



Islam and Local Wisdom: The Mangalap Tukkot Marriage Tradition in the Angkola Batak Community

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Abstract

The mangalap tukkot tradition is a polygamous tradition that can be carried out by the husband if the wife cannot give birth. This tradition is often carried out without permission from the court, as stipulated in statutory regulations. In addition, this tradition also does not involve the results of a medical examination that determines which party cannot give birth. This study aims to analyze how Islamic law views the mangalap tukkot tradition, which is rooted in the practice of marriage in the Angkola community. This research resulted from empirical studies with data collection techniques in the form of interviews and observations. Approach Juridis is used in this study to examine, from the perspective of Islamic law, the tradition of mangalap tukkot. The results of the study show that the mangalap tukkot tradition is normatively in accordance with Islamic law because, in Islam, the reason for not having children is permissible for polygamy. However, when viewed from the maslahah aspect, the mangalap tukkot tradition is not in accordance with the principles of justice for women because it tends to position the wife as a subordinate in matters of marriage. This makes the assumption that women are merely a complement to the interests of men. And this is really contrary to Islamic principles, which prioritize human values like justice, equality, and benefit.

Keywords: Islamic law, polygamy, tradition, Mangalap Tukkot

Abstrak

Tradisi mangalap tukkot ini merupakan tradisi poligami yang boleh dilakukan oleh suami apabila istri tidak dapat memberikan keturunan. Tradisi ini sering dilakukan tanpa ada izin dari pengadilan sebagaimana dalam peraturan perundang-undangan. Selain itu, tradisi ini juga tidak melibatkan hasil pemeriksaan medis yang memastikan pihak mana yang tidak dapat memberikan keturunan. Penelitian ini bertujuan untuk menganalisis bagaimana hukum Islam melihat tradisi mangalap tukkot yang sudah berakar dalam praktik



pernikahan pada masyarakat Angkola. Penelitian ini dihasilkan dari kajian empiris dengan teknik pengumpulan data berupa wawancara dan observasi. Pendekatan yuridis digunakan dalam penelitian ini untuk melihat dari aspek hukum Islam terhadap tradisi mangalap tukkot. Hasil penelitian menunjukkan bahwa tradisi mangalap tukkot secara normatif sesuai dengan hukum Islam, karena dalam Islam alasan tidak memiliki keturunan dibolehkan untuk poligami. Namun, jika dilihat dari aspek masalah, tradisi mangalap tukkot tidak sesuai dengan prinsip keadilan terhadap perempuan, karena cenderung memposisikan istri sebagai subordinat dalam permasalahan pernikahan. Hal ini memberikan anggapan bahwa perempuan sekedar sebagai pelengkap dari kepentingan laki-laki. Dan ini sungguh bertentangan dengan prinsip Islam yang mengedepankan nilai-nilai kemanusiaan, keadilan, kesetaraan, dan kemaslahatan.

Kata Kunci : Hukum Islam, poligami, tradisi, Mangalap Tukkot.

Introduction

Indonesia is a very complex country with its own cultural diversity. Indonesian society is very diverse, this can be seen from the diversity of ethnicities, religions, races and classes. Indonesia consists of several provinces where between the provinces and other provinces have their own culture and traditions.¹ Even within the province itself, it still has a variety of cultures and traditions. North Sumatra is identical to the Batak tribe, West Sumatra is identical to the Minangkabau tribe, West Java is identical to the Sundanese tribe, Central Java is identical to the Javanese tribe, crossing to the island of Sulawesi which is identical to the Bugis tribe, so on with other provinces, each of which has a religious tribe and traditions attached to the region. Even within the province itself, there are still various sub-ethnic cultures. North Sumatra, for example, which is identical with the Batak tribe, still has its own sub-ethnic group, part of the Batak sub-ethnic group consisting of the Toba Batak, Angkola Batak, Mandailing Batak, Karo Batak, and Simalungun Batak. Thus the reality is so complex, heterogeneous and diverse in Indonesian culture.

Indonesian society is a plural society and can be differentiated horizontally or vertically. Horizontally, Indonesian society is marked by the diversity of race, religion, ethnicity, and class. While vertically marked by differences in access to economic resources and political power. It is these differences that then influence the belief system, values, behavior, and outlook on life of the Indonesian people. The social structure which is plural in nature, makes Indonesian people always face problems of ethnic conflict, community disintegration, and social discrimination.

