Giving Stepping Gifts in Marriage According to Customary Law and Islamic Law

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Giving Stepping Gifts in Marriage According to Customary Law and Islamic Law

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ABSTRACT

This research is to look at traditional marriage traditions that apply the giving of money or gifts from a younger sibling who will carry out the wedding ahead of his older sibling. The problem is what is the meaning of giving gifts of steps to siblings in marriage and what is the view of Islamic law regarding the culture of giving gifts of steps in marriage. The method used to achieve the objectives of this research is normative legal research, which is research whose data is sourced from secondary data, the nature of this research is descriptive, which aims to provide an overview of the meaning of giving gifts or money to siblings in marriage. The results of the study show that marriage in Indonesia is still steeped in customs and traditions. One of them is the tradition of giving gifts or step money that still exists and occurs in indigenous peoples. If the younger sibling is to carry out the marriage beforehand from her older sibling, the younger sibling will prepare a gift or money as a form of respect and at the same time ask for the older sibling's blessing. The gift to be given can be negotiated in advance or voluntarily. In Islam, there is no step money or gifts from younger siblings to older siblings. Islam does not prohibit giving step money or gifts, because giving gifts to relatives, relatives or family is seen as a good deed.

Keywords: Giving, Step Gifts, Marriage, Customary Law, Islamic law.

INTRODUCTION

Humans are born with nature, where the nature in question is attraction to the opposite sex, this attraction to the opposite sex cannot be separated from human life, because it is an instinctive need.

In Islam, having a family has been regulated in detail. This shows great concern for the welfare of the family. Family is formed through marriage, therefore marriage is highly

recommended by Islam for people who have physical and spiritual abilities. This goal is stated, both in the Qur'an and in the sunnah (Zain, 2005).

Marriage is a very important thing in life for the sake of continuing offspring, even this is considered a very sacred thing. Marriage is a contract that contains legal provisions on the permissibility of sexual relations with the word marriage or with words that have a meaning with it. In Islamic law, marriage is marriage, which is a very strong contract or mitsaqan qhalidzhan to obey Allah's commands and carrying it out is worship. (Compilation of Islamic Law Article 2, Marriage is a sunatullah that is common and applies to all of His creatures, both humans, animals and plants. It is a method chosen by Allah SWT as a way for His creatures to reproduce, and preserve his life. So the rules of marriage according to Islam are religious guidelines that need attention, so that the purpose of getting married should also be aimed at fulfilling religious instructions. So if summarized there are two goals for people getting married, namely fulfilling their instincts and fulfilling religious instructions (Ghazaly, 2003).

According to customary law, marriage is not only an important event for those who are still alive, but marriage is also a very meaningful event that receives full attention and is attended by the spirits of the ancestors of both parties. Marriage according to customary law is a sexual relationship between a man and a woman, which carries a broader relationship, namely between groups of male and female relatives and even between one community and another. (Utomo, 2016). With the occurrence of marriage, it creates social human relations through the power of a contract that is consciously carried out and spoken by a man and a woman to form a family relationship based on the voluntary principle of both parties. Marriage will be worth worship if it is done to seek the pleasure of Allah SWT (Zain, 2005).

For Muslims, there are factors that must be met as a necessity to get married, that in order to get married, pillars and conditions must be met which cannot be abandoned, meaning that a marriage is invalid if the pillars and conditions are absent or incomplete. (Syaripuddin, 2009). Because the presence of conditions and pillars in marriage is essentially so that the inner and outer bond between husband and wife is guaranteed.

When Islamic law is practiced in the midst of people who have different cultures and customs, it is often not uniform with religious rules. For example, when a woman is about to get married, but the daughter has an older sister who is not married, then the bride and groom have the right to give a step money as a condition for overstepping the bride's older sister. And if the bride has more than one older brother, then all of them must be given step money. This gift is a customary stipulation that must be paid, meaning that if it is not given steps it will hinder the marriage, so that the marriage cannot be carried out. But now these customary traditions can also be ignored by indigenous peoples, because it is only a tradition and in religion it is not taught.

