

## The Scope Of Sharia, Marriage And Tradition

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Is the customary tradition in the community contrary to the Shari'a

### ABSTRAK

The results of this study indicate that prior to the advent of Islamic wedding traditions, the community was heavily influenced by sacred events with the aim that the marriages would run smoothly and avoid all kinds of harm. The integration of the panggadakkang system into Islamic law brings a new color to the procession of traditional wedding ceremonies after the advent of Islam. The impact of traditional wedding ceremonies that are integrated with Islamic culture for the Bontosunggu community is experiencing a shift in values due to the great influence of Islam in wedding ceremonies. The implications of this research are 1) The government must increase awareness of the importance of preserving community culture to maintain local cultural wisdom, especially in South Sulawesi and take appropriate steps to maintain the continuity of local culture in accordance with Islamic teachings. 2) Students especially majoring in Islamic history and culture should remain active in conducting field research and developing their competencies to expose more deeply about cultural values for the development of knowledge.

## 1. Introduction

Understanding Shari'a

Shari'a is everything that was revealed by Allah SWT to the Prophet Muhammad SAW in the form of revelations contained in the Qur'an and Sunnah. Originally this word meant "the way to the water source", that is, the way to the main source of life. The verb is syara'a which means "to mark or draw a clear path to a water source". Shari'a is a holy text contained in the Qur'an and Sunnah. In surah al-Ma'idah (5) verse 48 Allah SWT says, "... For each of you people, We give clear rules and paths ...." The use of the word sharia in the Qur'an is found in surah al-Jatsiyah (45) verse 18 which means: "Then We made you above a Shari'a (regulation) of (religious) affairs, so follow that Shari'a and do not follow the passions of those who do not know."

There are seven words that have the same root as Shari'a in the Qur'an. All of these mean rules of life, guidelines for life, and paths to follow for happiness in life.

Shari'a in the above sense is different from fiqh, because the latter is no longer a sacred text. Jurisprudence is already the result of engineering human reasoning. Imam Shafi'i, for example, defines fiqh as a science of shari'a law that is religious in nature

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amaliah obtained from one by one theorem. Thus fiqh is what humans can understand from the holy texts of the Qur'an and Sunnah, by exercising ijtihad to grasp the meaning, ilat (cause), and the goals to be achieved by these sacred texts.

However, in the course of the history of Islamic law, there are scholars who view fiqh as part of the Shari'a. Mahmud Shaltut, for example, divided Islam into creed and sharia. That is, Islam consists of issues of faith and shari'a, which include issues related to law, including fiqh law. Shari'a branches out according to the field of study, such as laws relating to worship and muamalah.

Shari'a which includes the notion of fiqh is the notion of shari'a in a broad sense. Shari'a in a narrow sense is a law that is postulated for certain and firm as stated in the Qur'an and authentic hadith or determined by consensus.

The existence of the notion of sharia in the broadest sense is related to the implementation of the sharia itself in an Islamic country. Saudi Arabia, for example, fully implements laws that are in accordance with the narrow sense of shari'a, that is, laws with definite arguments confirmed in the Qur'an, authentic hadith, or ijma'.

Fiqh, which is the broad understanding of sharia, is not implemented in Saudi Arabia as a whole due to fears that the country will be bound to one school of thought and is taqlid in nature. Even so, within one school of thought there are still differences of opinion on every issue.

By examining the historical course of the notion of shari'a since the time of the Prophet Muhammad, it can be concluded that what is meant by shari'a is all the guidance given by Allah SWT and His Messenger through words, deeds and takrir (decree). This guidance concerns both relationships related to matters of faith, as well as individual law, human relations with the Creator, human relations with each other, or relationships related to social ethics and attitudes towards oneself and or others.

The definition of sharia as everything that is contained in the Qur'an and Sunnah can also be found, among others, in the writings of Ali bin Muhammad al-Jurjani in at-Ta'rifat (Definitions) and al-Ghazali in his book al-Mustasfa min 'Ilm al-USul (What can be learned from Usul Fiqh). They are all of the opinion that the Shari'a is synonymous with ad-din (religion) and not synonymous with fiqh. Thus, if it is said asy-shari'at

Islamiyyah, the meaning is everything that comes from Muhammad Rasulullah SAW that comes from Allah SWT, whether it is explaining matters of faith, as well as those concerning the regulation of human life personally, family and society, as well as those concerning morals.

a. Shari'a in General Meaning.