As a result of cultural diversity, each region has its own traditions, including marriage traditions in the Angkola community. There is one tradition out of all the marriage traditions of the Angkola people, namely tradition "*Mangalap Tukkot*" which means if a marriage does not produce children, the wife allows the husband to remarry or polygamy. In general, the "*Mangalap Tukkot*" tradition is polygamy on the grounds that the wife is infertile.

¹ Kuntowijoyo, *Budaya Dan Masyarakat* (Yogyakarta: Tiara Wacana, 2006), 12.

In general, in Islam, polygamy is not prohibited, but with the provisions that one is only allowed to marry four women. If approached from an Islamic perspective, polygamy has perfectly regulated the process of polygamy. However, many people, especially those who are Muslim, practice polygamy not in accordance with the recommendations and rules of the Islamic religion, most of them do polygamy only to follow their desires. Apart from just following their own desires, people practicing polygamy are not only not in accordance with Islamic recommendations, but also not in accordance with state regulations in the form of statutory regulations.

In the Lampung community, for example, when traditional leaders do not have male offspring, there are traditions and local wisdom that encourage these traditional leaders to remarry to produce male offspring as successors to these traditional leaders.² Nur Khosiah in her writing article explains the difference of opinion about polygamy. According to contemporary scholars, Muhammad Abduh and Muhammad Syahrur, for example, have views and opinions on polygamy, Muhammad Abduh allowed polygamy by using emergency provisions and conditions, for example, a wife is infertile and unable to produce offspring, whereas Muhammad Syahrur allowed polygamy without any terms and conditions, let alone the status of the person to be married as a widow and having children, because according to Muhammad Syahrur what was more important was protecting orphans.³

Meanwhile, Khirul Amru Harahap in his writings and articles about the comparison regarding the principle of polygamy between the government and Islamic law explained that the Government in terms of polygamy adopts the principle of monogamy as in Article 3 paragraph (1) of Law Number 1 of 1974 concerning Marriage that a man is only may marry a wife and vice versa. However, the government does not close the door for a man to have more than one wife if he fulfills the terms and conditions based on existing laws and regulations. The Indonesian government and Islamic law, when viewed from a principle perspective, both use the principle of open monogamy, the difference is that the government, in this case, uses strict and limited polygamy, while Islamic law only uses limited polygamy.⁴

There have been many writings and articles discussing the law of polygamy and the principle of polygamy. Sumanto Al-Qurtuby, for example, wrote an article about polygamy and monogamy in Saudi Arabia and its surroundings. It was explained that Saudi Arabia has long been described as the "center of polygyny", the practice of marrying one man to several women simultaneously. But in his latest research on a number of young Arab men, the practice of polygyny is starting to fade nowadays. The younger generation in the Arab kingdoms seems to have started choosing monogamy, rather than polygamy, with several basic reasons, factors and

² Muammar Zaki Yamani, *Skripsi: Tinjauan Hukum Islam Terhadap Poligami Bagi Tokoh Adat Yang Tidak Memiliki Anak Laki-Laki* (Lampung: UIN Raden Intan Lampung, 2017), 85.

³ Nur Khosiah, Reza Hilmy Luayyin, and David Prabowo, "Polygamy Perspective of Muhammad Abduh and Muhammad Syahrur," *Imtiyaz: Journal of Islamic Sciences* 5, no. 2 (2021): 77-86, <https://doi.org/10.46773/imtiyaz.v5i2.149>.

⁴ Khoirul A. Harahap, "Policies of the Government of the Republic of Indonesia and Islamic Law Regarding Polygamy: A Comparative Study," *Volkgeist: Journal of Law and Constitutional Studies* 2, no. 1 (2019): 89-105, <https://doi.org/10.24090/volkgeist.v2i1.2684>.

