

Tradition of *Besan Bali* Marriage in the Muslim Community of Banjarnegara

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Abstract: This article examines how the *Besan Bali* marriage tradition in the Muslim community of Banjarnegara and an overview of Islamic law. This type of research is a field research, using qualitative methods with a qualitative descriptive approach. The interview method was used to obtain direct data from the informants. The types of data are primary and secondary data. The results of this study show that the *Besan Bali* marriage tradition is a tradition of prohibition in marriages that occur between two brothers (*besan*) that someone who wants to hold a marriage is hindered if the-bride-to-be comes from the *Besan* family where previously her brother was married to her groom-to-be's family and vice versa. If it is reviewed based on Islamic law, the prohibition of *Besan Bali* marriage is actually not in accordance with Islamic teachings, because the reason for the prohibition of *Besan Bali* marriage is not in accordance with Islamic teachings.

Keywords: *Besan Bali Marriage, Muslim Community, Islamic Law*

A. INTRODUCTION

Tradition or culture of marriage and the rules that govern it that apply to a society cannot be separated from the influence of culture and the environment in which the community is located, as well as the associations of the community. Indonesia has a population with various customs, values, cultures, religions, and living habits (Budiman, 2018). This diversity illustrates that the Indonesia is a country that respects and maintains the wealth of existing traditions. As in Islam, this tradition is commonly referred to *urf*.

According to customary law, in general in Indonesia, marriage does not only mean a civil engagement but is also a customary engagement and is also a kinship and neighbor engagement (Mustofa, 2017). Some people still believe in traditions or previous cultural systems, that are traditional societies. People who violate tradition mean that they have left the existing systems. After Islam embraced, the legal basis was replaced with rules based on Islamic law (Sutiyono, 2013).

Practices in ethnic and religious communities have different goals, various marriages in Islam aim, among other things, to avoid practices that lead to the dehumanization of women (Hariyanto, 2016). However, many Javanese people are still very dependent on the customs or traditions of the community's procedures that have been passed down from generation to generation from their ancestors.

The traditions circulating in this community take various forms, starting from the belief in the prohibition of behavior or things that must be done when starting something, such as in several villages in Bawang District, Banjarnegara, in carrying out marriages still based on the beliefs of their ancestors. One of them is the "*Besan Bali*" wedding tradition. *Besan* means a family relationship between two parents because their child is married (Kebudayaan, 2001). The *Besan Bali* tradition regulates marriage which must be avoided and obeyed in accepting a son or daughter-in-law when getting married. The community's implementation of this tradition is still firmly held in several villages, Bawang District, Banjarnegara Regency.

According to Sutijah, a native of Wanadri Village, some people have carried out this traditional practice. Some of those who still believe in this tradition eventually cancel their marriage because they are afraid that bad things will happen if the marriage continues. Still, some people continue to hold the wedding even though they know that they are *Besan Bali*. And it is sure enough when they continue to hold it, marriage was a lot of bad things that happened to them. Such as having a child with a disorder, the family is not harmonious, some even have their family die.

Research on wedding traditions in an area which is a custom is not something new in research. There have been several studies discussing this, including research conducted by: First, Bayu Ady Pratama, Novita Wahyuningsih with the title: Javanese Traditional Marriage in Nengahan Village, Bayat District, Klaten Regency (Pratama et al., 2018); second, Safrudin Aziz

with the title: Javanese Traditional Wedding Traditions of Javanese Palace Forms a Sakinah Family (Aziz, 2017); third, Roy Kembar Habibi and Eny Kusdarini with the title: Local Community Wisdom in Preserving Pepadun Wedding Traditions in North Lampung (Habibi & Kusdarini, 2020); fourth, Moh Yasir Alimi with the title: Islam as Drama: Wedding Rites and the Theatricality of Islam in South Sulawesi (Alimi, 2014).

Based on the descriptions of some of these studies, this research on the *Besan Bali* Marriage Tradition in Banjarnegara Muslim Community is different from the others. The main issue raised is how the *Besan Bali* marriage tradition that occurs in the Muslim community, Bawang sub-district, Banjarnegara, Central Java and a review of Islamic law.

