

Community's Preferences To Perform Marriages At Home After The Issuance Of Government Regulation No. 48 Of 2014

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Abstract. The Government Regulation No. 48 of 2014 concerning Tariffs for Non-Tax State Revenues that apply to the Ministry of Religion, among others, stipulates that the cost of registering marriages performed at the religious affairs office (RAO) on working days and hours is zero rupiah (free), whereas if a married is performed at home, it is subject to a fee of IDR 600,000. In fact, many people still perform marriages at home. Against this phenomenon, there are two interesting problems to study. First, how is public knowledge about the Government Regulation No. 48 of 2014? Second, what are the reasons beyond people's preferences for marriages at home instead of at RAO? This study belonged to empirical socio-legal research in the form of field research and applied a qualitative descriptive analysis method. The conclusion of this study fell into two. First, there were still many people who did not know and understood the Government Regulation No. 48 of 2014. The things that underlined people's preferences for marriages at home entailed views and beliefs of the marriage sacredness, tradition or custom, self-respect, avoiding negative images, limited RAO's facilities, convenience, the distance of RAO, and time efficiency.

Keywords: Marriage, Religious Affairs Office, Marriage Registration Fee

Introduction

The biological instinct is one of the characteristics bestowed by the Creator on humans (sexual libido). With this nature comes humans' desire for the opposite sex to form a family and have children to maintain the continuity of their offspring. It will almost certainly work well if this instinctual need is met by a clear and strong bond, such as marriages.

A marriage is referred to as "mitsâqan ghalîzha" (Surah al-Nisa'/4: 21) in Islam, which is a very strong and sacred bond and agreement. A marriage is so important in light of that many texts of the Qur'an and hadith provide more detailed explanations concerning the provisions of a marriage alongside various issues related to it and their implications. A marriage is done in order that "maqâshid al-syarî'ah" or human betterment can be maximally realized as possible¹

The existence of laws and regulations governing a marriage ensures the realization of marriage benefits in the life of the state in Indonesia. Among others is the Marriage Law Number One of 1974. According to article 2 in the first paragraph, marriage is legal if it is carried out in accordance with the law of each religion and belief. The second paragraph states that every marriage is recorded in accordance with applicable laws and regulations.

In addition to an article about the necessity of registering marriages, there are provisions about financing the registration, which then becomes Non-Tax State Revenue. The Government Regulation No. 48 of 2014 as the Amendments to Government Regulation No. 47 of 2004 addresses tariffs for Non-Tax State Revenues applicable to the Ministry of Religion. This most recent Government Regulation stipulates that a marriage registration fee is charged at the religious affairs office (RAO) during working hours and days, or it is free. Meanwhile, if it is done outside the RAO, a fee of IDR 600,000.00 is charged. The foregoing applies except for those of economically disadvantaged citizens and/or disaster victims who got married or reconciliations outside the District RAO that may be subject to IDR 0.00 tariff (zero rupiah).²

However, the community, particularly in North Curup District, Rejang Lebong Regency, prefers to perform weddings at home, which is subject to IDR 600,000 fee under the Government Regulation. According to data obtained from an interview with the Head of the North Curup District RAO (Mr. Supianto, S.Ag, H.H.I), there were 172 officially recorded marriage events in the last five years (2018 to 2022). Only 30% (52 couples) got married at the RAO, while 70% (120 couples) got married at home.

¹ Aisyah Ayu Musyafa, "Perkawinan Dalam Perspektif Filosofis Hukum Islam", Jurnal Cripido 02, No.02 (2020): 111, <https://ejournal2.undip.ac.id/index.php/crepido/>

² Government Regulation No. 48 of 2014 concerning Amendments to Government Regulation No. 47 of 2004 concerning Tariffs for Non-Tax State Revenues Applicable to the Ministry of Religion, Article 6: paragraphs 1, 2, 3, and 4.

This phenomenon is certainly ironic because the Government Regulation Number 48 of 2014, in essence, provides for people who will marry and is binding in the sense that citizens must obey. As a result, the Government Regulation Number 48 of 2014, with its various aspects and implications, is worth investigating.

