



An Analysis of 'Urf on the Practice of Jeluk-Jelukan in the Customary Marriages in Sambungmacan Village, Sragen Regency

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Abstract

Marriage is an order given by Allah to His servants which aims to create a family that is *sakinah mawadah warahmah*, so that Allah gives extraordinary gifts and rewards to the perpetrators. Marriage for Javanese people is something sacred and considered very important because the implementation of marriage is full of rituals which, when examined, have many meanings that can be interpreted as a manifestation of prayer so that the bride and groom and also their families get good things and away from disasters. In the customary law of Sambungmacan Village, marriage procedures are a combination of customary and Islamic law. According to local beliefs, if a person who wants to get married still has an older sibling who has not been married, it is very prone to disasters such as difficulty getting a mate for those who are stepped over, crazy, or *kuwalat* for the prospective bride and groom who step over. For this reason, the existence of this custom can prevent these disasters. The phenomenon that occurs in the Sambungmacan Village community if the younger sibling marries before the older sibling, then the older sibling is required to carry out the *jeluk-jelukan* tradition. This article aims to uncover the phenomenon of how 'urf and Islamic law review the *jeluk-jelukan* tradition that develops in the Sambungmacan Village community. This type of research is prescriptive *field* research, while the approach used is a legal normative approach, which is a problem approach by formulating whether something is or the object of research is good or should not be done so that it is in accordance with Islamic Law or not. The conclusion of this research is. This *jeluk-jelukan* tradition is classified as 'urf *fasid*, because it overturns the Islamic faith when believing that the calamity comes because of violating or not carrying out the *jeluk-jelukan* tradition. When viewed from the perspective of 'urf, it cannot be used as a basis or legal basis. In the review of Islamic law, this *jeluk-jelukan* marriage is contrary to Islamic law because the pillars of marriage are not fulfilled, namely without the guardian of the old widow. So it can be concluded that this *jeluk-jelukan* marriage is invalid. Because both of them are forced by customary law

Keywords: Islamic Law, *Urf*, *Jeluk-jelukan*, *Pelangkahan*, Marriage, Tradition.

Introduction

Marriage is a commandment given by Allah to his servants which aims to create a family that is *sakinah mawadah warahmah*, so that Allah gives extraordinary gifts and rewards to the perpetrators. Meanwhile, according to the Marriage Law No. 1 of 1974 article 1 which reads "marriage is a physical and mental bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family or household based on God Almighty". As the verse of the Qur'an which describes marriage which reads:

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً ۚ
إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ

Meaning: "And among the signs and signs of his power is that he created for you wives of your own kind, that you may tend to them and be at ease with them, and that he may create in you love and affection. Indeed, in such things there are signs for those who think."¹

Humans are creatures that are more glorified and favoured by Allah than other creatures. Allah has established the rules of marriage for humans with rules that must not be violated. Among Islamic law itself, which is regulated in the Compilation of Islamic Law Article 2, "marriage is a very strong contract (*mitsaqan ghalizhan*) to obey the commands of Allah and doing so is an act of worship."²

As is known, Islamic law is a law revealed by Allah to humans to ensure the realisation of benefits for humans themselves, both in this world and in the hereafter, the deeper a person's knowledge of the nature of Islamic law that he adheres to, the greater the value of goodness and *benefit* he gets. Such knowledge and wisdom are not possible for a person to acquire except through earnest efforts to study and contemplate the Shari'ah.³

Marriage takes precedence over other recommended acts of worship. Marriage should take precedence over Hajj which is one of the pillars of Islam, especially in an age full of fitnah, marriage is a shield for young men and women. Every action taken by someone must have a purpose, as well as marriage. The purpose of marriage according to Islam is to fulfil religious instructions in order

¹ Ar-Rum (30): 21

² Compilation of Islamic Law Article 2

³ Alaidin Koto, *Filsafat Hukum Islam*, (Jakarta: Rajawali Pers, 2013), pp. 2

to establish a harmonious, prosperous and happy family⁴ . Harmonious in using the rights and obligations of family members. Prosperous means the creation of physical and mental tranquility caused by the fulfilment of the needs of physical and mental life, so that happiness arises, namely love between family members.

Marriage for Javanese people is something sacred and considered very important because the implementation of marriage is full of rituals which, when examined, have many meanings that can be interpreted as a manifestation of prayer so that the bride and groom and also their families get the best things and away from unwanted disasters. In the marriage customs prevailing in Sambungmacan village, Sragen Regency, the marriage procedures carried out are a combination of customary law and Islamic law. When Islamic law is practised in the midst of a society with different cultures and customs, the form that is displayed is often not always the same and uniform. Islamic institutions are often adapted to the customary laws that apply in the community concerned with various characteristics⁵ . In Sambungmacan Village, Sragen Regency, there is a customary tradition that is still carried out in the implementation of marriage, namely when a woman is going to get married but the woman still has a brother/sister above her, the brother/sister above her or her brother must carry out the *jeluk jelukan* tradition, namely being married first before the *consent* of a woman or her sister. According to local beliefs, if the person who wants to get married still has a brother or sister above him who is not yet married, it is very prone to disasters such as trance, difficulty in finding a mate for those who are stepped over, crazy, or *kuwalat* for the prospective bride and groom. For this reason, the existence of this custom can prevent these disasters.

The phenomenon that occurs in the Sambungmacan village community if the younger brother marries before the older brother, then the older brother is required to carry out the *jeluk-jelukan* tradition. The purpose of this research is to find out how the implementation of the practice of *jeluk-jelukan* in the custom of marrying in Sambungmacan village. And to find out the view of 'Urf regarding the practice of *jeluk-jelukan* in the customary marriage ceremony.

