shodiq, *Kamus Istilah Agama*, Jakarta: C.V. Seinttarama, 1988.
- Soekanto, Soejono, *Hukum Adat Indonesia*, Jakarta: Raja Grafindo Persada, 2011
- Sudarsono, *Pokok-Pokok Hukum Islam*, Jakarta: PT. Rineka Cipta, 1992
- Suhendi, Hendi, *Fiqh Muamalah*, Jakarta: PT. Raja Grafindo Persada, 2005.
- Supeno, Rahmat, *Minhajul Muslim Muamalah*, Bandung: PT. Remaja Rosda Karya, 1991.
- Surakhmad, Winarno, *Pengantar Penelitian Ilmiah Dasar, Metode dan Teknik*, Bandung: Tarsito, 1990.
- Syarifuddin, Amir, *Hukum Perkawinan Islam di Indonesia antara Fiqih Munakahat dan Undang-Undang Perkawinan*, Jakarta: Kencana, 2006
- Syarifuddin, Amir, *Ushul Fiqh 2*, Jakarta: Kencana, 2008.
- Syathibi, Abi Ishaq Ibrahim ibn Musa ibn Muhammad al-Lakhmi asy-, *Al-Muwāfaqāt fi Usūl asy-Syari'ah*, Mesir: Maktabah at-Tijāriyah al-Kubro, 1973 M/1332 H),

Syihab, Umar, *Hukum Islam dan Transformasi Pemikiran*, Semarang: Bina Utama, 1996.

Interview with Mbah Ali, a community leader in Nepi hamlet on May 28, 2023

Interview with Mrs. Jumirah, Pewalimah in Padukuhan Nepi, on May 28, 2023

Interview with Mrs. Suprihatin, a resident of Nepi hamlet on May 28, 2023

Interview with Mrs. Tri, a resident of Nepi hamlet, on May 29, 2023.

Interview with Mr. Dalijo, Mbah Kaum in Nepi hamlet, on May 28, 2023

Interview with Mbah Ali Sumarto, Takmir Masjid in Nepi hamlet, May 28, 2023