The Government Regulation No. 48 of 2014, which is the subject of this paper's investigation, has previously been the subject of investigation in several scientific articles. Faiz Azkia Arsyad's article, entitled "The Impact of Government Regulation Number 47 of 2004 on Society and Wedding Officiant: A study in in Gondokusuman and Tegal Rejo Yogyakarta", is one of them. According to the findings of the foregoing study, the cost of getting married in the community is lower, and the fees charged are significantly lower. It protects RAO employees from ambiguous fees.³

Yurda Heti published an article titled "Community Response to Marriage Services Following the Impact of Government Regulation Number 47 of 2014 Regarding Marriage Fees: A Case Study at RAO of Sawa Lebar Sub-District in Bengkulu". The result of the aforementioned study demonstrated that 86% of respondents do not agree with marriages at the RAO and do not mind paying wedding fees for marriages at home.⁴

Subsequently, Moh. Thurmuzi wrote an article titled "Efforts to Realize Marriage Services with Integrity in Montong Gading District, East Lombok, NTB after the issuance of Government Regulation Number 48 of 2014". This article concludes that the RAO disseminates extensively and provides understanding and proofs that the RAO rejects any gratification, and it socializes marriages in the office.⁵

³Faiz Azkiya Arsyad, " Dampak Peraturan Pemerintah Nomor 48 Tahun 2014 Terhadap Masyarakat dan Penghulu: Studi di KUA Gondokusuman dan Tegal Rejo Yogyakarta", Jurnal Al-Ahwal 10, No. 02 (2017): 194, DOI: <https://doi.org/10.14421/ahwal.2017.10207>

⁴Yurda Heti, "Respon Masyarakat Terhadap Pelayanan Pernikahan Pasca Pemberlakuan Dampak Peraturan Pemerintah Nomor 47 Tahun 2014 tentang Biaya Nikah, Studi Kasus di KUA Kec.Sawa Lebar Kota Bengkulu" Jurnal Qiyas 2, No.1 (2017): 41, DOI: <http://dx.doi.org/10.29300/qys.v2i1.462>

⁵ Muh. Thurmuzi, "Upaya Mewujudkan Layanan Nikah Yang Berintegritas Pasca Terbitnya Peraturan Pemerintah Nomor 48 Tahun 2014 di Kecamatan Montong Gading Lombok Timur NTB", Jurnal Bimas Islam Kemenag 8, No.III (2015): 449, <https://jurnalbimasislam.kemenag.go.id/jbi/article/view/199>.

The following article was written by Muh. Dahlan and was titled "The Implementation of Government Regulation Number 47 of 2014 between Regulation and Practice: A Case Study in Konawe Regency and Semarang City". This article concludes that, in general, the Government Regulation Number 47 of 2014 has been implemented with various obstacles. RAO officers believe that their responsibilities and powers are becoming clearer. The community, however, continues to entrust marriage matters to the village priest or *Imam*.⁶

The following year, Zedi Muttaqen and Toni Albar published their study entitled "The Role of Environmental Leaders in the Marriage Process Before and After the Issuance of Government Regulation Number 47 of 2014 in Banjar Neighborhood, Banjar Village, Ampenan District, Mataram. According to the aforesaid study's findings, the role of the environmental leaders is to help the neighborhood head guide the *Ijab Qabul* of marriage, be a witness, and carry out the marriage sermon if requested by the RAO.⁷

Meanwhile, Ana Amalia Furqon published an article entitled "Marriage and Referral at Samarinda's RAO: The Implementation of Government Regulation Number 48 of 2014 Concerning Tariffs for Non-Tax State Revenue".⁸ This article first concludes that the implementation is in accordance with the provisions of Government Regulation. Second, there is a shortage of wedding officiant and a slow disbursement of marriage and referral fees to KUA.