RESEARCH METHOD

Research comes from English consisting of the word "re" and "to research" comes from "circum/circare" which means to check again. Research can be said as a means to strengthen, foster and develop human knowledge. The legal research method is research that is applied or specifically applied to the science of law. This research is classified into the type of normative legal research. Normative legal research is legal research conducted by examining literature or secondary data (Soekanto & Mamudji, 2003). Normative legal research is also called doctrinal

legal research. According to Peter Mahmud Marzuki, normative legal research is a process to find a rule of law, legal principles, and legal doctrines to answer the legal issues faced by (Marzuki, 2017). Sources of research data are primary legal materials, secondary legal materials and tertiary legal materials. The data collection method was carried out using document study techniques, which were analyzed using qualitative analysis techniques.

DISSCUS AND ANALYSIS

Giving gifts to siblings in marriage

Indonesia is an archipelagic country that has a diversity of ethnicities, languages, customs or what we often call culture. Culture is the result of human thought, so that wherever humans are, there must be a culture of humans who occupy that area, both a single culture and diverse cultures such as that of Indonesia. By having hundreds of islands and different tribes, various traditions were born, one of which is the tradition of giving gifts or step money which is still developing. This tradition is a habit that has been passed down from generation to generation by people from ancient times to the present.

The word step is taken from the root word step which in the Big Indonesian Dictionary is the movement of the feet (back, forward, right, left). This word gets the affix "pe" so that it becomes a step which means goods given by the groom and bride to unmarried older siblings (preceded by marriage) (Nasional, 2008). If the sister who is going to get married first from her brother, then she will prepare a gift as a form of respect and at the same time asking for the blessing of the older sister, the gift that will be given can be negotiated in advance or voluntarily.

The eastern cultural tradition of birth order is the basis for carrying out marriages, which is based on age. Where the oldest age is the older brother who marries first, but if the younger sibling's match comes first then the sincerity and willingness of the older brother will be tested to accept this decision. It is believed that younger siblings who step over their older siblings will make it more difficult for their older siblings to marry. Some areas in Indonesia, such as Batak, West Sumatra, Aceh, Sunda and other areas have different traditional processions. The procession has the meaning of asking for blessing and respect for the older brother, this is intended to get a smooth wedding ceremony and light matchmaking for his older brother. Meanwhile, in Islam there are no rules about who gets married first between brothers and sisters. Who already has the ability he is the one who should get married. Even though the older sister is not married, it will not hinder the validity of the marriage as long as the conditions and pillars of marriage are met.

The occurrence of marriage bypassing siblings can be caused by several kinds of factors, these factors are as follows: (Rifa"i, 2021)

1. There is a mate; There is already a suitable match (dating for a long time and consensual to further establish a serious relationship) and the family has also agreed, if they don't get married right away there is a fear of something unwanted happening.
2. Cultural factors or regional traditions; This cultural factor is often referred to as the customary factor. The strong doctrine of the environment and the conditions of a community is usually customary in the village which at a young age has been married off;
3. Educational factors; The low level of public education will certainly affect the mindset of the indigenous people.

4. Readiness or ethics; Actually, in ethics, the older ones marry first, but the younger ones are more prepared to even get a mate first than the older ones and also due to urgent circumstances so that the younger sibling has to get married first even though they have to risk overstepping the older ones.

For sure, the beginning of the customary tradition of paying or giving step money to older siblings as a result of being stepped over by their younger siblings to get married first is not well known, but this has been in effect from time to time, passed down from time to time, and something will get if violated so that then it enters into a traditional belief, it is this customary belief that is rather difficult to express.

One example of custom is in Gunung Batu Village, a marriage that precedes an older sibling from the female or male side is a marriage that is not permitted if the older sibling is not married so the younger sibling's marriage must be postponed until the older sibling marries first. This marriage is prohibited because the people of Mount Batu believe that if this marriage takes place then undoubtedly the life of the older sister in the future will not be good or good, especially in terms of matchmaking. Another impact is bad luck, trouble or bad consequences for his family, especially for his older brother, coupled with the behavior of the older brother who is stressed and depressed because he is stepped over and disappoints his parents because he has not found a mate for too long due to the emotions of being stepped over by his sister who wants to get married before him. This also applies to older brothers who are preceded by younger siblings (Putra, 2022).