arguments. Based on interviews and conversations with a number of Arab youths whose findings show, as in his article, he refutes the myth of polygyny in the Saudi kingdom and attempts to understand the rationality and logic of monogamy of young men and women in Saudi Arabia today.⁵ Meanwhile, Dahlia Haliah Ma'u in her article *The Harmonization of Polygamy Between Islamic Law and Legal Law in Indonesia* discusses the harmonization of polygamy legal norms based on Islamic law and positive law in Indonesia. In her article, Dahlia found that the most dominant dichotomy between these two legal norms lies in not allowing female civil servants to become second, third or fourth wives, as regulated in Article 4 paragraph 2 PP.45/1990. This rule is not in sync with the norms of Islamic law which do not prohibit this from being done. Therefore, it is necessary to revise the state legal norms regarding polygamy for the benefit of all parties, both the family and society.⁶ Dri Santoso in his article entitled *Harmony of Religion and Culture: Fiqh Munakahat Perspective on the Gayo Marriage Custom* explains that harmonization between religion and culture in Gayo tribal customary marriages occurs well and without coercion seen from the perspective of Fiqh Munakahat.⁷ The author tries to discuss this from the point of view of the local wisdom of the Angkola people, namely "mangalap tukkot". As mangalap tukkot, it is a tradition in the Angkola community that if a husband and wife do not have children, the couple may carry out the "mangalap tukkot" tradition, namely a husband may remarry.

Islam regulates the implementation of polygamy with the provisions of being fair and marrying a maximum of only four women (QS. An-Nisa/4:3) which was clarified by Imam Syafi'i that it is not permissible for a man to marry more than four women and this opinion becomes *Ijma'*. Scholars among the Sunnis, in contrast to the Shi'a scholars who argue that they may marry more than four women or even nine women, their basis is based on the Prophet by marrying more than four women and died leaving nine widows.

Meanwhile, if polygamy is approached by positive law, the regulation regarding polygamy is regulated in Law Number 1 of 1974 concerning marriage which then as the implementing regulations is mandated in Presidential Instruction Number 1 of 1991 concerning the Confiliation of Islamic Law (KHI). The results of the author's interview with the Head of Ward VII, Kelurahan Simatorkis Sisoma explained that "Mangalap Tukkot" as a local wisdom of the Angkola community was mostly carried out without permission from the Religious Courts.

The "Mangalap Tukkot" wedding procession is only carried out with a traditional procession.⁸ The tradition of "mangalap tukkot" in Angkola culture, is a cultural ancestral heritage. This tradition is still a lot and exists in the Angkola community, even though for a

⁵ Sumanto Al Qurtuby, *Between Polygyny and Monogamy Marriage in Saudi Arabia and Beyond*, Al-Jami'ah, vol. 60, 2022, <https://doi.org/10.14421/ajis.2022.601.29-62>.

⁶ Dahlia Haliah Ma'u, "The Harmonization of Polygamy Between Islamic Law and Legal Law in Indonesia," *Samarah: Journal of Family Law and Islamic Law* 7, no. 2 (2023): 1-23, <https://doi.org/10.22373/sjhl.v7i2.8519>.

⁷ Dri Santoso et al., "Harmony of Religion and Culture: Fiqh Munakahat Perspective on the Gayo Marriage Custom," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 22, no. 2 (2022): 199-218, <https://doi.org/10.18326/IJTIHAD.V22I2.199-218>.

⁸ Interview with Hibban Sormin, Kepala Lingkungan VII, Kelurahan Simatorkis Sisoma, Tapanuli Selatan, Tanggal 13 Mei 2023

young age many don't know about it, but in everyday life it is still often found. From interviews with many respondents in various areas where the Angkola community is spread, people aged 30 and over still know this tradition, in contrast to people aged 30 and under, no one claims to have heard of this custom. The "mangalap tukkot" custom is related to "the custom of remarrying for men who do not have children from their wives." There are still many men who carry out this custom, although they do not know that issues like this are discussed in the Angkola custom. The decision of a man (husband) to remarry because he does not have children arises because of the insistence of the man's parents who want grandchildren from their children, but parents who have ordered their son to remarry have never known that there is a "mangalap tukkot" custom. " This. An interview with Sholatun Harahap Patuan Banggor Harahap customary title explained that when a man (husband) wishes to remarry to his wife who cannot have children, disputes often occur and the case has to be resolved in the religious court. In fact, cases like this can be resolved at the deliberation level with traditional leaders. however, parents who have had their sons remarried have never known that this "mangalap tukkot" custom existed. An interview with Sholatun Harahap Patuan Banggor Harahap customary title explained that when a man (husband) wishes to remarry to his wife who cannot have children, disputes often occur and the case has to be resolved in the religious court. In fact, cases like this can be resolved at the deliberation level with traditional leaders. however, parents who have had their sons remarried have never known that this "mangalap tukkot" custom existed. An interview with Sholatun Harahap Patuan Banggor Harahap customary title explained that when a man (husband) wishes to remarry to his wife who cannot have children, disputes often occur and the case has to be resolved in the religious court. In fact, cases like this can be resolved at the deliberation level with traditional leaders. disputes often occur and cases are forced to be resolved in religious courts. In fact, cases like this can be resolved at the deliberation level with traditional leaders. disputes often occur and cases are forced to be resolved in religious courts. In fact, cases like this can be resolved at the deliberation level with traditional leaders.⁹