Grounded in the above elaborations, the present study's focus differs from the previous ones. This study focused on two issues. The first was how the public perceived Government Regulation No. 4 of 2014. The second pertained to the reasons beyond the community's preference for marriages at home after the issuance of Government Regulation No. 4 of 2014. This research

⁶ Muh. Dahlan "Implementasi Peraturan Pemerintah Nomor 47 Tahun 2014 antara Regulasi dan Praktik, Studi Kasus di Kabupaten Konawe dan Kota Semarang" Jurnal Harmoni 15 No. 1 (2015): 96, <https://jurnalharmoni.kemenag.go.id/index.php/harmoni/article/view/216>

⁷Zedi Muttaqien, Toni Albar. "Peran Penghulu Lingkungan Dalam Proses Perkawinan Sebelum Dan Sesudah Keluarnya PP No.48 Tahun 2014 Di Lingkungan Banjar Kelurahan Banjar Kecamatan Ampenan Kota Mataram" Jurnal CIVICUS 4, No.1 (2016): 66. DOI: <https://doi.org/10.31764/civicus.v4i1.327>

⁸ Ana Amelia Furqan, "Nikah dan Rujuk di KUA Samarinda: Implementasi Peraturan Pemerintah Nomor 48 Tahun 2014 Tentang Tarif Atas Jenis Penerimaan Negara Bukan Pajak," Jurnal Mazahib Samarinda XV No. 2 (2016): 238 DOI: <https://doi.org/10.21.093/mj.v15i2.635>

was carried out in the North Curup sub-district of Rejang Lebong regency, which consisted of two urban villages and twelve villages, namely: the urban villages of Dusun Curup and Tunas Harapan alongside the villages of Batu Dewa, Batu Panco, Dusun Sawah, Suka Datang, Lubuk Kembang, Pahlawan, Tabernah, Tasik Malaya, Tanjung Beringin, Kota Pagu and Siguring. Hence, this study applied a socio-empirical legal study (field research) and employed both primary and secondary data. The primary data sources entailed the RAO Head of North Curup Sub-district, the village head, the apparatus/religious figures in the district, and the couples who were getting married at home. Interviews were used as the primary data collection technique. A literature review was the secondary data technique. The data collected were analyzed using a qualitative descriptive analysis method.

Results and Discussion

A. Registration Regulations and Marriage Fees in Indonesia

The dynamics of Islamic law in Indonesia, with their various perspectives and implications, have evolved over time. Beginning with the pre-colonial period (the heyday of the Archipelago's Islamic kingdom), the colonial period, independence and post-independence periods (Old Order and New Order), reformation, and post-reformation periods. Many experts and researchers believed that, at the beginning of its development, Islamic law was the law that applied to the community/Muslims (*Receptie in Complexu*). During the Dutch colonial era, Islamic law was even strengthened in the *Compendium Freijer*, a legal manual containing the rules of Islamic marriage law and inheritance law, which was ratified on May 25, 1760, and became the guideline for the VOC to enforce Islamic law for the Islamic community until 1816.⁹ In this case, the implementation of Islamic law, of course, refers to the provisions contained in the books of *Fiqh*. A marriage is declared valid if it meets several pillars of marriage, including a prospective groom, prospective bride, guardian, witness, and *Ijab Qabul*. No *Fiqh* book states that marriages must be registered.

Provisions for marriage registration began to exist in the period following Indonesia's independence, namely the birth of Law No. 22 of 1946 concerning Registration of Marriage, Divorce, and Reconciliation, which was stipulated on November 21, 1946, and consisted of seven chapters. The

⁹Masruhan, "Positiviasi Hukum Islam di Indonesia pada Masa Penjajahan Hingga Masa Orde Baru", *Jurnal al-Hukama'* 1, No. 1 (2011): 188, DOI: <https://doi.org/10.15642/al-hukama>.

provisions for marriage registration are governed by Article 1 paragraph (1), which states: "A marriage conducted according to the Islamic religion, hereinafter referred to as marriage, is supervised by a Marriage Registrar appointed by the Minister of Religion or by an Employee appointed by him. Divorce and reconciliation conducted according to Islam, hereinafter referred to as divorce and reconciliation, shall be notified to the Marriage Registrar."