Methods

The type of research conducted is *field* research (*field Research*) with qualitative methods that are prescriptive, which aims to get suggestions about

⁴ Ahmad Abdurrahim. *Aku Trima Nikahnya Bekal Pengantin Menuju Keluarga Sakinah, Mawarddah & Rahmah* (East Jakarta: Istanbul, 2017), pp.12

⁵ Abdul Malik Qasim and Abdurrazaq bin Abdul Muhsin al-Badr, *Pilihlah yang Shalihah, dan Engkau akan Beruntung* (Solo: Zamzam, 2010), pp. 22-23

what to do to overcome certain problems.⁶ The approach used in this research is a legal normative approach, which is a problem approach by formulating whether something is or the object of research is good or not, can be done or cannot be done so that it is in accordance with Islamic Law in the perspective of 'urf or not.⁷ The location of this research focuses on Sambungmacan Village, Sambungmacan Sub-district, Sragen Regency. Where the community in the village is due to the tradition of the practice of *jeluk-jelukan* in the custom of marriage annulment. Because this research is field research, the data collection techniques all use research methods related to the problems discussed. The data obtained from the above sources is by means of interviews, namely by question and answer conducted systematically and based on research objectives, as well as direct observation of the author of the object under study. After all the data is collected, the next step is to analyse the data. Data analysis is an activity to organise, sort, classify, code / mark, and categorise it so that findings are obtained based on the focus or problem to be answered. In this article the author uses descriptive analysis, as for the steps that must be taken are: Performing data grouping Data grouping is the first thing that must be done. It is done by bringing together all forms of raw data into the form of transcripts or written language. After that, grouping the raw data into groups of certain themes that are divided per series of discussions. The next stage is data reduction or sorting pruning and selecting data related to research objectives and research questions.⁸

Definition of 'Urf

In language 'Urf comes from the word *'arafa ya'rifu* يُعْرِف often interpreted with "al-ma'ruf" المَعْرُوف with the meaning: "something that is known". The meaning of known is that it is more closely recognised by others, then used to designate something that is obeyed which is considered good and accepted by common sense. In terminology 'urf is everything that people are accustomed to and adhere to, in the form of actions that occur among them or words that they usually say to indicate a certain meaning, where when they hear the word, their minds are immediately drawn to it, not to anything else. Some say that 'urf is something that is embedded in the soul, and accepted by common sense. It is

⁶ Roni Hamitijo Soemitro, *Metode Penelitian Hukum dan Jurimetri*, 1st cet, (Jakarta: Ghalia Indah, 1983), pp. 11.

⁷ Andi Eka Putra, *Sketsa Pemikiran Keagamaan dalam Prespektif Normatif, Historis dan Sosial Ekonomi*, Vol. 12, No. 02 (December 2017), pp. 74.

⁸ Haris Herdiansyah, *Wawancara, Observasi, dan Focus Groups sebagai Instrumen Penggalan Data Kualitatif*, (Jakarta: Raja Grafindo Persada, 2013), pp.349-350.

embedded in the soul and accepted because it is often used and applied which arises from a love.⁹ 'Urf is something that people have known and become their tradition, whether in the form of words, actions, or in relation to leaving certain actions. 'Urf is also called custom. Meanwhile, according to the terms of the shara' experts, there is no difference between 'urf and custom. The meaning of 'Urf according to fiqh terms some fiqh scholars are as follows:

- a) Abdul Wahab Khallaf states that

العرف هو ما تعارفه الناس وساروا عليه مِنْ قَوْلٍ أَوْ فِعْلٍ أَوْ تَرْكِ يُسَمَّى الْعَادَةُ . وَفِي لِسَانِ الشَّرْعِيِّينَ لَا فَرْقَ بَيْنَ الْعُرْفِ وَالْعَادَةِ.

"Urf is something that is known by many people and is done by them, whether in words or actions or something that is left behind. This is also called custom. and according to Islamic jurists there is no action between *al-'urf* and *al-'adah*".¹⁰

- b) Wahbab al-Zuhaili states that

العرف : هو ما اعتاده الناس وساروا عليه من كل فعل شاع بينهم, ولا يتبادر غيره عند سماعه

" 'Urf is anything that people customise in terms of actions that are common among them, or words that are known to them, which have a specific meaning that is not grammatical or misunderstood.¹¹

- c) According to Abu Zahra, 'urf is something that is known by the people and is done by them in word, deed or something that is left behind.¹²
- d) According to Mustafa Abdul Rahim, 'urf is any human action or word to which all humans or the majority of humans are subject.¹³
- e) According to Al-Jurjani, 'urf is something that is fixed (constant) in the soul, recognised and accepted by the intellect, and it is a proof and easy to understand. This is also the definition of custom, which

⁹ Abdul Hayy Abdul 'Al, *Pengantar Ushul Fikih*, (Jakarta: Al-Kautsar Library, 2014), pp. 325

¹⁰ Abdul Wahhab Khallaf, *Ilmu Ushul Fiqh*, (Semarang: Dina Utama, 1994), p.89

¹¹ Wahbah al-Zuhaili, *Ushul Fiqh Juz 2*, (Damascus: Darul Fikr, 1986), p.828.

¹² Nurul Afifah, Tradisi Mendoakan Orang Non Muslim menurut Konsep Fiqih (Urf) dan Ushul Fiqh di Kota Metro, Vol. III, No. 2 (Lampung, December 2018), pp. 36

¹³ Moh. Hipni, *Urf sebagai akar Hukum Islam yang Responsible*, El-Tijari Journal, Vol. 3 No.2 (Madura, July 2016), pp.87-88.

is a habit that people continue to do based on the laws of reason and people keep repeating it.¹⁴

- f) According to al-Ghazali, '*urf*' is something both words and actions that have become the stability of the soul in terms of being accepted by a healthy mind and can be accepted by a healthy or good character.

Based on the explanation of '*urf*' above and also the opinion of the scholars, the author can conclude that '*urf*' is something that has become a habit and is continuously done. Something that has been embedded in and repeated so that it becomes a culture that continues to be implemented.

Types of '*urf*'

In general, the kinds of '*urf*' are divided into three perspectives, namely:

- a. In terms of the law of '*urf*', the kinds of '*urf*' are divided into two, namely: '*urf*' that is good '*urf*' that is bad, the concept is whether it is in accordance and in line with *shari'ah* or not.
 - 1) '*urf shahih*' is a custom that prevails among the people that does not contradict the Qur'an or the Sunnah of the Prophet. It does not remove their *interests* or cause them *harm*. For example, the custom in the community of giving the dowry in different ways, either in full or in debt, or giving jewellery or clothing is considered a gift and not part of the bride's dowry, either after or before the marriage contract. The above custom is not contrary to Islamic law and may be preserved and can be used as a legal basis.
 - 2) '*urf fasid*' is a custom that contradicts the arguments of shara' or something that has become a human tradition, but it contradicts shara' or makes lawful what is forbidden and cancels what is obligatory.¹⁵ For example, gambling to celebrate an event, the habit of kissing between men and women who are not mahrams at party gatherings. Based on this explanation, the researcher can conclude that '*Urf fasid*' should not be done or done because this is contrary to shara' or Islamic laws that have been previously established and this will not change in the sense that '*urf fasid*' remains

¹⁴ Fauziah, Konsep 'Urf dalam Pandangan Ulama Ushl Fiqh (tela'ah historis), Vol. 14, No. 2 (December 2014), pp. 17

¹⁵ Abdul Wahab Khallaf, *Ilmu Ushul Fiqh*, p.149

unenforceable or does not change with changing times or changing years.