The Mangalap Tukkot Tradition as a System of Values: Norms and Laws

Laws and Norms are a tool that can influence human behavior and activities in society, their existence is inseparable from various events and social activities that are formed constructively. Law is a collection of various norms that are used as guidelines in society.¹⁰ The Angkola tribe is spread in the southern part of Tapanuli, Angkola land, namely all areas that use Angkola until the Angkola Promise in *Luat Pahae*, from the East coast to the West coast. The Dutch changed *Tanah Angkola* to *Tapanuli*, the government of this country used the word "Tapanuli" (*butan nauli*) to refer to *Tanah Angkola*. Hence the name of the Level II Region of South Tapanuli Regency. The Angkola people don't like *marbada*/fighting. The Angkola tribe believes that from whatever literature people see Angkola, they will definitely meet Angkola.

⁹ Interview with Sholatun Harahap Gelar Patuan Banggor Harahap, Ketua Badan Pemangku Adat Batak Angkola, tanggal 13 Mei 2023.

¹⁰ Sukarno Aburera, *Filsafat Hukum Teori Dan Praktik* (Jakarta: Kencana Pranada Media Group, 2017), 28.

Whether from the migraphic theory of Taiwan or the Indian diaspora, we still meet Angkola. The distribution area of Angkola land is wide, covering several districts including South Tapanuli, Mandailing Natal, Padang Lawas, North Padang Lawas, Labuhan Batu Selatan and Pasaman Regencies. If one district the number of people is 200.¹¹

The number of people from the Angkola tribe is more than the Toba, Karo, Pakpak people based on the Batak sub-ethnicity. The Angkola people were the first to recognize formal education. When Willem Iskandar was still a child, Gustav van Asselt had already established a seminary school in Parau Sorat, Sipirok. When Willem Iskandar founded Kweekschool Tano Bato, most of his students were from Angkola. The first graduate of Tanobato is from Angkola. And, when Kweekschool was moved to Padang Sidempuan, that was the Angkola area. When people had not yet thought about unions, an Angkola person in the Netherlands named Sutan Casayangan founded the Indonesian Student Association. And, while in this country people were not yet united, the Angkola people had already joined forces with the Minang people to establish the Jong Sumatra Bond.¹²

The Angkola community is an ethnic group that still upholds the values of life in various lines, including religious, social and legal values arising from community habits so that these habits become a rule that has value in carrying out community activities. The Angkol community has living rules in the form of legal norms in society. The set of norms and rules is formed in a single unit called "Surat Tumbaga Holing". When talking about constitutional forms in general in the international world, there are two types of constitutional forms, namely written and unwritten constitutions. "Tumabaga Holing Letter" is the unwritten constitution of the Angkola people, "Tumbaga Holing Letter" is a letter that is not written but can be seen. Then in the "Surat Tumbaga Holing" these become instructions and guidelines that must be obeyed in social life and activities or in the Angkola community they are called *pastak-pastak ni paradaton*.¹³

Then the concepts and norms of "Letter of Tumbaga Holing" are implemented through *patik*, *Uhum*, *Ugari* and *Hapantunon* as implementing rules of unwritten rules. *Patik* is an unwritten basic rule that is useful as a guide in behaving, while *Uhum* is more specific with sanctions, namely violations of norms in carrying out *patik* will be subject to sanctions or *uhum*. *Ugari* is a habit that is determined to be a rule, but may not conflict with higher rules, namely *patik* and *uhum*. This *Ugari* arises usually due to the influence of the times, so that it is adapted to space and time but does not violate the basic rules, while the last one is *hapantunon* which is dominant towards manners and ethics in society such as *partuturon*.¹⁴

¹¹ Basyral Hamidy Harahap, *Pemerintah Kota Padang Sidmpuan Menghadapi Tantangan Zaman* (Medan: Pemerintah Kota Padangsidimpunan, 2003), 31.

¹² Basyral Hamidy Harahap, *Peranan Willem Iskandar Dalam Pembaharuan* (Jakarta: Library of Congress Photo Duplication Service, 1992), 19.