The passage of this law represents a starting point for the government to improve the effectiveness of marriage, divorce, and reconciliation records for all Indonesians. However, the emphasis is on the legal process of registering a marriage rather than the legal content of the process of registering a marriage. However, this law can only be applied in Java and Madura, as stated in Article 6, "This law is called the Law on Registration of Marriage, Divorce and Reconciliation and applies to Java and Madura on the day to be determined by the Minister of Religion". It was only on October 26, 1954, that the Law could be applied in its entirety in Indonesia, with the enactment of Law no. 32 of 1954 concerning the Enactment of the Law of the Republic of Indonesia No. 22 of 1946 concerning the Registration of Marriage, Divorce, and Reconciliation in All Regions of Java and Madura, as stated in Article 1.¹⁰

Then, on January 2, 1974, President Soeharto issued Law No. 1 concerning Marriage in Jakarta. This Law was enacted for a variety of reasons, including legal unification and legal reform. The concept of legal unification is an attempt to impose a national legal provision that applies to all citizens.¹¹ The provision for marriage registration is stated in Article 2 paragraph 2 of Law No. 1 of 1974, namely: "Every marriage is recorded according to the applicable laws and regulations." UU no. 1 of 1974 article 2 paragraph is then followed and reaffirmed in the Compilation of Islamic Laws (CILs) based on the Presidential Instruction No. 1 of 1991.

There is a requirement for marriage registration as regulated in Article 2 paragraph 2 of Law No. 1 of 1974. However, if it is related to Article 2 paragraph 1 of Law No. 1 of 1974, there has been disagreement among experts until now. Some argued that articles 1 and 2 form a unified whole or are

¹⁰ Nafi' Mubarok, "Sejarah Hukum Pencatatan Perkawinan di Indonesia. Jurnal *Justicia Islamica* 14 No. 1 (2017):79. DOI: 10.21154/justicia.v14i1.1220

¹¹Rosa Agustina, "*Beberapa Catatan Tentang Hukum Perkawinan di Indonesia*", W.D. Kolkman (et.al), *Hukum tentang Orang, Hukum Keluarga dan Hukum Waris di Belanda dan Indonesia*. (Denpasar: Pustaka Larasan, 2012): 129.

cumulative.¹² Others believed that the relationship between paragraphs 1 and 2 of article 2 is partial in the sense that the provisions for marriage registration are required as regulated in article 2 paragraph 2 of Law No. 1 of 1974, and the CILs arising from paragraph 5 are not related to the legality of a marriage, but only in the interests of marital order and legal guarantees (recognition). That is because Article 1 paragraph 1 states unequivocally that a marriage is valid if it is performed in accordance with the law of religion and belief.

Regardless of differences in viewpoints, it is clear that Article 2 paragraph 2 of Law No.1 of 1970 continues to have a significant meaning because marriages recorded in the form of a Marriage Certificate are valid and authentic evidence that marriage can obtain legal certainty and protection, including the consequences of the marriage in the future.¹³ However, if a marriage is not registered, there is no guarantee of legal protection. Some of which are the inability to file cases involving two parties (husband and wife) in court, difficulties in obtaining a child's birth certificate, and so on. The foregoing is due to the lack of authentic evidence of a legal relationship between two parties in the form of marriage (husband and wife).¹⁴

In the study of Islamic law, there are no texts either the Qur'an, Hadith, or Ijma' which explicitly address the necessity of registering marriages. However, the existence of a new provision concerning marriage registration is not in conflict with texts because it has a positive impact, bringing more comprehensive benefits.¹⁵ In other words, the requirement for marriage registration, as stated in Article 2 paragraph 2 of Law Number 1 of 1974, is a significant step forward in reforming Indonesian Islamic law. The provisions for recording marriages can be used to achieve *Maqashid al-Syariah*, namely the benefit of marriage (*hifzh nasl*), in a more comprehensive and maximal manner.

¹² Toha Ma'arif, "Pencatatan Pernikahan: Analisis Dengan Pendekatan Qiyas, Istihsan, Sadd al-Dzariah, Maslahat al-Mursalah dan Hukum Positif di Indonesia", Jurnal Asas 11. No.1 (2019): 120, DOI: <https://doi.org/10.2404/asas.v11i01.4647>

¹³ Abu Yazid Adnan Quthny, "Pencatatan Pernikahan Perspektif Hukum Islam dan Undang Undang No.1 Tahun 1974", Jurnal Asy-Syariah 8.No.1 (2022): 29, DOI: <https://doi.org/10.55210/tasysyariah.v8il.765>

¹⁴ Nenan Julir, "Pencatatan Perkawinan di Indonesia Perspektif Ushul Fikih" 4, No.1 (2017): 551, DOI: <http://dx.doi.org/10.29300/mzn.v4i1.1010>