According to Athiyah Fayyadh, in terms of general meaning, shari'a are all the laws imposed by Allah 'azza wajalla on His servants which have been explained to them in His revelations and by the words of His messengers. He concluded this definition through the results of research (Istiqla') on several definitions that have been explained by scholars such as Ibn Hazm, Ibn Taimiyah, Manna' Qathan, and Abdul Karim Zaidan. The broad scope of the definition of sharia that covers all human activities (belief, morals, worship, work, politics, law, power, and inheritance or gifting) indicates that sharia is perfect and has clearly valid sources; the words of Allah 'azza wajalla and the words of the Prophet sallallaahu 'alaihi wa sallam. Because of that, Shaykh Abdul Karim Zaidan called shari'a the equivalent of the words al-Millah and the words ad-Diin. The laws prescribed by Allah 'azza wajalla are as Shari'a in terms of their source, description, and straightness, and are called ad-Diin in terms of who is subject to submission and worship, and are called al-Millah in terms of their implementation orders for humans.

In a general sense, Shari'a includes all the laws that are decreed by Allah and are obligatory upon His servants. This law is conveyed through revelation that descends or through the mouth of His apostles. The definition of sharia in this general sense includes almost all activities carried out by humans. Starting from the aspect of faith, morals, worship, work, politics, law, power, inheritance, gifts, and so on. The broad scope of Shari'a in general indicates that Islam is a comprehensive and perfect religion. Thus, everything has clear corridors and rules. Both in terms of orders to management.

b. Shari'a in a Special Meaning

Some scholars use the term sharia more specifically, which only includes the meaning of a part of the syar'i laws due to certain causes and needs.

There are scholars who use the term sharia to be confronted with the term aqidah (al-Aqidah) so that in that context the definition of sharia shifts slightly to become physical laws (al-Ahkam al-'Amaliyah) and the definition of aqidah becomes problems.

belief (al-'Itiqad) and faith (al-Iman). An example of the use of this definition is the name of the book written by Shaykh Syaltut, "Al-Islam 'Aqidatan wa Shari'atan". In the book, Shaykh Syaltut defines sharia as rules (nidzam) prescribed by Allah 'azza wajalla as a rule for himself in caring for the relationship between humans and their Lord, human relations with fellow Muslims, human relations with fellow human beings (non-Muslims). ), human relationship with nature, and human relationship with life. In addition, there are also those who use the term sharia to confront the term fiqh (Al-Fiqh) so that in this context sharia is defined by the laws revealed by Allah 'azza wajalla, while fiqh means the law resulting from the ijihad of mujtahids. This definition is used by Shaykh Ibn Taimiyah (Asy-Syar'u al-Mu'awwalu).

The term sharia is also used by some scholars in their definition as laws whose source is revelation, when the term sharia is confronted with the term Qanun where in this context Qanun is defined as laws made by humans and applied to themselves as well.

Shaykh Ibn Taimiyah in Majmu' al-Fatawa (19/309) describes in quite interesting sentences the nature of Shari'a,

ذَلِكَ غَيْرٌ وَوَمُعَامَلَتِهِ وَسِيَاسَتِهِ وَأَعْمَالِهِ وَأَخْوَالِهِ وَفُرُوعِهِ أَصُولُهُ مِنَ الشَّرْعِ فِي فَهُوَ لَهُ يَصْلُحُ مَا كُلُّ بَلْ أُمُورِهِ مِنْ شَيْءٍ فِي الشَّرِيعَةِ عَنْ يَخْرُجُ أَنْ لِلْإِنْسَانِ لَيْسَ

"Humans cannot be separated from the Shari'a in any matter throughout their life, even everything that leads them to goodness is all in the Shari'a. Starting from ushul matters, furu' cases, issues of life, work, politics, muamalah, and others.