B. RESEARCH METHOD

This type of research is field research. It aims to study intensively the current state and position settings, as well as the environmental interactions of specific social units that are given (Danim, 2002). This study uses a qualitative method with a qualitative descriptive approach. Qualitative methods aims to gain a deep understanding of human and social problems (Gunawan, 2014). This approach can produce descriptive data in the form of written or spoken words from people and the observable behavior of people (Basrowi & Suwandi, 2008). In conducting this research, researchers do it to obtain data or information directly from informants by collecting direct, intensive, detailed and in-depth data on an organization, institution or specific phenomenon (Arikunto, 2005), so that the interview method is used for the community and religious leaders in Bawang sub-district, Banjarnegara Regency.

Primary data is data obtained by means of interviews (Ashshofa, 1998). Primary data in this study acts as the main data in information obtained directly by researchers (Siyoto & Sodik, 2015). The primary data in this study are data from interviews with respondents. Meanwhile, secondary data is in files from related institutions, mass media, research results and books.

C. RESULTS AND DISCUSSION

1. Definition of Marriage

According to Ter Haar, marriage is a business or legal event that causes the group to continue in an orderly manner and is a condition that causes the

birth of a new generation that continues the group (Haar, 1991). Meanwhile, Lord Penzance argues that marriage is: "I conceive that marriage as understood in Christendom, maybe defined as the voluntary for the life of one man and one woman to the exclusion of all other". The keyword marriage, when referring to the statements above, is that marriage must be voluntary without coercion, marriage is for life, and the nature of marriage is monogamous (Rusdiana & Aripin, 2007).

Meanwhile, Article 1 of Law no. 1 of 1974 concerning Marriage defines that; "Marriage is an inner and outer bond between a man and a woman as a husband and wife bond to form a happy and eternal family based on the One Godhead". Meanwhile, in the Compilation of Islamic Law marriage is described more specifically. According to Islam, the Compilation of Islamic Law states that marriage is a very strong contract (*mitsaqan ghalidzan*) to obey Allah's commands and carrying it out is worship. A very strong understanding of the contract implies that the marriage bond is not a playful bond that can be easily declared ended without any religious reasons that can justify it. In addition, with a clause to obey Allah's commands and carry them out is worship, then the implementation of marriage, from the start, must be in accordance with the demands that have been outlined by religion (Surkalam, 2005).

Therefore, based on the law, marriage is one of the sacred and noble contracts between a man and a woman, which is the cause of the legal status as husband and wife. It is permissible to have sexual relations with the aim of achieving a peaceful family (*sakinah*), full of love compassion, virtue, and willingness to help each other (Sudarsono, 1991).

The State of Indonesia has determined regulations governing marriage regarding marriages that are allowed and those prohibited by law. The Marriage Law has determined several prohibitions to carrying out marriages contained in Articles 8, 9 and 10 (Saleh, 2006). The provisions in Articles 8, 9 and 10 of the Marriage Law are very close to the provisions for prohibiting marriage in Islam (Thalib, 2009).

Article 8 of Law no. 1 of 1974 concerning Marriage states that it prohibits marriage between two people who are related by blood, either up, down or sideways, have sexual relations, breastfeeding, sibling relations with their wives and relationships which their religion or other applicable regulations prohibit marriage. Article 9 prohibits a person who is still bound by the ties of marriage to another person to remarry unless there is permission from the

Court. And Article 10 prohibits remarriage between husband and wife who have been divorced for the second time (Asmin, 1986). Furthermore, Article 9 of Law no. 1 of 1974 states, a person who is still bound by marriage to another person cannot remarry, except in the case referred to in article 3 paragraph (2) and Article 4 of this law (Nuruddin & Tarigan, 2006).