- b. In terms of its form / nature, 'urf is divided into two, namely *al-'urf al-lafzhi* and *al-'urf al-amali*.¹⁶

- 1) *al-'urf al-lafzhi* is the custom of the community in using certain pronunciation / expression in expressing something, so that the meaning of the expression is understood and comes to mind. Some classic examples that we will find in many Ushul Fiqh literature for 'urf in this form can be the word *walad*, which actually means either son or daughter as in the Word of Allah SWT:

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَىٰ

Meaning: "Allah has prescribed for you (the division of inheritance for) your children, viz: the share of a son is equal to the share of two daughters".¹⁷

However, the custom of the Arabs is to understand the word *walad* to mean son. In addition, an example related to the law is the Arabic word *thalaq*, which actually means to release or let go, but later understood with the connotation of breaking the bond of marriage. So a husband who says "*thalaqtuki*" then becomes a divorce in their marriage.¹⁸

- 2) *al-'urf al-amali* is the custom of the community relating to the ordinary acts of civil *muamalah*. What is meant by ordinary actions is the actions of the community in matters of their lives that are not related to the interests of others, such as the habit of taking off work on certain days of the week, the habit of certain people eating special foods or drinking certain drinks and the habit of the community in wearing certain clothes on special occasions.

- c. In terms of its capability, or its applicability among the community, this 'urf is divided into two parts as well, namely *Al-'Urf al-'Am* and *Al-'Urf al-Khas*.

- 1) *Al-'Urf al-'*

¹⁶ Nasrun Haroen, *Ushul Fiqh I*, (Jakarta: Logos, 1996), pp.139-140.

¹⁷ An-Nisa (4): 11

¹⁸ Sucipto, *'Urf Sebagai Metode dan Sumber Penemuan Hukum Islam*, Vol. 7, No. 1 (January 2015), pp. 31

This is a custom that is general in nature and applies to the majority of people in a wide range of areas. For example, paying a public transport fare at a certain price, without specifying the distance travelled and only limiting it to the maximum distance travelled. Similarly, paying for the use of a public bathing place at a certain admission price, without limiting the facilities and the amount of water used, except only limiting the use in terms of time.

2) *Al-'Urf al-Khas*

These are customs that apply specifically to a particular community or region. For example, the Javanese custom of celebrating Lebaran ketupat, sekatenan.

Legal Basis of 'Urf

In general, in its position as sharia '*Urf shahih* has the approval of the majority of scholars. So it is obligatory to maintain it in the formation of law and in the judiciary. A mujtahid must pay attention to tradition in the formation of his law. A judge must also pay attention to it in his judgement. This is because what is customary among people and what they are accustomed to is part of their needs and in accordance with their interests.

As for the '*Urf fasid*, the scholars agreed to reject it as an argument of Shara. '*Urf fasid* is '*Urf* that is corrupt, it is not required to maintain it, because maintaining it means opposing the arguments of Shara' or cancelling the arguments of Shara'. So if people are accustomed to entering into agreements that are among the *invalid* agreements, such as agreements that are usury or gharar, or agreements that contain fraud or danger, then '*Urf* has no effect on the permissibility of the agreement.¹⁹

One of the verses used as an argument for the validity of '*urf* as a proposition of Shara is as follows: ²⁰

خُذِ الْعَفْوَ وَأْمُرْ بِالْعُرْفِ وَأَعْرِضْ عَنِ الْجَاهِلِينَ

Meaning: "Be thou forgiving, and enjoin men to do what is right, and turn away from those who are foolish."²¹

¹⁹ Rachmad Syafei, *Ilmu Ushul Fiqih*, (Bandung: Pustaka Setia, 2015), p.130

²⁰ Satria Efendi, *Ushul Fiqh*, (Jakarta: Kencana, 2010), p.

²¹ Al-A'raf(7): 199

The meaning of the verse is as an order to do something that has been considered good so that it becomes a habit in people's lives.

From the various '*urfs* encountered, the scholars of Ushul Fiqh formulated Fiqh rules relating to '*urfs*, among which are the most basic:

الْعَادَةُ مُحْكَمَةٌ

"Custom can become law"

The meaning of custom in the fiqh rules above includes '*urf* in the form of words and actions that are general and specific, this rule implies that custom can be used as a basis for determining Islamic law when there is no *nash*. General customs or '*urfs* can apply from the time of the Companions to the present day which are accepted by the mujtahids and they act upon them. While the specific '*urf* only applies to the specific community related to the '*urf*.²²

Conditions of '*Urf*

'*Urf* can be used as one of the arguments in determining shara' law. If it fulfils the following conditions:

- a. The first condition is a requirement for a sound '*urf* to be generally accepted, but if an '*urf* causes harm and cannot be accepted by reason, then it is not justified in Islam. However, if an '*urf* causes harm and cannot be accepted by common sense, then the '*urf* is not justified in Islam.
- b. The '*urf* (whether it is general or specific or whether it is an action or a speech) is generally applicable, meaning that it applies in the majority of cases that occur in the community and is adopted by the majority of the community.
- c. The '*Urf* that will be used as the basis for determining a law was already in effect at that time, and not '*Urf* that came later. This means that the '*Urf* must have existed before the ruling, otherwise if the '*Urf* comes later then it cannot be taken into account. In this case there is the rule "'*Urf* that applies to a legal provision, only those that come hand in hand or precede, and not those that come later."²³
- d. '*Urf* does not contradict the qath'i texts in Shara'.²⁴ So '*Urf* can be used as a source of ruling when there is no qath'i text that specifically prohibits doing an

²² Fathurrahman Azhari, *Qawaid Fiqhiyyah Muamalah*, (Banjarmasin: LKP, 2015), pp.122

²³ Amir Syarifudin, *Ushul Fiqh Volume 2*, (Jakarta: Kencana 2014), pp.425

²⁴ Al-Zaqra', Mustafa Ahmad, *Al-Fiqh al-Islam fi Saubih al-Jadid* (Beirut: Dar al-Fikr, 1968), pp.880.

