

Harmonization of Customary Law in Organizing the Marriage of the Malay Indigenous People of Rokan Hulu During the Covid-19 Pandemic

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Abstract—The Covid-19 pandemic not only brings health consequences, but also has an impact on changing the social atmosphere of Malay society. Marriage as a sacred procession for the life of the Malay community does not escape its impact. Thus, the flexibility of customary law becomes a challenge in order to continue to provide for the needs of the *anak kamanakan* who are going to get married. This writing aims to see the harmonization of customary law with national law in responding to lifestyle changes during the Covid-19 pandemic, especially in the implementation of marriage. The author uses the method of writing descriptive analysis with the type of qualitative research. The conclusion that the authors found was that there was a pattern of harmonization between the three components of customary law in the upstream Malay community, including *Ninik Mamak*, *Ulama*, and Village Governments in organizing marriages during the COVID-19 pandemic. Thus, the implementation of marriage in the COVID-19 pandemic phase can continue to place customs in their proper place without having to lose the meaning and purpose of the presence of adat in the life of the Malay community.

Keywords—*malay community, covid-19 pandemic, customary law*

I. INTRODUCTION

The Covid-19 pandemic has entered the new normal era, but the end has not yet been seen. Since the end of 2019, the world has been shocked by the presence of the corona virus which was initially known to originate from the city of wuhan, in the People's Republic of China, to spread to almost all countries in the world and claimed many lives. There are at least 215 million positive cases of Covid-19 in the world, with a death toll of 4.48 million. Meanwhile, in Indonesia until August 2021, there are at least 4.04 million cases, and 130 thousand people have died [1]. This then causes the Indonesian government to continue to make improvements in handling the prevention and spread of the COVID-19 virus in Indonesia. This is reflected in the Decree of the President of the Republic of Indonesia Number 7 of 2020 regarding the Task Force for

the Acceleration of Handling Corona Virus Disease 2019 (COVID-19).

Rokan Hulu as one of the regencies in Riau Province is also inseparable from the implications of the spread of Covid-19 in Indonesia. Riau Province has at least carried out tracing and found 120,000 Covid-19 cases in 12 regencies/cities to date (26 August 2021). Rokan Hulu Regency, which is the focus of this research, has also carried out data collection, until August 26, 2021, at least 5 thousand Covid-19 cases have been found, which are dominated by the highest in Rambah District, as the capital of Rokan Hulu Regency in Pasir Pangaraian.

The Covid-19 pandemic has brought about fundamental changes and consequences in the lives of the Malay community in Rokan Hulu. Social, legal and economic life in Rokan Hulu has their respective impacts during the new normal era of the Covid-19 pandemic. It is inseparable from marriage in the Malay community in Rokan Hulu.

Marriage is an implication for the fulfillment of basic rights for humans [2]. So the implementation cannot be stopped even for a day. It can be seen that although there has been a decline in the number of marriages in several areas in Riau Province, the need for marriage will still exist throughout the Covid-19 pandemic.

The Malay community in Rokan Hulu is one of the Malay communities in Riau who still highly respects culture, customs and applicable customary law. This includes marriages involving nephews.

The implementation of marriage in the upstream rokan Malay community has a fairly complex management and arrangement.it because marriage does not only talk about the happiness of the bride and groom, but unites the two big families of each bride [3]. Moreover, the involvement of adat for indigenous peoples is an obligation that should be carried out. So that the potential for large numbers of people to gather, eat together, shake hands with each other, and other potentials related to health protocols during the Covid-19 pandemic.

This then becomes a separate problem when restricting activities, both in terms of social distancing and physical distancing. Countries with broad health and safety guarantee efforts will enforce various policies related to the Covid-19 pandemic, by enforcing rules for living in the new normal era. So that the mechanism for implementing marriage based on customary law among the Rokan Hulu Malay Indigenous People is also affected.

Based on the above, the researcher wants to examine the harmonization of customary law in the implementation of the marriage of the Rokan Hulu Malay Indigenous People during the Covid-19 Pandemic. So that the purpose of this research is to find out how the pattern formed from customary law responds to the Covid-19 pandemic, in meeting the daily needs of the Malay community, especially regarding marriage. Then there are marriage arrangements in various ways during this pandemic [4].

Based on the research theme related to efforts to harmonize customary law in the implementation of marriages for the upstream Malay community, there is a concept of the value of justice in the flexibility of customary law. As a characteristic of customary law, flexibility brings the consequences of adjustment efforts in Malay cultured life. So that it creates a sense of comfort in the life of the Indonesian nation, while maintaining cultural values.

II. RESEARCH METHODS

The type of research used in this research is empirical juridical or sociological legal research. Empirical juridical research is research conducted by identifying the law and how the effectiveness of the law applies in society [5]. While the nature of the research can be classified as descriptive research, because in this research the researcher conducts direct research at the location or place under study aiming to obtain a clear and complete picture of a situation or problem under study [6]. Related to this research, researchers want to examine how the application of law and efforts to harmonize with customary law that applies in the upstream Malay community environment, regarding the implementation of marriage during the Covid-19 pandemic.