When talking about marriage, stepping over siblings means also talking about money or stepping gifts that must be paid to the older brother. The step money must be given by the younger sibling to the older brother, and usually this is followed by a traditional ceremony of giving the step money which is very sacred. The form of step money that can be given by a younger sibling to an older sibling can be in the form of goods: (Putra, 2022)

1. One-piece outfit (customized)
2. Prayer equipment
3. Valuable items requested by the older brother, can be cash, electronic devices or jewelry,
4. According to the request of the older brother. This is abstract because people's requests vary from reasonable requests to unreasonable requests.

The traditional ceremony is intended to avoid bad consequences for older siblings who are not married. This ceremony is held before the wedding takes place. Sisters give gifts to older siblings by asking to be allowed to marry first by their older siblings, and giving gifts is something that is considered valuable and appropriate to give. The stepper tradition is carried out, namely to ask for blessings and respect elders (Adams, 2001).

Basically, the meaning of giving a gift of stepping is a request for permission from a younger sibling to an older sibling to marry first, then as a symbol of respect for the older sibling and upholding a sense of courtesy to elders, and an attitude of tolerance that aims to eliminate feelings of hostility or jealousy of older siblings. to his sister who will get married first, you will be pleased with giving gifts so that your sister will also be willing to be stepped over by her sister. Brothers are also allowed to ask for anything as a step requirement that will be provided by the prospective bride and groom.

If the request as a step gift cannot be fulfilled by the younger sibling, then there is relief that can be given. Relief can be given through deliberation between brothers and sisters. If the relief is not given by the older sibling, then the role of the parents will be to intercede or advise the older sibling to be compassionate to the younger sibling so that the older sibling is able to change their request.

In the Mabbollo custom in Biru Village, Tanete Riattang District, Bone Regency, the customary tradition will not give permission for the younger sibling to get married because it is still considered to bring bad luck to their own older sister, because the older sister is preceded by the younger sibling to carry out the marriage. Even if it is later allowed or permitted to carry out the marriage, the younger sibling is required to pay money or give a step-by-step gift first to his unmarried older sister, so that it becomes a dilemma for the younger sibling to carry out the marriage and some even discourage their intention to get married. The Mabbollo custom argues that if the younger brother in marriage oversteps his older brother, then it is feared that the older brother will get his match in a very long time and in addition there will be a disaster that will be obtained if he oversteps his older sibling, meanwhile for people who don't really care about this custom assume that everyone will get their soul mate at the right time, whether it's fast or slow (Hamdani & Nurnaningsih, 2021)

The custom of skipping marriage is actually just a custom that is customary and has been practiced for generations by indigenous peoples, it can be preserved with the consideration that this custom is a symbol of the identity of a region and as a form of respect for the older brother who is being stepped over and as a guardian of good family relations. Even so, these customs must be adapted to fiqh so that there is no conflict between adat and fiqh.

Views of Islamic Law Regarding Gift Giving Steps In Marriage

In human life, marriage is not only special but also very sacred and closely related to religion, even marriage is something that everyone dreams of. Therefore, most people carry out traditional wedding ceremonies that are packed with various styles and various cultures or traditions. Marriage is a sunnah that is lived by every human being. In principle, humans were created by Allah SWT not without a purpose, but inside it contains a very deep secret, so that the life of his servants in the world becomes peaceful.

According to the terms of Islamic law, marriage is a contract that is stipulated by syara' to allow men and women to have fun and to justify having fun between women and men. Marriage has an important role for humans in their life and development. For this reason, Allah SWT through His messenger provides a guide regarding this marriage as a legal basis. The legal basis for marriage in Islam is the word of Allah SWT in the Qur'an,

"And among the signs of His power is that He created for you wives of your own kind, so that you are inclined to and feel at ease with him, and He made them between you with love and affection. Indeed, in that there are signs for people who think" (QS. Ar Rum: 21).

The verse above explains that the purpose of marriage is to create a harmonious household full of love and affection (sakinah, mawaddah wa rahmah). Life like this is a necessity that has become the nature or instinct of every human being. This can be obtained if the couple (husband and wife) can carry out household life in accordance with the teachings that have been prescribed in Islam.

In the Compilation of Islamic Law, the definition of marriage and its purpose are stated in Articles 2 and 3 as follows:

Article 2 Marriage according to Islamic law is a marriage, namely a very strong contract or mitsaqan ghalizhan to obey Allah's commands and carrying it out is worship;

Article 3 Marriage aims to create a household life that is sakinah, mawaddah and rahmah.