action that has become a custom in the community. This condition strengthens the acceptance requirement for *valid 'Urf*. If the '*Urf* contradicts the existing *nash* or contradicts *shara'* then the '*Urf* will be included in the '*Urf fasid* which the scholars have agreed not to accept it as a basis for determining the law.²⁵

Overview of Marriage

Definition of Marriage

Marriage in the *fiqh* literature is mentioned with two words, namely *nikah* (نكح) and *zawaj* (زوج). these two words are used in the daily life of the Arabs and are found in the Qur'an and the Prophet's Hadith.²⁶ In meaning, the word *nikah* means "joining", "sexual intercourse" and also means "contract". The possibility of this meaning is because the word *nikah* found in the Qur'an does contain these two meanings. In the terminological sense, it is a contract or agreement that contains the intention of allowing sexual intercourse by using the lafaz *na-ka-ha* or *za-wa-ja*. The word *na-ka-ha* is found in the Qur'an with the meaning of marriage:

وَإِنْ خِفْتُمْ أَلَّا تُقْسِطُوا فِي الْيَتَامَىٰ فَانكِحُوا مَا طَابَ لَكُمْ مِنَ الْيَتَامَىٰ وَتِلْكَ وَرِيعٌ فَإِنْ خِفْتُمْ
أَلَّا تَعْدِلُوا فَوَاحِدَةً أَوْ مَا مَلَكَتْ أَيْمَانُكُمْ ذَٰلِكَ أَدْنَىٰ أَلَّا تَعُولُوا

Meaning: "And if you fear that you will not do justice to the rights of orphaned women (when you marry them). So marry any other women you like: two, three or four. Then if you fear that you will not be able to do justice, then marry only one."²⁷

Similarly, there are many *za-wa-ja* words in the Qur'an:

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً ۚ
إِنَّ فِي ذَٰلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ

Meaning: "And among the signs of his power is that he created for you wives of your own kind, that you may be inclined to them and feel at home, and that he may create in you love and affection. Indeed, in such things there are signs for the thinking people."²⁸

²⁵ Amir Syarifudin, *Ushul Fiqh Volume 2*, pp.426

²⁶ Amir Syarifudin, *Hukum Perkawinan Islam Di Indonesia: Antara Fiqih Munakahat dan Undang-Undang Perkawinan*, (Jakarta: Kencana 2009), pp.36.

²⁷ An-Nisa (4): 3

²⁸ Ar-Rum (30): 21

Marriage according to Islam is a strong and firm sacred covenant to live together with a man and a woman to form a family that is eternal, caring for each other, loving, safe, peaceful, happy and eternal.²⁹ In Article 1 of Law NO. 1 of 1974 concerning Marriage, it is explained that Marriage is a physical and mental bond between a man and a woman as husband and wife with the aim of forming a happy and lasting family or household based on God Almighty.³⁰ Then in the Compilation of Islamic Law it is further explained that marriage in Islamic law is marriage, which is a very strong contract *mitsaqan ghalidzan* to obey Allah's commands and carrying it out is worth ibadah.

From the explanation above, it can be concluded that marriage is another name for marriage. Marriage itself in language means combining or gathering. Then in terms of marriage is a contract by which it is permissible to touch, have sex, and the like between men and women who are not mahrams. In this case it can be said that with a contract a man and a woman are allowed to enjoy each other and have fun with each other.

Marriage Law

There are differences among scholars regarding the original ruling on marriage. Some scholars are of the opinion that the basic principle of marriage is Sunnah, while others are of the opinion that it is obligatory. However, the strongest opinion regarding the original law of marriage is mubah or permissible.³¹ But the nature of this mubah law can change back to the perpetrator himself, it can become sunnah, obligatory, makruh, and even haram. The explanation of the law of marriage includes:

a. Mubah

Mubah is the origin of the ruling on marriage, which is the ruling on an action that is permissible to perform. This permissible action is neither obligatory nor forbidden. For a prospective bride and groom whose condition is not urgent to marry with reasons that require immediate marriage, it is permissible for her not to get married first. According to Hambali, the meaning of mubah in practice is that for a person who has no desire to marry, it is permissible, because the conditions he faces do not yet demand marriage.

b. Sunnah

²⁹ Jamaluddin, Nanda Amalia, *Buku Ajar Hukum Perkawinan*, (Lhokseumawe: Unimal Press, 2016), pp.18

³⁰ Law No 1 Year 1974 Article 1

³¹ Mardani, *Hukum Keluarga Islam di Indonesia*, (Jakarta: Kencana, 2016), p.35

The ruling on marriage becomes Sunnah if a person is considered physically and mentally capable and has fulfilled the criteria for marriage, but he has no fear of falling into haram acts such as adultery. This opinion is expressed by the Hanafi and Hambali schools. In contrast, the Maliki school says that it is Sunnah for the one who does not like marriage but wants offspring and is able to fulfil his obligations by providing lawful sustenance and is able to have sexual intercourse. The Shafi'i school considers marriage to be Sunnah for the one who does it with the intention of gaining peace of mind and already wants to have offspring.

c. Required

Marriage becomes obligatory for those who are physically and mentally capable and who fear that they will not be able to maintain their honour. In addition, if a man has an urgent desire to marry, there is a fear that he may commit adultery. If a man is in this situation, then it becomes obligatory.

d. Makruh

It is makrooh to marry someone who is unable to fulfil the duties of a husband, but this will not cause his wife to suffer, for example, if she is rich and her sexual desire is not strong.³²

e. Haram

The ruling on marriage becomes haram if the person entering into marriage is certain that he will oppress and harm his partner if he enters into marriage. Such as someone who marries with the intention of mistreating his partner, or someone who has a venereal disease and a man who fears that if he marries he will not be able to fulfil his obligations as a husband. This also includes a husband who believes that he will not be able to do justice if he remarries or becomes polygamous.³³

The pillars and conditions of marriage

Pillars and Conditions constitute a legal act, especially with regard to whether or not the act is valid from a legal perspective. Both words have the same meaning in that they are something that must be done. A pillar is defined as something that must exist to determine whether or not a work is valid, and that something is included in the series of work. A condition, on the other hand, is something that must be present to determine whether a task is valid or not,

³² Timahi, Sohari Sahrani, "*Fiqh Munakahat: Kajian Fikih Nikah Lengkap*", Ed. 1, Cet. 5, (Depok: Rajawali Pers, 2018), pp. 11

³³ Abu Hudzafiah, *Fiqh Munakahat: Kajian Praktis Pra-Pasca Nikah*, (Sukoharjo: Kiswah Media, 2018), pp. 20

and it is not part of the task.³⁴ In the event that a marriage is not valid if both are missing or incomplete.