On the other hand, if we look at the Compilation of Islamic Law, it turns out to be more detailed and firm when compared to the provisions in the Marriage Law. Even the Compilation of Islamic Law, in this case, follows the standardized fiqh systematics. The prohibition of marriage is contained in Chapter VI, Articles 39 to 44 (Ghazali, 2010). In Article 39, it is stated that it is prohibited to carry out marriage between a man and a woman: 1) Due to kinship ties: 2) Due to marital kinship: 3) Due to sexual affinity: While the prohibition which is *mahram muaqqat* (a ban for a certain time) is contained in Article 40 of the Compilation of Islamic Law states that it is prohibited to carry out a marriage between a man and a woman because of certain circumstances: 1) Because the woman in question is still related to one marriage with another man; 2) A woman who is still in *iddah* with another man; 3) A woman who is not Muslim.

Article 41 explains the prohibition of marriage, because of kinship ties with women who have been married, or breastfeeding. 1) A man is prohibited from marrying his wife with a woman who has kinship or marriage ties with his wife; a) Siblings, father or mother and their descendants; b) A woman with her aunt or niece. 2) The prohibition in paragraph (1) remains in effect even though his wife has been divorced by *raji (talak raji)*, but is still in the *iddah* period. The marriage prohibition also applies to a man who has had four wives and is still bound in marriage or is still in the *iddah* period.

In Article 42 it is stated: A man is prohibited from marrying a woman if the man is having 4 (four) wives, all four of whom are still bound by marriage or while the others are in the period of *iddah talak raji*. The prohibition against a wife who has been divorced three times and *lian* is regulated in Article 43 which reads: 1) It is forbidden to marry a man: a) With a woman who has been divorced three times; b) With a woman his ex-wife that being *lian*. 2) The prohibition referred to in paragraph (1) letter a is invalid if his ex-wife has married another man, then the marriage is broken up *ba'da dukhul* and the *iddah* period has ended. Furthermore, Article 44 states that, a Muslim woman is prohibited from marrying a man who is not Muslim.

It seems that with regard to the prohibition of marriage contained in fiqh, the Marriage Law and also the Compilation of Islamic Law do not show a conceptual shift, this is because the problem of prohibiting marriage is a normative issue which can be said to be taken for granted (Nuruddin & Tarigan, 2006).

2. Urf

The word *urf* comes from the word *arafa yarifu*, often interpreted as *al-maruf* with the meaning: “something known”. If it is said that someone is more than others in terms of *urf*, it means that the person is better known than others. The definition of “known” is closer to the meaning of “recognized by others”. The word *urf* is also found in the Qur’an with the meaning “ma’ruf” which means virtue (Amir, 2008). While the word *adat* contains a neutral connotation, *urf* is not the case. The word *urf* is used by looking at the quality of the actions carried out, that is recognized, known, and accepted by many people. Thus, the word *urf* has a good connotation. This can be seen in the use of the word *urf*, meaning *ma’urf* (Amir, 2008).

The word *urf* means an act that is both known and recognized by many people. The existence of these two different points of view (from the point of view of repeatedly, and from the point of being known) gives rise to the two names. In this case, there is actually no difference in principle because the two words have the same meaning, that is: an act that has been done repeatedly becomes known and recognized by many people, then the act is done repeatedly. Thus, although the two words can be distinguished, the difference is not meaningful (Amir, 2008).

If the custom in question is a habit carried out repeatedly as a way of life in society, then other countries also have it. But it is not transformed into a legal system like in Indonesia. India, Malaysia, the Philippines and so on do not embody customs as a legal system. Due to different colonial factors, customs in Indonesia were transformed into a legal system (customary law). Presumably, the colonial motivation factor is also decisive here. India and Malaysia was colonized Britain and the Philippines was colonized by Portugal, but they did not enter into the daily life of their colonies. The Dutch colonized Indonesia for a long time and the Dutch went too far into people’s lives. If the Dutch did not transform *adat* into a legal system, Britain, which took over the colony in 1811, would not interfere with the customary law as in other British colonies (Yaswirman, 2017).