¹⁵ Ana Amelia Furqan, "Nikah dan Rujuk di KUA Samarinda: Implementasi Peraturan Pemerintah Nomor 48 Tahun 2014 Tentang Tarif Atas Jenis Penerimaan Negara Bukan Pajak," Jurnal Mazahib Samarinda XV No. 2 (2016): 239 DOI: <https://doi.org/10.21.093/mj.v15i2.635>

In accordance with the issuance of regulations concerning the provisions for marriage registration, regulations concerning the costs of marriage registration were also issued in its implementation, namely Law Number 22 of 1946 concerning Registration of Marriage, Divorce, and Reconciliation. The article 1 paragraph 4 of the law mentions that "A person who is married, divorces or makes a marriage referral, is required to pay a registration fee, the amount of which is determined by the Minister of Religion."¹⁶ However, following the enactment of Law No. 1 of 1974, Government Regulation No. 5 of 1975, among others, contained provisions for sanctions for marriages that were not reported to the marriage registrar and were fined IDR 7,500. Also, officers who committed violations were fined IDR 7,500.

Concerning the provisions for the cost of registering marriages, they were later reaffirmed with the issuance of Government Regulation of the Republic of Indonesia Number 22 of 1997 concerning Types and Deposits of Non-Tax State Revenue (Appendix II A No. 16), which was later changed to the Government Regulation No. 52 of 1998 concerning Types and Deposits of Non-Tax State Revenue (Appendix II A No. 16). In 2000, The Government Regulation No. 51 of 2000 concerning Tariffs on Non-Tax State Revenues Applicable to the Ministry of Religion was issued, and it was reaffirmed by the Government Regulation No. 47 of 2004 with IDR 30,000.00 per event.

However, problems arise in its implementation for both the wedding officiant and the community because the Government Regulation does not regulate the wedding officiant if the marriage takes place outside the marriage hall. Such a condition makes the wedding officiant face a dilemma. If the wedding officiant requests more money, he is breaking the rules. On the other hand, if he does not request more money, it will be difficult for him to travel to a distant wedding location and/or perform it at night.

The Ministry of Religion has attempted to find a solution by delegating authority to the Governor to set transportation costs for marriage registrars who supervise or attend marriages outside the marriage hall. Unfortunately, it remains a complaint for the wedding officiant because the Governor's

¹⁶ Law 1946 No. 22 Concerning Registration of Marriage, Marriage, Divorce and Reconciliation.

transport fee policy for marriage registrars is very low, and it was abolished in 2006.¹⁷

The issue of marriage outside of working hours has finally reached a tipping point. The majority of wedding officiants respond that they do not want to serve the marriage implementation out of the marriage hall and out of working hours. Even if the prospective bride's and groom's families give the wedding officiant transportation money, this is categorized as gratification as ruled by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 Concerning Eradication of Criminal Acts of Corruption. In response to the issue, The Government Regulation No. 48 of 2014 was created regarding the Cost of Marriage Registration. The Government Regulation No. 48 of 2014 states that marriage registration and reconciliation fees are either free or not charged at all, but if the marriage is performed outside the RAO and outside working hours, a fee of IDR 600,000 is charged. The Government Regulation also states that there is no charge for those who cannot afford or are affected by natural disasters who marry or reconcile outside the Office of Religious Affairs.

The Government Regulation No. 48 of 2014, which repealed the Government Regulation No. 47 of 2004, was a breakthrough for the government, in this case, the Ministry of Religion. The government's breakthrough is useful for eliminating the practice of gratification by unscrupulous wedding officiants and marriage registrar officers, as well as for easing the economic burden of people who want to get married. Payment for the contract of getting married outside the RAO is made by bank transfer, as specified in the Government Regulation No. 48 of 2014. The public is still unaware of the most recent regulations even though this Government Regulation has been in effect for several months.