Article 14 of the KHI defines the pillars of marriage as consisting of a man and a woman who will marry, the marriage contract itself, the guardian who will perform the contract with the husband, two witnesses who witness the marriage. If these pillars are fulfilled, the marriage is valid, but if one of the pillars is not fulfilled, the marriage is not valid. The following is an explanation of the conditions in these pillars:

a. Prospective bride and groom

The conditions that must be fulfilled by the prospective bridegroom are:

- 1) Akil baligh and mukallaf
- 2) Muslim
- 3) Clear The husband-to-be is really a man
- 4) Not currently marriage
- 5) No impediment to marriage
- 6) Willingness or not forced

The conditions that must be fulfilled by the prospective bride are:

- 1) Adulthood and mukallaf
- 2) Moslem
- 3) Obviously the wife-to-be is really a girl
- 4) She is not married and is not in an iddah period.
- 5) Willingness or not forced
- 6) Not in ihram for either Hajj or Umrah³⁵

In particular, Marriage Law no.1 of 1974 recognises the principle of age maturity. The meaning of this clarifies the understanding of akil baligh, namely that the prospective bride and groom are both mature and reasonable. In this context, the law states that the prospective bride is at the age of 21 years. As per Law No.16 of 2019.

b. Wali Nikah

In general, a guardian is defined as a person who marries a woman to a man. The existence of a guardian is a pillar in marriage, therefore it is not valid if the marriage is without a guardian. The guardian in a marriage is prepared by one of the brides, namely by the bride. The following are the requirements to be a guardian in a marriage.

³⁴ Amir Syarifudin, *Hukum Perkawinan Islam Di Indonesia Antara Fiqih Munakahat dan Undang-Undang Perkawinan*, (Jakarta: Prenada Media, 2006), pp.49

³⁵ Abdul Ghazali, *Fiqh Munakahat*, (Jakarta: Kencana 2010), pp.55

- 1) Moslem
- 2) Reasonable
- 3) Adult or baligh
- 4) Independent
- 5) Male³⁶

Then the majority of scholars are also agreed that those who are entitled to be guardians of marriage are those who are one hundred *asshabah*. The following is the order in which they can become guardians of marriage.

- 1) The biological father.
- 2) Father of father (grandfather)
- 3) Full brother
- 4) Father's brother (Uncle)
- 5) Son of father's brother
- 6) The son of the father's brother (cousin)³⁷

c. Marriage Witness

Witnesses are men who are asked to witness the occurrence of a person's marriage. Witnesses in the marriage process are a pillar of the implementation of the marriage contract, therefore every marriage must be witnessed by two witnesses. Witnesses consist of two men who must fulfil certain criteria to be able to serve as witnesses. These criteria include:

- 1) At least two people
- 2) Islam
- 3) Reasonable
- 4) Baligh
- 5) Male
- 6) No memory loss and no deafness
- 7) Understand the content of the *ijab qabul* to understand the purpose of the marriage contract.
- 8) Can hear, see, and speak
- 9) Just (does not commit major sins, ungodly means he has good religion)
- 10) Merdeka³⁸

d. Shigat of marriage contract

³⁶ Abu Hudzafiah, *Fiqh Munakahat: Practical Pre-Post-Marriage Studies*, (Sukoharjo: Kiswah Media, 2018), p. 72

³⁷ *Ibid.* p. 74

³⁸ Umar Haris Sanjaya & Ainur Rahim Faqih, *Hukum Perkawinan*, (Yogyakarta: Gama media, 2017), p.59

The Shigat of the marriage contract is the ijab qabul pronounced by the guardian of the female party and will be answered by the male party. The conditions of the marriage contract are:

- 1) Lafal that is clear in meaning
- 2) The equality of ijab and qabul
- 3) Compact contract shogat
- 4) The shigat of the contract is for perpetuity.³⁹

Another condition of marriage is the dowry. The dowry is not included in the pillars of marriage. However, the obligation of the prospective man to give a dowry to the prospective bride, and then the dowry becomes the personal right of the wife.

Overview of the *Jeluk-jelukan* Tradition

The Meaning of the *Jeluk-Jelukan* Tradition in the Custom of Pelangkahan Marriage

The word Pelangkahan comes from the word step which means to precede or pass. Langkahan is a tradition carried out before the wedding which is carried out if the bride-to-be precedes her older sister or brother, the bride-to-be melangkahahi first from her brother. The meaning of the word kakak, kakak means the oldest brother (according to genealogy), a call to an older person. From these syllables, the author can define that marriage stepping over a sibling is a marriage act that precedes an older sibling according to genealogy. This means that a person's marriage precedes his older sibling. Meanwhile, *jeluk-jelukan* is marrying off the older brother who is stepped over first before the younger brother's marriage contract is carried out.

The tradition of *Jeluk-jelukan* in the custom of marrying is a custom that is still applied in Sambungmacan Village, Sragen Regency. In Islam, there is no clear discussion about this custom. In society, the use of a custom often occurs, this is inseparable from the influence or doctrine of elders or people who are respected in the area. In addition, they themselves believe that they should carry out these customs. The link with marriage is that the culture is included in marriage which is a custom that must be carried out by its followers or relatives, this aims to preserve the customs of their own group or the cultures they believe in. This is based on an interview with Mr Gio as a traditional leader:⁴⁰

³⁹ Abdul Aziz Nuhammad azzam, *Fiqh Munakahat*, (Jakarta: Azmah, 2019), pp. 60

⁴⁰ Interview with Mr Gio as a traditional leader of Sambungmacan Village, Sambungmacan Sub-district, Sragen Regency, 5 March 2023.

"The tradition of *jeluk-jelukan* in the custom of marrying still exists and is still carried out today. This is when the younger brother who wants to get married still has a sibling above him (his older brother). So the older brother is married first before the procession of the *ijab Kabul* of the younger brother. That is what is called the *jeluk-jelukan* tradition. The name of the custom does not dare to leave, this is not religious law."

According to Mr Gio as a traditional leader, the customary traditions that have been applied should be cultivated and continue to be instilled through a social approach so that existing customs are not eroded by renewal and adjustment to the times.