Meanwhile, if what is meant by customary law is habit a (*gewonten*), in the mid-19th century, religious law, in this case, Islamic law and customary law, applies equally strongly as long as the community respects it and as long as it does not conflict with the public interest (*algemeen belang*), government, and is a real social need (article 131 paragraph 2 b IS). Van Vollenhoven argues that for the bumiputra group, the law that applies to them is customary law, customary law is Indonesian (traditional) hereditary law, religious law, including and especially Islamic law, is an addition or complement to traditional law.

Thus, it is no longer correct to say that customary law is, at least the most. For the most part, Islamic law applies based on ordinances and/or laws and others based on and in customary law. The scholars justify the use of *urf* only in *muamalah* matters, and even then after fulfilling the above conditions. What needs to be known is that in terms of worship, *urf* is not applicable. What determines in terms of worship is the Qur'an and Hadith (Basiq, 2010).

3. *Besan Bali* Wedding Traditions in Banjarnegara

a. *Besan Bali* Wedding Practice

Custom is the ideal embodiment of a culture that has a role as a code of conduct. Culture is the whole of human ideas and works, which must be familiarized with learning and the whole result of his mind and work. The word culture comes from the Sanskrit word *buddhayah*, which is the plural form of *budhi* which means "mind" or reason, thus culture can be interpreted as matters related to mind and reason (Koentjaraningrat, 2000).

For some people in the Bawang Banjarnegara sub-district, the *Besan Bali* wedding tradition is a tradition that is still preserved in everyday life. They reasoned that keeping a tradition was an honor for the ancestors who had fought in the past. In addition, they consider that the consequences that arise if they violate the ban on the *Besan Bali* wedding tradition will cause unrest for some people. Although the majority of the population of Bawang sub-district is Muslim, this is not able to influence the belief in this marriage tradition. Meanwhile, for some other people, the *Besan Bali* custom is a tradition that is no longer appropriate if it is practiced today. They assume that the economic level of the developing community, the more advanced level of education, is a strong reason for them to determine which one is better and not in the future.

The practice of *Besan Bali* marriage is still firmly held by some people, but some no longer believe in this tradition. Community leaders from the village of Wanadri Bawang Banjarnegara, Sodik, argued that in practice many people did not believe in the *Besan Bali* tradition, but some people who know about the *Besan Bali* tradition still hold on to it, because of feelings of anxiety about the impact of the *Besan Bali* tradition. So that it seems to be a brake to think further, and thus still practice the *Besan Bali* tradition. The same thing was also expressed by Dulwardi who is a community leader in the village of Patoman Bawang Banjarnegara, arguing that along with the times like this, the *Besan Bali* wedding tradition is a belief that should not be enforced, because it is no longer appropriate, by looking at the mindset of the people who are increasingly advanced, and have higher education. According to him, the family who is still practicing the *Besan Bali* tradition is an oddity (more on obeying their parents' wishes). This old mindset in a family cannot be avoided, because it has become a law that binds the community, even though the *Besan Bali* tradition is not in accordance with the provisions of Islamic teachings.

According to Surahmad, the people of Kali Putih village still firmly believe in and practice the *Besan Bali* tradition in their families. Surahmad assumes God has determined the mate, but we don't know when it will come, we are only introspective; because this tradition has existed since time immemorial, and there have been many victims, not just two, three people but many. We hope that marriage is lasting, *sakinah, mawaddah warrahmah*, until they have children, and we want to see our grandchildren grow up. Therefore, the *Besan Bali* wedding tradition is still maintained and applied in his family. In line with Surahmad's opinion, Towim, the village head of Wiramastra Bawang, stated that the *Besan Bali* tradition is a prohibition on marriage that should not be carried out, if it is violated it will cause things that are not good for the family. This *Besan Bali* tradition has existed for a long time, even as a customary law, but if you look at the times, it turns out that many people have ignored it.