According to customary law in general in this country, marriage does not only mean a civil agreement, but also a customary agreement and at the same time constitutes a kinship and neighborly agreement, so the occurrence of a marriage bond does not solely have consequences for civil relations, such as the existence of rights and obligations of parents, but also related to customary relationships such as inheritance, kinship, kinship, and neighbors as well as related to traditional religious ceremonies. Likewise with regard to the obligation to comply with religious orders and prohibitions, both in human relations with God, as well as human relations among humans in social life, so that they are safe in this world and in the hereafter (Wignjodipoero, 1984).

Marriage bypassing siblings is a common term in society and then becomes law (custom) for society. Even though it comes from customary law, this cannot be a benchmark that the marriage is prohibited according to Islam. The rule of fiqh mentions al-adatul muhakamah which means "that custom can be used as a source of Islamic law". However, customary law only applies in mu'amalah or society, while in matters of worship people may not add or subtract from what has been determined by Allah as stipulated in the Al-Qur'an and the sunnah of the Prophet.

In Islam, there are no rules about who gets married first between brothers and sisters. Who already has the ability he is the one who should get married. Even though the older sister is not married, it will not hinder the validity of the marriage as long as the conditions and pillars of marriage are met.

In Islam, there is no known step money or gifts from the younger brother to his older brother, but only giving dowry to the prospective bride or future wife. Islam does not prohibit giving step money or gifts, because giving gifts to relatives, relatives or family is seen as a good deed. So there are still many indigenous peoples who think that this gift is still at the permissible level. Customary law may apply without conflicting with Islamic law which has been explained in the Al-Quran and Al-Hadith and the step money is given on the basis of sincerity and willingness and ability to give it to his older brother as consolation money because he is stepped over or preceded by his sister in the case of marriage . If step money is a mandatory condition for a younger sibling who wants to marry over his older sister, then this is unlawful (Hamdani & Nurnaningsih, 2021). Because in Islamic law it has been explained as if there is good intention and intention then it is recommended or hastened to be carried out. As Allah says in Surah Al-Maidah verse 87,

Meaning: "O you who believe, do not forbid anything good that Allah has made lawful for you, and do not transgress. Verily, Allah does not like those who transgress the limits.

While Rasulullah Shallallahu 'alaihi wa sallam forbade setting conditions that are contrary to God's rules. Rasulullah Shallallahu 'alaihi wa sallam said, "All conditions that are

not in the book of Allah are false, even if there are a hundred conditions" (Narrated by Ahmad 26248, Ibn Majah 2617).

Islamic law does not explain the prohibition or impermissibility of giving step money or gifts given by a younger brother to his older brother at a wedding ceremony, there is not even a single text that requires or forbids it. Step money is nothing more than part of customary law that was born from a custom (al-urf) of a society that still really needs to review its benefits and harms (Faturrahman, 1996). Islamic law is not against the implementation of custom somewhere, because custom can also be used as a legal basis as long as customary law does not conflict with Islamic law.

If we look at it from an Islamic point of view, both the Koran and hadith, there is no suggestion or command to give any item in marriage customs, for example, giving something to an older sister as a gift at a wedding, such as the customary practice of meulingkeu at marriage in Pasie Raja District (Khairuddin & Karlina, 2016). It is okay for the younger brother to give gifts to the older brother. Maybe it can be a consolation of sadness that has not found its soul mate. And this kind of thing is recommended, as the Prophet Shallallahu 'alaihi wa sallam said, "You should give each other gifts, because gifts can get rid of the hatred that is in the chest" (HR. Turmudzi 2130)

In the procession and implementation of a traditional marriage, it is hoped that it will be able to fulfill Islamic values, including:

1. Aqidah Value; Aqidah or faith in Islam is the essence that permeates the heart and mind, faith is the best guide and guidance for humans in navigating life, faith is the most noble source of education, educates morality, character and morality for humans, so that with this faith humans can manage harmonious balance between body and spirit.
2. Value of Worship; In addition to aqidah values, in traditional marriages there are also sharia values, while Islamic values contained in the marriage contract ceremony are the conditions for the marriage itself, namely:
   a. There are prospective grooms and brides, both of whom are Muslim.
   b. Marriage intention forever.
   c. Willingness of the bride.
   d. Willingness of the guardian, a marriage contract ceremony is invalid without the presence and approval of the guardian, because the consent of the guardian is one of the conditions for a valid marriage.
   e. There were two witnesses, Rasulullah sallallahu Alaihi Wasallam said: "There is no marriage except with a guardian and two fair witnesses. "(Reported by Al-Baihaqidan Ad-. Asy-Syaukani)
   f. Mahar or dowry, which is a gift from the man to the woman. The amount of dowry is not limited, Islam only provides basic principles, namely in a ma'ruf manner, meaning within reasonable limits according to ability
   g. Ijab and qabul are proof of the willingness of both parties, and are one of the pillars of marriage that must be carried out, consent has the meaning of surrender from the first party, while qabul is acceptance from the second party.

3. Moral values; Indigenous peoples emphasize morality in all aspects of life, especially regarding traditional processions involving relations with Allah SWT, His Apostle, the Scriptures and so on, this can be seen in the procession of applying for, the marriage contract which always ends with a prayer of good luck in the implementation and in the future, always get protection and blessings from Allah SWT.
4. Cultural Values; Traditional ceremonies in society are essentially carried out to respect, give thanks and ask for safety from their ancestors and their God. Usually this form of obedience is due to fear, their reluctance towards the existence of sacred and magical sanctions.

So if culture or customs do not conflict with religious rules and do not cause polytheism in Islamic law, then Islam does not limit these cultures or customs to develop in society.

In the culture of traditional marriages carried out by indigenous peoples, there are several things that are not permitted by the Islamic religion, namely

1. The offering ceremony; Marriage in adat cannot be separated from offerings or offerings. Most people believe that offerings have sacred values and when people believe in placing offerings in places or on objects that are believed to be sacred and have supernatural powers, they are believed to get blessings in their lives. In Hindu and Buddhist cultures it is a belief for the community, they believe that worshiping spirits will help with problems that will be faced in their lives.
2. Not holding excessive weddings; Excessive (luxurious) weddings usually cost a lot so they tend to indulge in immorality because they waste money on excessive events.
3. When holding a wedding, it should be simple; By serving food according to one's ability, it is feared that if it is too much it will cause a new problem, namely debt bondage. The Prophet said: "hold a walimah even if it's just a goat." (H.R. Abu Dawud).

CLOSURE

Conclusion

From the explanation above, it can be concluded that: (1) In tradition or customs, marriage overstepping siblings can be caused by internal factors and external factors. The internal factor is the condition of the readiness of the younger sibling to find a mate and physically and mentally ready to marry compared to the older sibling who is not ready to marry and has not yet found a mate. While the external factors are the influence of the environment or promiscuity where these things can lead to pregnancy out of wedlock for women so that the older sister must be stepped over by her younger sibling. The occurrence of steps in marriage by younger siblings is considered a bad event, so in order to avoid bad consequences for unmarried older siblings, it is necessary to hold a traditional ceremony. This traditional ceremony is held at the time before the wedding takes place. Sisters give gifts to older siblings by asking to be allowed to marry first by their older siblings, and giving gifts is something that is considered valuable and appropriate to give. The meaning of carrying out the step tradition is to ask for the blessing and respect for elders; (2) In Islam, there is no recognition of gifts or step money to older siblings, except that there is only the provision of dowries to prospective

brides or prospective wives. Islam does not prohibit giving step money or gifts, because giving gifts to relatives, relatives or family is seen as a good deed. Customary law may apply without conflicting with Islamic law which has been explained in the Al-Quran and Al-Hadith. The prize or step money is given on the basis of his sincerity and willingness and his ability to give it to his older brother as consolation money because he was overtaken by his sister in terms of marriage. However, if the gift or step money becomes a mandatory condition for a younger sibling who wants to marry over his older sister, then this becomes unlawful.

Suggestion

The meaning of the policy of giving gifts or step money should not be excessive, because the nature of the gift is to ask to get married first or ask for the blessing of an older brother and respect him. For indigenous peoples who believe in the existence of gifts or the provision of step money given by younger siblings to older siblings who are stepped over in marriage, it is best not to violate religious rules. Customary law may apply as long as it does not conflict with Islamic law.

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