The Practice of *Jeluk-Jelukan* Tradition in Pelangkahan Customs

The practice of the *langkahan* tradition in Sambungmacan Village is that when the prospective wife or bride has an older brother, be it a boy or a girl who is not yet married, the older brother must carry out the *jeluk-jelukan* tradition procession. The practice of the *jeluk-jelukan* tradition in the marriage ceremony in Sambungmacan Village which researchers obtained from the results of observations at one of the weddings of the Sambungmacan Village community who carried out the *jelu-jelukan* tradition. Namely in several ways:

a. Name of Ceremony: *Jeluk-jelukan* Tradition

The tradition is carried out if a younger sibling who wants to get married but still has an unmarried brother, then the brother must carry out the *jeluk-jelukan* procession or the brother must be married first, before the *ijab kabul* is carried out the younger brother.

b. The time of implementation of the *jeluk-jelukam* tradition is carried out before the *ijab Kabul* process of the younger brother is carried out, usually held in the evening or *tirakatan* night before the *ijab Kabul* procession of the younger brother in the morning.

c. Procedure for the practice of *jeluk-jelukan*

- 1) The opening of the event is done by the traditional leader or *mudin*.
- 2) The brother of the bride-to-be sits in front of the *mudin* and traditional leaders as well as his family or parents.
- 3) Then Mr *Mudin* offered the guests who were present that night, especially the old widows who had to be over 50 years old, to become wives for the brother.
- 4) If the invited guest, especially the widow, is willing and willing to be married to the brother. Then Bapak *Mudin* asks the two (the widow and the

brother) whether you both like each other? If they both answer that they do and are ready to be married, then Bapak Mudin marries them off.

- 5) With a modest dowry, usually money. And with other invited guests as witnesses. Then the two (a widow and her brother) were married with *ijab Kabul* in accordance with Islam.
- 6) The marriage was considered valid. Then Mr Mudin offered the wife (a widow) to serve her husband (brother), usually ordered to make coffee but not according to her husband's wishes. Usually coffee tastes sweet but the coffee she made tasted salty.
- 7) The wife (a widow) is considered unable to serve a husband and is then divorced by the husband. And is no longer considered to be husband and wife.
- 8) Then it is closed by the customary leader or mudin father and it is considered to carry out the *jeluk-jelukan* tradition.

That is the series of practices of the *jeluk-jelukan* tradition in the customary marriage ceremony in Sambungmacan Village. This is based on the results of an interview with Mr Gio as a traditional leader.⁴¹ The *Jeluk-jelukan* tradition that occurs in Sambungmacan Village, Sambungmacan Subdistrict, Sragen Regency, the author gets information from several people who carry out the *jeluk-jelukan* tradition. Here are some opinions from some people who have carried out the *jeluk-jelukan* tradition, among others:

a. Mas NR

NR is a resident of Sambungmacan village, Sambungmacan sub-district, Sragen district. He works as an angkringan food vendor. He is one of the residents who carry out the *jeluk-jelukan* tradition.

"This tradition is carried out because it is the rule, such as when a younger sibling gets married. My sister married ndisik amargi wes pregnant sakdurunge nikah, mergane kui kudu langsung dinikahke walaupun seh ndue kakang seng durung rabi, dadine kakange kudu ngelakoni tradition jeluk-jelukan kui"

In this interview, according to NR, the *Jeluk-jelukan* tradition is a custom that must be carried out if a younger brother marries before his older brother, while the older brother has never married. And it must be done because it is the customary rule if

⁴¹ Interview with Mr Gio as a traditional leader of Sambungmacan Village, 5 March 2023

the younger brother marries first. The factor of the younger brother marrying before him is because the younger brother has conceived before marriage, and must be married immediately. So with that the younger brother preceded his brother to get married first.⁴²

b. Mas WD

WD is a resident of Sambungmacan Village, Sambungmacan Sub-district, Sragen Regency. He works as a LPG and gallon gas seller. He is one of the actors who has carried out the *jeluk-jelukan* procession.

"I made my younger brother get married first because he had found his mate first and was ready to get married first, and I was afraid of falling into adultery. And yet I still do this tradition, even though I don't understand it, I still do it. Because as a layperson, I just follow the traditions that have existed from a long time ago. And if I don't follow the existing traditions it is feared that I will get bad luck or find it difficult to get a mate for me, whether it is a real punishment or a mere myth. I can't help but follow the tradition".⁴³

In this interview, according to WD, the *jeluk-jelukan* tradition must still be carried out because it has existed since our ancestors. In the form of traditional rules, it is obeyed if there is a violation, there will be a punishment for violating it, whether it is a real punishment or just a myth.

c. Mbah SG

Mbah SG is a resident of Sambungmacan Village, Sambungmacan Sub-district, Sragen Regency. She works as a farm labourer. She is a widow or an old person. Usually she gives herself up to be married or follows the *jeluk-jelukan* tradition. Because of the pity for the bride-to-be if she has to get married waiting for her brother to get married first. Mbah SG said in her interview:

"Ngesakne and I had to wait for my brother to get married. Because of that, I agreed to be his partner just to keep the tradition going. I understand that this is the rule from the past. I only want to get married for a short period of time,

⁴² Interview with NR, 5 March 2023

⁴³ Interview with Mr WD, 6 March 2023

and I don't want the dowry money to be used to support my livelihood."⁴⁴

People's Views on the *Jeluk-Jelukan* Tradition in the Customary Marriages

According to Mr Jauhari as a religious figure from Sambungmacan Village, this *jeluk-jelukan* tradition exists because a younger brother is considered inappropriate or inappropriate if he marries before his brother. So with this tradition in order to eliminate the status of his brother so that he does not feel stepped over and does not damage his brother's trust. Although in Islam there is no rule on who will marry first. Whoever between the two who have found a mate and are ready to get married then immediately get married. This is based on the results of an interview with Mr Jauhari as a religious figure:

"Adat is a recommendation that may be in religion, but there are some things that are right and some things that are not right unless they are in conflict with religion. At least the custom is for the good, there is no problem. It depends on the intention, the intention is just to carry out the customs."⁴⁵

According to Mr Jauhari, the *jeluk-jelukan* tradition is not against religion. Because it is married and fulfils the requirements, but it is in customs only to respect the prevailing customs. The view of the community regarding the *jeluk-jelukan* tradition is like the opinion of Mr Agung Yuwono as the secretary of Sambungmacan Village and a resident of Sambungmacan Village said that:

"Indeed, the tradition here is like that, it must be done, it cannot be abandoned. Whether you want to or not, you have to follow the customs in this village so you cannot leave. Maybe the aim is so that his brother does not feel hurt by being stepped over. With that, the brother is married first to an old widow, it only removes the status in the customary tradition, basically this marriage is not recorded by the State so it does not change the status of his brother in the population."⁴⁶