The Government Regulation No. 48 of 2014, on the other hand, provides legal certainty to the community, including the ranks of the ministry of religion, namely the RAO and wedding officiants, regarding the marriage processes. Every marriage and reconciliation event held at the RAO during working hours is free of charge. If the marriage takes place outside the RAO and during working hours, the rate is IDR 600,000, and the payment is made

¹⁷Faiz Azkiya Arsyad, "Dampak Peraturan Pemerintah Nomor 48 Tahun 2014 Terhadap Masyarakat Dan Penghulu (Studi Di Kua Gondokusuman Dan Tegalrejo Yogyakarta)", *Jurnal Al-Ahwal*, Vol. 10, No. 2, 2017 M/1439 H, 196.

through a bank account number designated by the Indonesian Ministry of Religion of Indonesian Republic. The positive impact of the issuance of Government Regulation No. 48 of 2014 is that the standard of marriage fees has become clear; a wedding officiant is free from gratification; the RAO has integrity; and the community gains convenience or relief from the cost of marriage.¹⁸

B. Analysis of Community Preferences Carrying Out Weddings at Home

1. Public Knowledge About Government Regulation No. 48 of 2014

The government's legal regulations and provisions are basically binding on all citizens. This means that the government regulations or legal provisions should be understood by all citizens so that the regulation and provision purposes are well implemented in the community's social life. Nonetheless, it is not uncommon for people to react differently to the government's regulations or legal provisions. Similarly, it has been 8 years since the publication of Government Regulation No. 48 of 2014.

Based on data collected in the field through interviews, all government officials (the heads of village or urban villages) in the North Curup sub-district stated that there were still some people who were unaware of the existence of marriage provisions at a cost of IDR 0 or free if performed at the RAO during working days and hours, likewise those from low-income families. The same statement was made by all religious officials (*imam or khatib*) and leaders, as well as the entire community. According to Mrs. Putri Azna, a resident of Dusun Sawah Village, A marriage at RAO office was charged. Meanwhile, no marriage was free as stated by Mislawati, a resident of Libuk Kembang Village.

This condition is certainly ironic, given that the provision for marriage fees in Government Regulation No. 48 of 2014 has been in effect for eight years. According to village and sub-district officials as well as religious figures, most people are unaware of the existence of Government Regulation No. 48 of 2014 which regulates the cost of marriages. According to them, this was because the Government Regulation had not been widely disseminated. Even the Village Head of Kota Pagu (Mr. Lukman Hakim) and the Head of Suka Datang Village (Mr. Jamil Ashari) admitted that this provision had not been socialized.

¹⁸Zedi Muttaqien, Toni Albar. "Peran Penghulu Lingkungan Dalam Proses Perkawinan Sebelum Dan Sesudah Keluarnya PP No.48 Tahun 2014 Di Lingkungan Banjar Kelurahan Banjar Kecamatan Ampenan Kota Mataram" *Jurnal CIVICUS* 4, No.1 (2016): 72. DOI: <https://doi.org/10.31764/civicus.v4i1.327>.

The acknowledgment of participants representing villages, urban villages, and religious and community apparatus (figures) contrasted with the acknowledgment of the RAO Head in North Curup Sub-District (Mr. Supianto, S.Ag, M.H.I. During an interview, he explained that the socialization of the implementation of Government Regulation No. 48 of 2014 was carried out through the heads of villages and urban villages alongside those of gathered priests as intermediaries to help the wedding officiant. The Government Regulation was even printed and pasted in the office for the public to read and was delivered during marriage sermons or lectures on various occasions to guide the marriage contract.

Given the differences in these recognitions, it is possible that the benefits of socialization have not been fully realized. There is still a need for intensive socialization of Government Regulation No. 48 of 2014, not only through village officials, sub-district heads, and religious figures because their term of office has expired, and similarly to wedding officiants and the Head of RAO. Given frequent exchanges (mutation) in the workplace, thus good relations, communication, and synergy are required between the RAO and village and sub-district officials as well as religious figures. The foregoing is for the sake of more people knowing and understanding the Government Regulation No. 48 of 2014. This is significant because a person's knowledge and comprehension are linked to his awareness and actions.

2. Reasons beyond Preferences for Marriages at Home

According to data from ROA of Curup Utara, there were 172 officially recorded marriage events in the last five years (2018-2022). Only 30% (52 couples) were married at RAO, while 70% (120 couples) were married at home. The following data and analysis on the reasons why people preferred to carry out marriages at RAO are presented based on field interviews.