¹³ Sutan Tinggi Barani Perkasa Alam, *Adat Budaya Batak Angkola* (Jakarta: Partama Mitra Sari, 2008), 7.

¹⁴ Rene Teygeler, "Pustaha A Study Into The Production Process Of The Batak Book", *Manuscripts Of Indonesia*, (1993) 593-611, <http://www.jstor.org/stable/27864489>. Diakses 13 May 2023

The Angkola people have two types of traditional ceremonies in general, namely Siriaon (traditional ceremony in the form of joy) and Siluluton (traditional ceremony in the form of mourning). In carrying out traditional ceremonies, both siriaon and siluluton, the rules of the game are based on patik, uhum, ugari and hapantunon. Likewise, in carrying out the "Mangalap Tukkot" custom which will be used as the object of this research, it must also be in accordance with the tumbaga holing letter as an unwritten basic rule in the Angkola community.¹⁵

The tradition of "mangalap tukkot" in Angkola culture, is a cultural ancestral heritage. This tradition is still a lot and exists in the Angkola community, even though for a young age many don't know about it, but in everyday life it is still often found. From interviews with many respondents in various areas where the Angkola community is spread, people aged 30 and over still know this tradition, in contrast to people aged 30 and under, no one claims to have heard of this custom. The "mangalap tukkot" custom is related to "the custom of remarrying for men who do not have children from their wives", there are still many men who practice this custom even though they do not know that issues like this are discussed in the Angkola custom. The decision of a man (husband) to remarry because he does not have children arises because of the insistence of the man's parents who want grandchildren from their children, but parents who have ordered their son to remarry have never known that there is a "mangalap tukkot" custom. " This. As a result, when a man (husband) conveys his wish to remarry to his wife who cannot have children, disputes often occur and the case has to be resolved in a religious court. In fact, cases like this can be resolved at the deliberation level with traditional leaders.

Tradition *take a tukkot* is one of the various types of marriage traditions of the Angkola Society. Following are some of the marriage traditions of the Angkola people, First Paolistairs Nabad, that is, when a husband dies, his younger sibling will marry his own brother's widow, and vice versa. Second, Tangko Binoto, namely the marriage of a girl with the knowledge of both parents, but not yet in custom I or not yet official according to custom and has not been notified to the hatobangon. Third, namely Boru manaek, namely marriage because a girl becomes pregnant out of wedlock by her boyfriend, who then asks her to marry him in an honorable manner. Fourth, Boru Elehan, namely marriage by being asked and properly proposed and persuaded to want to be married. Fifth, Boru Hiapan, namely marriage because of a girl who was found at a playground (partandangan) who was then invited to marry without thinking long about the girl wanting to be married. Sixth, Boru Mangalap Tukkot, that is, if a marriage does not produce children, a wife gives her husband permission to remarry.¹⁶

There is a process carried out to carry out the traditional mangalap tukkot tradition, namely martahi.¹⁷ Martahi is a consensus meeting to carry out how the mangalap tukkot

¹⁵ Interview with Khaerul Alam Gelar Sutan Lembang Alam, Raja Luat Pijorkoling, Padangsidimpuan, Tanggal 13 Mei 2023

¹⁶ Sutan Tinggi Barani Perkasa Alam, *Adat Budaya Batak Angkola*, 26.

¹⁷ E Siregar and S A Sormin, "Kepemimpinan Tradisional Masyarakat Batak Angkola Di Kerajaan Luat Marancar Pada Masa Pendudukan Belanda Dan Jepang (1930 ...," *Education and Development* 9, no. 3 (2021).

marriage process will run smoothly and to determine when the day is suitable for carrying out the traditional ceremony. There are also several levels of Martahi. First, the dung-ungut, which is a deliberation between the husband and wife. This is where the deliberation is then whether there is permission from the wife for the husband to remarry for the reason of not having children. After it was finished and an agreement was reached, then Martahi sabagas was carried out, which was a deliberation between families consisting of three dimensions, namely Anakboru, Kahanggi and Mora. After one family has obtained an agreement, then the Martahi Sahuta will be held, namely a village-wide deliberation to get an agreement on how the horja or traditional ceremony will be carried out.