This is in contrast to the opinion of Ibu sih Rahayu, a resident of Sambungmacan Village. She said in her interview that:

⁴⁴ Interview with Mr SG, 6 March 2023

⁴⁵ Interview with Mr Jauhari as a Religious Figure, 21 March 2023

⁴⁶ Interview with Mr Agung Yuwono, 21 March 2023

"I do not agree with this *Jjeluk-jelukan* tradition because this marriage contains an element of coercion by customary law, pity *dinikahke bar kui* ditalak again. Marriage is only for a moment and not forever." ⁴⁷

According to Mrs Sih rahayu, she does not agree with the *jeluk-jelukan* tradition. She considers that this marriage contains an element of coercion by customary law. According to him, he feels sorry for the people who carry out this marriage because this includes a vain marriage after being married and then divorced again, the marriage is only for that time, not eternal.

An 'Urf Analysis of the *Jeluk-Jelukan* Tradition in the Marriage Staging Custom of Sembungmacan Village, Sragen Regency

The *Jeluk - jelukan* tradition is a series of wedding ceremonies held by the Sambungmacan Village community if the younger brother marries before his older brother, then the older brother is required to carry out the *jeluk-jelukan* tradition. *Jeluk-jelukan* is marrying off his brother who is stepped over first before the *ijab kabul* of the younger brother. The existence of marriage comes from the word *nikah* which means to gather, which in the legal sense is a covenant bond between a man and a woman that is carried out in accordance with the provisions of the law and religious teachings and makes *halal* relations for both. There is another definition that says that marriage is a life together between a man and a woman and must fulfil the conditions included in the marriage regulations.⁴⁸ Marriage is a bond of agreement between a man and a woman as husband and wife. Where the bond contains a serious intention to live together and has gone through a sacred contract with the aim of building a family that is *sakinah*, *mawaddah* and *rahmah* on the orders of Allah SWT so that in its implementation or for those who carry it out it is worth worship.⁴⁹

Problems that occur in people's lives are increasingly widespread, so that people demand an appropriate solution. Islamic law that makes the Qur'an and Hadith as the main reference there are still some problems that are not explained in detail so that the *ijtihad* of the Ulama is needed in handling customary cases that exist in various regions. One of the *ijtihad* of the Ulama is 'Urf. 'Urf is what is mutually known and mutually lived by people in the form of words, actions or leaving, called custom. In other words, 'urf is something that

⁴⁷ Interview with Mrs Sih Rahayu, 21 March 2023

⁴⁸ Muhammad Yunus Shamad, "Hukum Pernikahan dalam Islam", *Journal of Marriage Law in Islam*, Vol. V, No. 1 (September 2017)

⁴⁹ Armia, Muhammad Siddiq, "Wajah Antropologi dan Sosiologi Hukum Keluarga di Beberapa Daerah Indonesia", (Banda Aceh, 2017)

has become a human habit and they have followed it for a long time in the form of every action or word. By looking at the phenomenon that occurs in the *jeluk-jelukan* tradition in the Sambungmacan Village community based on the definition of '*urf*' above, the tradition can be said to be '*urf*'. Because it has been done for generations and its existence is recognised by the people of Sambungmacan Village.

In determining a law, according to Imam Al-Qarafi, one must first examine the customs prevailing in the community, so that the law does not contradict or eliminate a benefit concerning the community. All scholars of the madhhab, according to Imam Syatibi and Imam Ibn Qayim, Al-Jauziah, accept and make '*Urf*' as a proposition of shara' in determining the law, if there is no nash that explains the law of a problem at hand.⁵⁰

'Urf in Islamic law is seen from various aspects, among others:

1. In terms of its scope, '*urf*' can be divided into '*urf Am*' and '*urf Khas*'.

'urf Am is defined as a custom that takes place widely throughout society and in all regions. Whereas '*urf khas*' is a custom that takes place in a particular region or community.

In terms of its scope, the *jeluk-jelukan* tradition is included in '*urf khas*', which is a custom that applies in certain communities and regions. In this case, the *jeluk-jelukan* tradition is a special custom for the people of Sambungmacan Village, Sambungmacan Subdistrict, Sragen Regency.

2. In terms of its material, '*urf*' can be divided into '*urf amali*' and '*urf lafzi*'.

'Urf amali is defined as the customs of the community relating to actions. Whereas '*urf lafzi*' is the habit of the community using expressions.

Then in the *jeluk-jelukan* tradition, if viewed in terms of the material used, the *jeluk-jelukan* tradition can be classified into '*urf amali*', which is a community custom related to actions. In the implementation of the *jeluk-jelukan* tradition there are scenes of carrying out the *jeluk-jelukan* tradition ceremony.

3. In terms of its ruling, '*urf*' can be divided into '*urf shahih*' and '*urf fasid*'.

⁵⁰ Nasrun Harun, *Ushul Fiqh*, (Jakarta: Logos Wacana Ilmu, 1997), p.142

The definition of '*urf shahih*' is '*urf*' that is good and acceptable because it is not contrary to Islamic law. Meanwhile, '*urf fasid*' is '*urf*' that is bad and unacceptable because it contradicts Islamic law.

In terms of the law, this *jeluk-jelukan* tradition is included in the '*urf fasid*', which is a bad habit and cannot be accepted by common sense, and there is no element of benefit. Because the people of Sambungmacan Village believe that if they do not carry out the *jeluk-jelukan* tradition, they will get bad luck, bad luck, difficulty getting a mate for those who are stepped over, and *kuwalah* for those who step over. Indirectly it is a form of *su'udzon* to Allah, whereas if *su'udzon* to Allah is a bad act. This belief should not be believed by the local community because basically all calamities come because of the permission of Allah alone.

To determine an '*urf*', the scholars have determined the conditions. The following are the conditions of an '*urf*' can be classified as a '*urf Shahih*':

1. The '*Urf*' contains a benefit and is acceptable to common sense.⁵¹

Then if we look at the explanation above, then the *jeluk-jelukan* tradition does not contain elements of *kemashlahatan* and cannot be accepted by common sense.

2. The '*urf*' is generally and evenly applied to the people who are in the neighbourhood of the '*urf*', or the majority of the people.⁵²

The community of Sambungmacan Village is a community that still strongly upholds the traditions left by its elders. Therefore, the tradition of *jeluk-jelukan* is carried out by the entire community of Sambungmacan village when the younger sibling marries before the older sibling. With this it can be concluded that the *jeluk-jelukan* tradition has been generally applied in the community.