## 2. Principles of Shari'a

The Islamic Shari'a imposed by Allah on humans, has several main objectives to maintain and attract benefit as well as to prevent and anticipate the emergence of various damages to the five main things that become the foundations of a Muslim or Muslim woman's life, namely:

a. Guarding the Soul (Hifzhun Nafsi) The position of the soul in religion is of great concern and is vital to safeguarding and maintaining its continuity and preventing anything that can threaten or eliminate a person's soul/life. Even for this purpose, the Shari'a allows things that were previously prohibited when a person experiences an emergency; like a man who is lost in the forest and suffers from a terrible hunger, but finds nothing but carrion for food. So it is permissible for him to eat the meat of the carcass just to keep his life from flying away, so he can't overdo it until he is full.

Likewise, when someone feels very thirsty which chokes his throat, but there is no other drink other than khamr (liquor). Meanwhile, if the khamar is not drunk immediately, it will result in his life being lost. So it is permissible for him to drink khamr to quench his thirst. So even though the emergency condition allows something that was previously forbidden, in practice it should not be excessive, alias it just fills a very hungry stomach or moistens a very thirsty throat. As explained in the following fiqhiyyah principles: *المَخْطُورَاتُ تُبَيِّحُ الصَّرُورَاتُ* "Dharurat can allow things that were (originally) prohibited." *أَبِيحٌ مَا بَقَدَرَهُ يَفْدَرُ لِلصَّرُورَةِ* "Whatever is permissible because of an emergency, it must be carried out in moderation."

Apart from that, in order to maintain human survival, religion prohibits Muslims from committing suicide or killing other people without right, abortion, and other life-threatening acts such as fighting, brawls and the like. Related to the transmission of the corona virus which threatens human lives throughout the world, including in Indonesia, the clerics have prohibited the holding of Friday prayers, fardhu prayers, tarawih and 'Id prayers in congregation in mosques or prayer rooms, because the gathering of many people will facilitate the transmission of the corona virus which can threaten the safety of many people's lives.

That's why taking care of the soul takes precedence over the implementation of congregational prayers at the mosque or mushala which can be replaced by their implementation at each other's homes. In this case, the guidance in Q.S. al-Baqarah verse 195,

الْمُحْسِنِينَ يُحِبُّ اللَّهُ إِنَّ سُنُّوا

Meaning: "And spend (your wealth) in the way of Allah and not you

dropping your hands (yourself) into at-tahlukah/destruction, and do good. Verily Allah loves those who doing good"

Spend your wealth in the way of Allah. The word in Allah's way gives the impression that this wealth will not disappear and will even grow because it is on a very guarded path, and in the hands of Him who promises to multiply every living in His way. Furthermore, they are reminded not to fall into destruction. Destruction is deviating or losing the positive value attached to something without knowing where it goes. If you plunge yourself into destruction, you will lose the positive values that have been attached to you, such as belief in the oneness of Allah, independence and freedom and even life and inner peace.

where Allah Ta'ala forbids His servants to plunge themselves into corruption (infected with the corona virus). Likewise in the hadith narrated by Ahmad and Ibn Majah, the Messenger of Allah prohibited his followers from acting in ways that endanger themselves and others (laa dharara wa laa dhiraara), that is, do not let someone catch the corona virus or transmit it to others.

b. Keeping Intellect (Hifzhul Aqli) Intellect is the greatest blessing after the pleasures of life (life). With that reason, one can separate what is true and false, can sort and choose which is good (maslahat) and useful and which is destructive (mafsadat) and harmful (madharat).

With reason, humans can fly faster than birds by creating airplanes, defeating lions, bears, crocodiles, sharks, whales and so on whose strength and body size are much larger than humans. Even outer space can be penetrated and its contents can be exploited for the benefit of humanity at large. This reason is also what can lead people to find the truth, and pick up guidance. Therefore the existence of reason must always be maintained and cared for its benefit. It is for this purpose that the Shari'a obliges Muslims to study knowledge, encourages them to think a lot for the good of themselves, their families, religions, nations and countries. Apart from that, it prohibits them from consuming drugs, drinking intoxicating drinks (khamar), watching pornographic films, playing games and the like, because they can damage the human brain.

c. Safeguarding Religion (Hifzhud Diin) Religion as a guide for human life so that it is orderly, orderly, balanced physically and spiritually, and directs humans to live happily, safely and gloriously in this world and the hereafter. That's why the Shari'a stipulates various guidelines to safeguard, care for and maintain the existence of religion, such as upholding the five daily prayers as the pillars of religion, jihad against invaders who could endanger the continuity of religion, spreading Islamic da'wah both verbally (dakwah bil verbal), writing (dakwah bil kitabah), as well as social actions (dakwah bil hal).