The first is related to the sanctity of marriage. A marriage is sacred in the community's eyes and beliefs. A marriage is considered sacred because it is a religious teaching command. In other words, the establishment of a marriage is a manifestation of a servant's obedience to Allah and thus includes worship. According to this point of view and belief, the implementation of a sacred marriage, which occurs once in a lifetime, becomes very important, meaningful, and monumental and has the value of worship. Also, it is preferable to be done at home. This is because the sacredness and solemnity of marriage are more pronounced, and the values of goodness and blessings are more commonly

found at home weddings, for example, being able to meet and gather (stay in touch) with as many family members, relatives, neighbors, colleagues, and members of the community as possible.

A marriage is a religious teaching in Islam. There are numerous *naqli* arguments concerning marriages. Among the Prophet SAW's hadiths:

عَنْ عَبْدِ اللَّهِ قَالَ قَالَ لَنَا رَسُولُ اللَّهِ -صلى الله عليه وسلم- « يَا مَعْشَرَ الشَّبَابِ مَنْ اسْتَطَاعَ مِنْكُمُ الْبَاءَةَ فَلْيَتَزَوَّجْ فَإِنَّهُ أَغْضُ لِلْبَصَرِ وَأَخْصَنُ لِلْفَرْجِ وَمَنْ لَمْ يَسْتَطِعْ فَعَلَيْهِ بِالصَّوْمِ فَإِنَّهُ لَهُ وِجَاءٌ. » رواه البخاري

From Abdullah said, Rasulullah SAW said: *“O young people, those among you who have the ability, let them get married. Because a marriage is more capable of lowering the gaze and protect genitals. And whoever is unable, let him fast because fasting can be a shield for him.”* (Narrated by Bukhari).¹⁹

Another Hadith of the Prophet SAW:

عَنْ أَنَسِ بْنِ مَالِكٍ قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: " إِذَا تَزَوَّجَ الْعَبْدُ فَقَدْ كَمَلَ بِصُفِّ الدِّينِ، فَلْيَتَّقِ اللَّهَ فِي النِّصْفِ الْبَاقِي "

From Anas bin Malik, said; Rasulullah SAW said: *“If a person is married then indeed he has perfected part of his religion. So, be submissive to Allah for the remaining half.”* (Narrated by Hakim).²⁰

There are provisions (terms, pillars, and procedures/rituals) set by Allah in Islamic law, as stated in the Holy Qur'an and the Hadith of the Prophet SAW. Among the provisions of marriage in Islamic law is the requirement of a guardian, witness, dowry, and the procession of the contract (handover), which represents the establishment of a bond. Marriage is a very strong and sturdy bond, as stated in QS al-Nisa'/4: 21:

And how could you take it while you have gone in unto each other and they have taken from you a solemn covenant? And how could you take it (back) while you have gone in unto each other, and they have taken from you a firm and strong covenant?

In that verse, the meaning of the word "mitsaqan" is an agreement or commitment, whereas "ghalizhan" is heavy, strong, and sturdy. Hence, the meaning of "mitsaqan ghalizhan" is a very strong agreement or promise bond

¹⁹ Muhammad Ismâ'il Abû 'Abd Al-Bukhârî, *Jâmi' al-Shahîh lil al-Bukhârî*, Juz VII, (t.tp: Dâr Thuq al-Najâh, 1422 H): 3

²⁰Abu 'Abd Allah al-Hâkim al-Naisâbûrî, *Al-Mustadrâk 'Ala al-Shahîhain*, Juz II, (Beirût: Dâr al-Kutub al-'Ilmiyyah, 1990 M/1411 H), 340

between men and women in the context of carrying out religious teachings or obeying Allah's commands and being worshiped for both.²¹ This is presumably the basis for thinking and believing in the sacredness of marriage. This assumption and belief in the sacredness of marriage are shared by almost all religions.