3. The '*urf*' that will be used as the basis for determining a ruling was already in force at that time, and not '*urf*' that came later.⁵³

The *jeluk-jelukan* tradition is a legacy of the predecessors of Sambungmacan Village, and continues to be carried out from generation to generation until now. From there it can then be understood that the *jeluk-jelukan* tradition has existed for a long time in Sambungmacan Village, not a tradition that emerged later.

⁵¹ Amir Syarifudin, *Ushul Fiqh, Volume 2*, (Jakarta: Kencana 2014), pp. 424. 424

⁵² *Ibid*, pp. 424

⁵³ *Ibid*.

4. 'urf does not contradict existing Shara's evidence or conflict with a definite principle.⁵⁴

The *jeluk-jelukan* tradition is contrary to the Shara' argument because it does not comply with or fulfil one of the conditions of marriage in Islamic Law.

From the explanation above, the *jeluk-jelukan* tradition does not meet the requirements for using 'urf as a source of law because it has no mashlahat value and cannot be accepted by common sense and is contrary to the shara argument because it does not fulfil one of the conditions of marriage in Islamic Law. *Jeluk-jelukan* is categorised as 'urf *fasid* so this tradition should not be practised. *Jeluk-jelukan* marriage method of stepping over the older sibling but the older sibling must be forced to marry is a habit in the community and eventually becomes a custom. Although it comes from custom, it cannot be used as a benchmark that the marriage is prohibited according to Islam, although in *qawaidul fiqhiyyah* a fiqh rule is *al-adatul muhakkamah* which means that custom can be used as a source of Islamic law. This rule means that a custom can be used as a basis for creating a law if there are no elements that contradict Islamic law. However, what happens in this *jeluk-jelukan* marriage is very contradictory in Islam because it requires a sister to be married first under duress by customary law just to carry out existing traditions that have been believed by previous ancestors.

Analysis of Islamic Law on the Custom of *Jeluk - Jelukan* Marriage in Sembungmacan Village, Sragen Regency

The tradition of *jeluk-jelukan* in the marriage stepping custom is a custom that is still established in the Sambungmacan Village community. If a person who wants to get married still has a brother above him, then the brother is required to carry out the *jeluk-jelukan* tradition. The definition of *jeluk-jelukan* is to marry off the older brother who is stepped over first before the *ijab kabul* of the younger brother. Islam does not regulate the order of who marries first between brother and sister. Islam only instructs those who are ready or able to marry to hasten it regardless of whether they step over or not.

The Islamic view of marriage is as something sacred, following the sunnah of the Prophet and aims to worship Allah SWT. Marriage is fulfilled with rules, conditions and pillars of marriage must be fulfilled, which are the pillars and conditions of marriage in Islam as follows:

⁵⁴ *Ibid.* p. 425

1. Pillars of marriage
 - a. The existence of a bridegroom and the existence of a bride
 - b. The existence of a guardian
 - c. The existence of 2 witnesses
 - d. The existence of a shighat ijab kabul
2. Conditions of marriage
 - a. Both bride and groom are
 - b. Not a mahram man for the future wife
 - c. Knowing the marriage guardian
 - d. Not having performed Hajj
 - e. No cause of coercion
 - f. Mahar

Islam first regulates the procedures for marriage in the theoretical basis the author has explained the pillars and conditions of marriage that have been regulated by Islam. If you look at the pillars and conditions that the author describes the phenomenon in the field that this *jeluk-jelukan* marriage does not fulfil the pillars of marriage in the presence of a guardian, this marriage is held without a guardian. This *jeluk-jelukan* marriage does not have the fact that they are married. This marriage is not recorded by the state so that it does not change the status in the population and does not change anything. This marriage is not organised by the KUA but by traditional leaders who usually marry siri. This marriage still has ijab kabul, witnesses, dowry, but without the guardian of the old widow.

This jeluk-jelukan marriage on the day of the wedding there are no stages that must be done again, because before the consent of the marriage begins, the customary tokok reminds that this is only a temporary marriage and only carries out the tradition and compulsion by customary law that has existed since the legacy of the elders. This phenomenon occurs in the community of Sambungmacan Village, namely the tradition of *jeluk-jelukan* in the custom of stepping into marriage does not contain elements of *kemashlah* or contain elements of *madharat*. Because this marriage is only limited to the formalities that the ancestors believed in.

Islam considers that marriage should bring mashlahat, both for the husband and wife, and for society. So beneficial is marriage that the good (mashlahat) generated by it outweighs the bad (madharat). From a collective point of view, the most significant benefit is, of course, the continuation of

offspring, but this is not just the physical abandonment of children.⁵⁵ More than that, the institution of marriage ensures that the benefits of the continuation of offspring will be chaste and orderly. This cannot be achieved by temporary marriages, namely *jeluk-jelukan* marriages, which undermine the sanctity of marriage and seem to play with marriage because in practice it only exists for a matter of hours.

Conclusion

The people of Sambungmacan Village still adhere to the beliefs inherited from their ancestors, one of which is the *jeluk-jelukan* tradition. This *jeluk-jelukan* tradition must be carried out if the younger brother marries before his brother, then the older brother is required to marry someone first, usually an old widow. In a short time and not recorded by the KUA. In Islam, stepping over a brother's marriage is not an obstacle to carrying out marriage because there is no basic element that prohibits it. In the perspective of 'urf, when viewed in terms of its law. This *jeluk-jelukan* tradition is classified as 'urf *fasid*, because it contradicts the Islamic aqidah, namely believing that calamities come because of violating or not carrying out the *jeluk-jelukan* tradition. When viewed from the perspective of 'urf, it cannot be used as a basis or legal basis. In the review of Islamic law, this *jeluk-jelukan* marriage is contrary to Islamic law because the pillars of marriage are not fulfilled, namely without the guardian of the old widow. So it can be concluded that this *jeluk-jelukan* marriage is invalid. Because both respect the prevailing customary law traditions. This marriage is only a formality only to carry out customary traditions that have existed since long ago.

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⁵⁵ Muhammad Ali. "Hukum Nikah Muth'ah dan Hubungannya dengan pembentukan keluarga Sakinah (Studi Keluarga Sakinah Model Kementrian Agama)." *Journal of Risalah: Journal of Education and Islamic Studies*1, No.1 (2016).

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