In line with the diminishing traditional guidance and the increasingly shifting roles in society, followed by the experience of a developing community, it turns out that many people have put aside this *Besan Bali* tradition. This society's view assumes that the *Besan Bali* tradition is outdated, no longer in accordance with the times. Maybe some people still believe in the

Besan Bali tradition, but if you look at the reality and according to the development of the times, this *Besan Bali* tradition is no longer in accordance with today's era. Even in the last few decades, most of the economic, socio-cultural and political life orders have been penetrated by a consumerist lifestyle and freedom is almost out of control (Hariyanto, 2022).

b. Islamic Law's View on *Besan Bali* Marriage

Customary law that applies in society, when viewed from the perspective of *ushul fiqh*. First, customs that are in accordance with the Islamic law are repeated, accepted by many people, do not conflict with religion, good manners and noble culture. Second, customs that are not in accordance with the Islamic law apply in a place even though their implementation is evenly distributed, but they are contrary to religion, laws and manners (Amir, 2008). The custom in Bawang Subdistrict, Banjarnegara Regency, which is called the *Besan Bali* tradition is a custom that regulates the prohibition of marriage, someone who wants to hold a marriage is hindered if, the prospective bride comes from a *besan* family whose previous brother is already married to the prospective groom's family. In the *Besan Bali* tradition, it is believed that it will negatively impact the continuity of domestic life, both abnormalities in children, inharmonious families and even separation.

Islamic law stipulates that not every man is allowed to marry every woman. Among the women, certain men are not allowed to marry because there are barriers between men and women. Namely things, the ties between a man and a woman who are married and it is forbidden to do a marriage contract between the two (Ramulyo, 2014). As mentioned in Surah an-Nisa (4): 23 as follows:

حُرِّمَتْ عَلَيْكُمْ أُمَّهَاتُكُمْ وَبَنَاتُكُمْ وَأَخَوَاتُكُمْ وَعَمَّاتُكُمْ وَخَالَاتُكُمْ وَبَنَاتُ الْأَخِ وَبَنَاتُ الْأُخْتِ وَأُمَّهَاتُكُمُ اللَّاتِي أَرْضَعْنَكُمْ وَأَخَوَاتُكُم مِّنَ الرَّضْعَةِ وَأُمَّهُت نِسَائِكُمْ وَرَبَائِبُكُمُ اللَّاتِي فِي حُجُورِكُمْ مِّن نِّسَائِكُمُ اللَّاتِي دَخَلْتُم بِهِنَّ فَإِن لَّمْ تَكُونُوا دَخَلْتُم بِهِنَّ فَلَا جُنَاحَ عَلَيْكُمْ وَحَلَائِلُ أَبْنَائِكُمُ الَّذِينَ مِنْ أَصْلَابِكُمْ وَأَن تَجْمَعُوا بَيْنَ الْأُخْتَيْنِ إِلَّا مَا قَدْ سَلَفَ إِنَّ اللَّهَ كَانَ غَفُورًا رَّحِيمًا ﴿٢٣﴾

“Prohibited to you (for marriage) are your mothers, your daughters, your sisters, your father's sisters, your mother's sisters, your brother's daughters,

your sister's daughters, your (milk) mothers who nursed you, your sisters through nursing, your wives' mothers, and your step-daughters under your guardianship (born) of your wives unto whom you have gone in. But if you have not gone in unto them, there is no sin upon you. And (also prohibited are) the wives of your sons who are from your [own] loins, and that you take (in marriage) two sisters simultaneously, except for what has already occurred. Indeed, Allah is ever Forgiving and Merciful." (QS. An-Nisa' (4): 23)

Conditions for a valid marriage in Islam: first, the existence of a prospective husband; second, the existence of a prospective wife; third, consent and qabul; fourth, there is a guardian and fifth, there are two witnesses (Ghazali, 2010). However, it is different from the *Besan Bali* tradition, which requires that marriage must be between a man and a woman, where there is no besan relationship between them because of the marriage of one of their families. The Qur'an does not explain the prohibition of marriages in the *Besan Bali* tradition. Still, Islam has never prohibited marriages of different ethnic groups, regions, as is the case with the prohibition of the *Besan Bali* tradition.