In addition, the Shari'a also prohibits shirk (musyrik), kufr (kafir), nifaq (hypocrite), leaving Islam (apostasy), marrying non-Muslims, all of which can undermine and even undermine a Muslim's religious resilience. It is also not permissible to insult God and other religions, because it is tantamount to insulting God and the Islamic religion itself.

d. Protecting Offspring (Hifzhun Nasli): Offspring is like half of the soul of human survival that is given a gift in the form of sexual instincts. With offspring, humans will be able to continue their caliphate's duties to prosper the earth with various things that are beneficial to others in accordance with divine guidance. So protecting offspring is an important concern in Islamic Sharia in order to create harmonization of social life starting from the household environment, community to the nation's order that supports the resilience of a country. For that purpose, Islam regulates a system of raising offspring in the form of law on marriage so that sexual instincts can be channeled legally and lawfully, and human reproduction can be maintained for its benefit by giving birth to good offspring (pious and pious).

Likewise, Islam prohibits adultery and other sexual deviations that can damage the welfare of offspring and prevent the spread of venereal diseases due to sexual deviations. If not prevented, then of course it will disrupt the health and comfort of living in society. Apart from that, abortion, vasectomy and tubectomy are also prohibited without justified reasons, because these actions are categorized as efforts to terminate offspring.

e. Safeguarding Wealth (Hifzhul Maal): Wealth is a ware (intermediary) for achieving various desires, living happily (although it is relative), can also support the implementation of worship. With wealth, people can buy clothes to cover their genitals, which is actually one of the conditions validity of prayer, used for alms, almsgiving, endowments, grants, hajj, supporting the success of Islamic Holiday Commemorations (PHBI) and so on. That's why wealth must be protected because it can support the establishment or success of the religious struggle. With regard to the benefits of this immense wealth, the Shari'a obliges Muslims to seek it in a lawful way, and even classifies earning a halal living as a form of jihad, if one dies while earning one's living, one's death is considered martyrdom. Then after the assets/money have been obtained, it should be tasharufkan (used) to fulfill basic needs such as clothing, food, shelter, and other needs that are halal in status. Also don't forget to share with others through alms, zakat, infaq, alms, which are useful for protecting assets from evil and calamity as well as multiplying them.

Apart from that, it is also not permissible for the assets to be used excessively or for something pointless such as having a spree, damaging one's own things and the like. Islamic Shari'a also protects the ownership rights of a person's property

obtained from his own hard work, with a set of rules that prohibit anyone from interfering with a person's property, whether a believer or an unbeliever.

Therefore Islam prohibits criminal acts such as theft, robbery, coercion, deprivation/looting, fraud, vandalism (destruction), or other unjust acts that harm others. Meanwhile, even though the Shari'a allows property owners to develop their assets according to their own ideas and wishes, they still do not violate the Shari'a, so there is a prohibition on carrying out transactions that contain usury, gharar (deception), maysir (speculation), hoarding goods for general needs (ihtikar), and the like. In particular, the Shari'a obliges the owner of property to protect his property, so that if the owner of the property dies for protecting his property, then he is considered a martyr.

Islam's presence in Indonesia does not deny the entity of tradition but is able to provide new values, meanings and identities in the form of creative relations between religion and tradition. Hadi WM emphasized that there are three forms of this relationship namely, integrative, dialogic and a combination of the two; First, integrative, that is, most of the life and culture of a community is integrated with the view of life, knowledge systems and Islamic values. This can be seen in the Aceh language, "hukom ngon adat lagee zat ngon sifeut" (religion and custom such as substances and characteristics), in West Sumatra it is known as "adat basandi conditions, syarak basandi Kitabullah" (adat based on religion and religion based on Kitabullah).