This research was conducted in Rokan Hulu Regency, Riau Province. Rokan Hulu Regency consists of 16 sub-districts, including: Bangun Purba, Kabun, Kecepatan, Kepanjangan Hulu, Kunto Darussalam, Rambah, Rambah Hilir, Rambah Samo, Rokan IV Koto, Tambusai, North Tambusai, Tandun, Ujung Batu, Pagaran Tapah Darussalam, Bonai Darussalam, Study IV Koto. The concentration of this research is on the Malay community which includes 16 sub-districts in Rokan Hulu district.

The population and sample in this study include elements of government officials, the upstream Malay community, ninik mamak and local clerics, and the Pucuk ethnic Malays. This includes parties involved in marital problems during the Covid-19 pandemic.

Data collection techniques used in this study were observation, interviews, and literature study. Regarding research data, in general, it is distinguished between data obtained directly from the community (primary data) and data obtained from library materials (secondary data) [7]. It Namely sourced from the community as the main data, equipped with additional data based on references, artifacts and so on in addition. The data obtained was then analyzed using a qualitative analysis method, using a descriptive model to explain efforts to harmonize customary law with national law in the case of marriage during the Covid-19 pandemic [8]. So that is a pattern of flexibility is found in customary law which becomes a value of justice.

III. RESULTS AND DISCUSSION

Carrying out customs is carrying out a sacred obligation for the upstream Malay community. Because there are terms:

“Adat bersendikan syarak, Syarak Bersendikan Kitabullah” (Customs are based on syarak, Syarak is based on the holy Qur’an).

This means that adat has a basic value relationship that comes from the Shari’a, where the Shari’a comes from the holy book of Islam. So it can be understood that the Malay community will always carry out customs (read customary law) as long as it comes from the Shari’a. Because for Malay culture, the pattern of customary relations with religion is likened to one direction and one limit, everything that is regulated by Islam is fully accepted into Malay customary law. So that carrying out customs, it becomes like carrying out religious orders.

Marriage is an event that unites two people of different sexes into a legal and lawful relationship to foster a harmonious, prosperous and happy household. then to achieve what is the purpose of the marriage will involve customs as a complement to the process of implementing the marriage. Moreover, the presence of the Covid-19 pandemic has brought changes and adjustments in Malay society in the implementation of marriage.

A. *Efforts to Harmonize Customary Law in the Marriage of the Rokan Hulu Malay Community During the Covid-19 Pandemic*

Every law has its people, like other meanings of the term *"ibi ius, ubi societas"*. Likewise, customary law, of course, has a community of adherents who believe that the customary law they carry out is a good thing. Likewise, the Rokan Hulu Malay people, which have its own unique customs, culture and customary law. The peculiarity of the customary law of the Malay community is that it delivers a social pattern that is able to survive in all environmental conditions.

The characteristics of the magical religious style that are firmly held by the Malay people of Upper Rokan are in accordance with customary terms as follows:

“*Adat bersendikan syarak, syarak bersendikan Kitabullah, syarak manyobuik Adat memakai*” (Adat is based on syarak, syarak is based on the holy Qur’an, syarak is mentioned, custom is used).

This means that adat has a basic value relationship that comes from the Shari’a, where the Shari’a comes from the holy book of Islam. So it can be understood that the Malay community will always carry out customs (read customary law) as long as it comes from the Shari’a. Because for Malay culture, the pattern of customary relations with religion is likened to one direction and one limit, everything that is regulated by Islam is fully accepted into Malay customary law. So that carrying out customs, it becomes like carrying out religious orders.

Since President Joko Widodo declared the Covid-19 Pandemic emergency at the beginning of 2020 through the Head of the Task Force for Handling the Covid-19 of the Republic of Indonesia, the risk of carrying out marriages has certainly received special attention. Because it is commonplace that the wedding procession has implications for crowds which are feared to be the point of the spread of Covid-19. It is also inseparable from the Malay community in the implementation of marriage.

The upstream rokan Malay community places the adat mamak as parents who are respected, and take precedence in decision making. So related to marriage, the Malay community also follows what is the decision of the customary mamak. Changes and adjustments as a result of the Covid-19 pandemic policy are all carried out in accordance with the mandate of the traditional mamak.

The relationship between government and customary law in Malay culture is likened to the term adat as follows:

“*Tali bupilin tigo, Tigo tungku Sujorangan*” (Three ropes tied, Three legs of mine).

This means that there are three elements of leadership in society that must unite for mutual progress. These three elements are the parties who make the highest decisions in the community for mutual progress. The parties include the first element of government, the second element of the ulama, and the third element of ninik mamak/mamak adat.

Through this principle of unity, a joint decision will be taken by considering matters of a basic and optional nature [9]. So that, they get a decision that can be carried out together in the Malay community.