Second, there are local customs. Marriages at home, according to the community, have become a tradition and custom that applies and is carried out from generation to generation. Not only that, but the marriage tradition that has existed so far includes elements of the Customary Consultative Agency (CCA) by enforcing customary law, in the sense that the wedding procession goes through the stages and applicable customary manners, in addition to being carried out in accordance with religious law. Among other things, the customary manners entail a wedding plan which will be carried out first through a family consensus process by presenting and involving CCA and community leaders. Meanwhile, if the wedding is performed at RAO, no BMA elements are involved. If this is the case, it appears that there is an element of violating existing customs in the community's opinions, or it is considered not to respect customs. Marriages at home are also a tradition as well as important occasions for meeting and strengthening family and neighbors.

It is undeniable that customary laws exist in a society, which, while sometimes unwritten, live and apply in people's lives. This is in accordance with the adigium "Ubi Societas Ubi / Us," which means "Where there is a society, there is the law." The existence of customary law in the national legal system has an important and strategic place in the legal system in Indonesia, in the sense that it is used as the principle of fostering national law.²² Thus, customary law, which is part of the law that lives and develops in society, has the same position in the Indonesian legal system as other applicable laws in general, with the exception that some customary laws are not written but are still upheld and obeyed by the community.

²¹ Habib Musthofa Subiono, "*Spirit Mitsaqan Ghaliza Dalam Pernikahan Sebagai Penguat Keluarga di Kalimantan Tengah*", *Jurnal Legitima* 2. No.2 (2020): 159, DOI: <https://doi.org/10.33367/legitima.v2i2>

²²Hulman Panjaitan, "*Keberadaan Hukum Adat Dalam Yurisprudensi*", *Jurnal Hukum tô-râ*, 2 No. 3, (2016): 413; <http://ejournal.uki.ac.id/index.php/tora/about/contact>

The third is maintaining self-esteem and avoid negative images. Marriages at RAO appear to be carried out in secret, according to the community, because only a small number of people attend. According to this assumption, the prospective bride is already pregnant (pregnant out of wedlock); both bride and groom or one of them is a widow or widower; or there can be a second marriage. Furthermore, there is a sense of shame and fear of being a negative conversation starter among many people if a marriage is performed at RAO. For example, they are regarded as stingy (due to their preference for free marriages), as they do not have to spend a lot of money to provide a lot of food. People prefer to marry at home rather than at RAO to preserve the prestige, self-esteem, and dignity of the family and to avoid negative perceptions. In fact, many of them come from low-income families and are frequently forced to owe money to third parties. All of these are done to maintain prestige, self-esteem, and dignity while avoiding negative assumptions.

Fourth, the limitations and inconvenience of RAO's facilities. The marriage hall or a special room for the implementation of the marriage contract procession is the limitation of RAO's facility. The wedding hall is approximately 4x5 M in size. Because the room cannot accommodate a large number of people, the number of people permitted to attend the wedding is limited and cannot be witnessed by a large number of people. Indeed, it is a community tradition that during the wedding ceremony, both parties (bride and groom) invite as many families and relatives as possible, those both near and far, neighbors, and friends. The wedding sometimes also serves together with alms. Because marriage is a once-in-a-lifetime event, it is necessary to hold a lively party that is witnessed and can invite a large number of people. In conclusion, the number of people who can attend weddings at the KUA office is limited. With this condition, people become increasingly uneasy because they are not free, and time is limited because other wedding couples are already queuing. According to the community, getting married at home is more comfortable in terms of having free or extensive time, being able to arrange their own time, freely holding events to worship their parents, shaking hands with all those presents, and taking pictures as they please.

The fifth relates to the consideration for RAO's distant location and time efficiency. Some people live close to RAO, while others live far from it. This is why people who live far in distance from RAO have their marriages performed

at home. This is because they find it more difficult because they must provide supplies, vehicles, and travel back and forth from their home to the RAO or vice versa. As a result, time is wasted. Furthermore, if a marriage is performed at RAO, those getting married must have limited time because it will undoubtedly interfere with their days and works. Meanwhile, if they get married at home, the time is completely up to them, and some people even take up to seven days.

Conclusion

This study comes to some sets of conclusions based on the data and analysis already presented. First, many people are still unaware of and misunderstand the Government Regulation No. 48 of 2014. Second, the factors that influence people's preferences for getting married at home entail views and beliefs about the sacredness of marriage, traditions or customs, self-respect, avoiding negative images, limited RAO's facilities, convenience, RAO's distant location, and time efficiency.

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