There has been an agreement between scholars in accepting adat. In practice, there is an element of benefit and no element of harm, or the element of benefit is greater than the element of harm, and custom which in principle substantially contains elements of benefit, but in practice it is not considered good by Islam. So customs in this form are grouped into authentic customs (Amir, 2008). Based on the good and bad, there are two kinds of custom or *urf*, that is *urf sahih* and *urf fasid*. *Sahih urf* is known to each other by humans and does not conflict with the *syara* arguments, does not justify what is forbidden and does not invalidate what is obligatory. *Urf fasid* is what is known to each other by humans, but is contrary to the Shari'a, or justifies what is forbidden or cancels what is obligatory (Khallaf, 2005).

Regarding the requirements for the *Besan Bali* marriage in Bawang Banjarnegara, there are similarities in the requirements for Islamic marriages. Still, they are striking and different from the *Besan Bali* tradition. The *Besan Bali* wedding tradition is that someone who will hold a marriage does not come from two families that previously had a *besanan* bond and if they continue to carry out the marriage regardless of the consequences of violating the tradition, it will result in imperfect children being born, and disharmony in a family so that it ends up on farewell. The ban on traditional *Besan Bali* marriages is not appropriate, because the legal requirements for a person to be married have

been fulfilled without having to be limited by not being allowed to marry two people whose families previously had *besanan*. Meanwhile, regarding the consequences that occur in the *Besan Bali* tradition, that someone who violates the provisions of the *Besan Bali* marriage, then the offspring are disabled or imperfect and the family will not be harmonious so that there is a separation. This is contrary to the teachings of Islam, because every human being who is born in the world, Allah has created very perfectly. As mentioned in surah at-Tiin (95): 4

لَقَدْ خَلَقْنَا الْإِنْسَانَ فِي أَحْسَنِ تَقْوِيمٍ ﴿٤﴾

“Surely We created man in the best mould.” (at-Tiin (95): 4)

The prohibition of the marriage of the *Besan Bali* tradition is a tradition that has existed since ancient times in the Bawang sub-district, Banjarnegara district, the *Besan Bali* tradition is believed to have a negative impact on the survival of the family and offspring. If the marriage is still carried out, then the family violates the customary provisions that have been set. Sanctions obtained by those who violate the beliefs of the Bawang sub-district community are imperfect offspring born (disabled) and family disharmony which will impact separation.

The ban on traditional *Besan Bali* weddings in the Bawang sub-district, Banjarnegara district. There are those who still believe in the *Besan Bali* tradition, but there are also those who don't believe in the tradition. According to the researcher, for people who still hold the prohibition on the *Besan Bali* tradition, it is due to a lack of public understanding in religion, even though in reality the majority of the population of Bawang sub-district is Muslim. In addition, they want to follow traditions that have been passed down from generation to generation in society. Meanwhile, people who no longer believe in the *Besan Bali* tradition think that this tradition is no longer in accordance with today's developments. In today's modern era, someone who wants to get married will certainly see from several aspects that a person has, besides the influence of the mindset of an advanced society, education level, economic level of those who work outside the region, this group of views is what no longer believe in the ban on traditional *Besan Bali* marriages.

The prohibition of marriage in the *Besan Bali* tradition is a tradition that is contrary to Islamic law, because Islam does not place restrictions on a person

in marriage. Still, the benchmark is in accordance with Islamic teachings. Therefore, the *Besan Bali* wedding tradition can be used as a benchmark for society, which is a marriage that can and cannot be carried out according to Islamic law. Although customs still apply in society, and become a habit that already exists and is not easily changed, people can realize that customs that are not in accordance with Islamic teachings must be abandoned.

D. CONCLUSION

Based on the discussion above, the *Besan Bali* wedding tradition is a tradition that prohibits marriage which is applied to a bride-to-be who comes from the *Besan* family where previously her brother was married to her groom-to-be's family and vice versa. When viewed from the aspect of Islamic law, the prohibition of marriage *Besan Bali* is not in accordance with Islamic law, whether based on the aspect of *urf* or custom. Because customs that can be accepted in Islamic law are customs that do not conflict with the teachings of Islamic law itself.

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