Mamak adat tends to be in line with the views of scholars regarding proposals in deliberation with government elements. This is because the unity in the elements of religious magical/Islamic values which are believed by the Malay community is very influential [10]. While scholars in Malay society also uphold the values that have been conveyed in Islam, one of which is related to government affairs is obedience to Ulil Amri (State Leader). So related to the aspect of meeting social needs, the Malay community will submit to

government policies after the adat mamak conveys the results of the agreement to each kamanakan child. Changes and adjustments will be made in accordance with the procedures and protocols that have been jointly determined.

B. The Impact of Harmonization of Customary Law in the Marriage of the Rokan Hulu Malay Community during the Covid-19 Pandemic

Health protocol policies during the new normal in Indonesia have had many impacts on economic, political, and especially social aspects. Social activities of the general public tend to live together, interact closely. However, it is very different during the new normal which demands a lot of protocols/adjustments to different environmental conditions than usual.

Health protocols during the new normal period of the Covid-19 pandemic were encountered from various policies at every level of government. That is starting from the Covid-19 handling task force by the Central Government, to the Covid-19 handling task force in each region throughout Indonesia. Until now, the President has been the center of attention and command in every step taken by all task force teams to handle Covid-19 in Indonesia, including Rokan Hulu Regency, Riau Province.

The policy of the Rokan Hulu Regency Covid-19 task force received well all instructions given from the Central Covid-19 handling task force. Especially in terms of implementing health protocols in daily activities, efforts are continuously being made to convey them to the community. This is because the local government of Rokan Hulu Regency realizes that social and economic activities of the community must also be maintained. So preventive efforts in maintaining the socio-economic conditions of the community remain in good condition, the local government also issues circulars related to health protocols in community social activities.

Marriage as an activity of the Malay community in Rokan Hulu Regency, a health protocol for the implementation of marriage is also given. The Health Protocol for the implementation of marriage in Rokan Hulu Regency is given several criteria:

1) Arranged according to health protocol standards in the new normal: Health Protocol standards that are generally accepted for living during the Covid-19 pandemic are in the form of:

- Washing hands with soap and running water/hand sanitizer;
- Wearing a Mask;
- Keeping Distance;
- Staying away from crowds;
- Reduced Mobility.

The health protocol standards above apply thoroughly in every social activity of the community. This is also reinforced by the provision of administrative sanctions for violators, either in the form of fines or social work.

2) *Regulated based on zoning per district: This zoning was carried out in Rokan Hulu Regency considering that the distribution of positive Covid-19 cases tended to be in the central government city area, namely Ujung Batu, Rambah and Rambah Hilir Districts. For the three sub-districts, a strict health protocol was applied and several arrangements were added related to the implementation of marriages. Additional settings are:*

- Marriage arrangements must strictly adhere to health protocols;
- The marriage can only be attended by the closest family of the bride and groom, their respective customary mamak and a maximum of 10 invited guests;
- The procession of customs in the customary law of marriage must comply with the health protocol by communicating to the customary management in the area where the marriage takes place.
- The procession of eating together is served, replaced with boxed rice and not eaten together at the wedding venue, but taken to their respective homes.

Mamak adat as a person on whose shoulders there is a mandate to the kamanakan child, it should be a place to complain about the needs of the kamanakan child. When the kamanakan child wants to get married, then the adat mamak will be the party that takes care of the procession of how the marriage will be organized later. So, at the beginning of the Covid-19 pandemic, many couples postponed the time of holding their marriage until a joint decision was issued regarding the protocol for holding marriage during the Covid-19 Pandemic. Regarding the health protocol that has been circulated, of course it has implications for the community. In this case, the adat mamak will then consult with the village head and Ulama, in accordance with the customary proverb which says that:

“Tali bupilin tigo, Tigo tungku Sujeorangan” (Three ropes tied, Three legs of mine).

The results of the deliberation then became a guide in organizing marriages in the Malay community. The tendency of adat mamak to follow the views of ulama in deliberation provides a close concept of how the relationship between the Malay community and the Islamic religion occurs. Until all matters relating to aspects of Malay culture, fully accommodate the acceptance of Islam. So the Ulama are the key in carrying out the life activities of the Malay community.

If the scholars around him are good, then the environment is good. However, if there are bad scholars around them, then the damage will be done to the people. Ulama as community guides, will definitely apply Islamic values.

IV. CONCLUSION

The Efforts to harmonize customary law in organizing marriages for the Rokan Hulu Malay community during the Covid-19 pandemic did not encounter significant difficulties. Because the principles of the value of life that are held and adhered to by the Malay community have similarities in the purpose and intent of the health protocol, namely maintaining the safety of the soul from damage is prioritized. So it can be understood that the flexibility of customary law in adapting to its environment is very easy, so that it can survive until now. As the Malay proverb

“Takkan hilang melayu di Bumi (Wouldn't lose the Malays on Earth)”.

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