This integrative pattern is found in many Malay communities, such as Aceh, Minangkabau, Palembang, Riau, Bajar, Banten, Coastal East Java and Madura. Second, the dialogic form, Islam is forced to dialogue with local traditions that have long been practiced by the community.

An example is the people of Inland Java, which is thick with the influence of the Palace of Islamic mysticism mixed with Hinduism. The arts and rituals of the Hindu era are still practiced with a bit of Islamic touch. Third, the combined form of dialogical and integrative can be seen in eastern Indonesia, for example in Sulawesi.

The king and the nobility embraced Islam first and then their subjects followed, although traditional practices are still mixed with pre-Islamic beliefs. This can be seen in the Bugis expression: Mappakarajai sara'e ri ade'e, Mappakalebbi'i ade'e ri sara'e (shari'a respects custom, custom honors shari'a). Furthermore, traditions or customs are interpreted as knowledge, decency, laws, customs, human habits.

According to Koentjaraningrat, tradition consists of language, science, kinship, technology, economy, art and religion. Koentjaraningrat further said that customs can be divided into values, norms, laws and special rules. In society, values that remain sustainable and continue to be practiced today, for example, gotong royong and mutual help. Meanwhile, each tradition has its own value which assumes that the achievement of success is due to one's own effort and ability. This can be seen in Western society, whereas for Eastern societies such as in Indonesia, they have a traditional value orientation that the success obtained cannot be separated from the help of others. , or highly value the relationship between people. The value orientation of the Western tradition leads to the notion of individualism, while the value orientation of the Eastern tradition gives rise to the notion of collectivism.

Values in terms of orientation can be divided into six, namely: (a) Theoretical values, namely values that involve logical and rational considerations in thinking about and proving the truth of something. (b) Economic value, namely the value related to the consideration of the profit and loss value. (c) Aesthetic value, namely placing the highest value on the form of harmony, which contains beautiful and not beautiful values. (d) Social value, namely the value contained in human relations, the highest value is the value of affection. (e) Political value, namely the value that lies in influencing so that the intensity from low to high, the highest value is power. (f) Religious values, namely values that have the strongest basis of truth compared to previous values, which came from God.

Then in the concept of maslahat refers to the principle that Islamic law aims to benefit human beings and make people's lives better and harmonious.

### *The Scope Of Sharia, Marriage And Tradition*

According to al-Syatiby *maslahah* consists of three categories, namely; *daruriyat*, *hajiyat* and *tahsiniyat*. First, *daruriyat* is something that is absolute or must exist in human efforts to achieve benefit in this world and in the hereafter. If *Daruriyat* does not exist then the benefit of the world cannot be achieved and will even damage the *maslahah* itself. Second, *hajiyat* is something that is needed in terms of freedom (*tawassu'*) and eliminating narrowness that leads to difficulties (*masyaqqah*). However, the damage to the *hajiyat* does not destroy the benefits that exist at the emergency level. Third, *tahsiniyat* is taking something that is in accordance with customary goodness and avoiding circumstances that pollute or tarnish so that it becomes a disgrace in the eyes of reason.

According to *ushul* scholars, in terms of *maslahah* content, dividing *maslahah* into two: First, *maslahah al-'ammah*, namely the general benefit that concerns the interests of the people. The general benefit in question does not mean for the benefit of all people, but can be in the form of the interests of the majority of the people or most of the people. Second, *maslahah al-khashshah*, namely personal benefit, such as benefit related to the termination of a person's marital relationship who is declared missing (*maqfud*). In line with that, according to the concept of customary Islamic law can also be used as a legal basis (*aladatu muhakkamah*), meaning that customs that are in line with Islamic law can be practiced by the community. So thus the wedding customs in the Acehese society are laden with Islamic values which are caused by the social order and traditions of Aceh thickening with religious values. Therefore, the wedding customs, like other customs, are in accordance with Islamic law. Apart from that, in the context of *ushul fiqh* rules, there is a rule that *adat* can be used as "*al-adat al-muhakkamah*" law. This means that the customs in marriage are in accordance with the laws and principles of Islamic *shari'ah*.

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