Some of the ingredients used in the martahi process are Burangir or Betel Leaf which is called *Two Complete Burangir Nahombangas* a means used to convey the intentions contained in the heart which is dedicated to the king of Pamusuk, rakkyahatobangon and the invitees who were invited in tahisahata. In this offering, burangir does not stand alone but is mixed with areca nut, gambier, tobacco, soda, this is what is called (*opat odd lima na gonop*), and each has a different meaning and philosophy.¹⁸

Another tool used is mats (*Lage Adat*). There are mats in the Angkola community that are sacred, namely amak lappisan, normally ordinary lage, originally made of pandanus and ibus, the ends of each side are covered with red cloth. This layered cloth is used in traditional event siding. Guests/Invitees cannot sit across the mat. The color of the mat shows the strata of Na Mar Dalihan Natolu. The mats covered with red cloth were occupied by Hasuhtan, Kahanggi, and Hombar Suhut. Lage, which was covered with a red cloth combined with a white cloth, was occupied by Mora. The mat covered with red cloth combined with black cloth is occupied by anak boru which means red color is to show blood relationship. There are no mats with an even number of layers. The layers of the mat are always odd. If the levels are five layers, this mat is where Orang Kaya and Kahanggi Raja sit. If the tiers are seven layers, this mat is the seat of King Pamusuk or King Panusunan Bulung.¹⁹

Polygamy in Islamic Law and Indonesian Positive Law

Islam is a religion that gives mercy to all nature, as evidenced by the regulation of all aspects of life, even how the procedures for urinating are regulated in Islam. Moreover, the rules regarding marriage, Islam is very strict in this aspect, even the scholars and mujtahids have written many papers on this matter as evidenced by the fact that fiqh books have made a special chapter on fiqh marriage or fiqh munakahat.

At the beginning, we discussed more deeply what the term "mangalap tukkot" actually means in Angkola customary terms. In short "mangalap tukkot" is polygamy because they do not have children.²⁰ For Islamic fundamentalists and textual or literate circles in Amin Abdullah's terms, the legal basis in the Qur'an that is often used in discussing whether or not polygamy is

¹⁸ Sutan Tinggi Barani Perkasa Alam, *Adat Budaya Batak Angkola*, 18.

¹⁹ Elisabeth Nurhaini Butarbutar, "Perlindungan Hukum Terhadap Prinsip Dalihan Natolu Sebagai Hak Konstitusional Masyarakat Adat Batak Angkola," *Jurnal Konstitusi* 16 (2019): 5.

²⁰ Interview with Patuan Banggor Harahap, Ketua Badan Pemangku Adat Batak Angkola, tanggal 13 Mei 2023

permissible is in QS An-Nisa/4:3, which states "then marry women what you like two, three or four." However, if we look at it from the perspective of justice and equality, it would be inappropriate to allow polygamy, let alone to make it a sunnah of the Prophet, as the context at the time of the Prophet was different from the present context. Because if seen from the current context, polygamy will cause injustice and disharmony in the family.²¹

The reason for the birth of the formal juridical rules regarding marriage mentioned above when viewed from a sociological perspective is because in the past people practiced polygamy without any rules so they were free to practice polygamy regardless of existing religious rules. So sociologically, this is one of the reasons for the formulation of the law on marriage, even though the regulation has not yet been carried out according to the purpose of making the law.²²

Polygamy law in Islam is not mandatory, but it is permissible if it fulfills the conditions for the permissibility of polygamy. In the marriage law the court gives permission with conditions, then in article 4 paragraph 2 of Law Number 16 of 2019 amendments to Law Number 1 of 1974 concerning Marriage it is stated that the court gives permission to a husband to have more than one wife one if first, the wife cannot carry out her obligations. Second, the wife is disabled and has an incurable disease and Third, the wife cannot bear children.

The purpose of marriage as stipulated in the marriage law is to form a happy household and family based on Belief in One Almighty God or as stipulated in the conflation of Islamic law to form a family that is *sakinah mawaddah warahmah*. So when the three conditions above exist in a family, it will result in family disharmony. For example, in the first condition, a wife cannot carry out her obligations, there will be imbalance in the family even though the husband's sexual needs are met, as well as in the second condition, when a wife is disabled and has an incurable disease, many of the husband's rights are not fulfilled so that family disharmony. So also the third condition, when you don't have offspring it often makes a family crippled and disharmonious. From the description above, it can be understood that the main purpose of allowing polygamy is for the benefit and to maintain harmony in a family.²³

Arrangements regarding polygamy are also regulated in the Conflation of Islamic Law contained in articles 55, 56, 57 and 58. From the several basic explanations that have been explained, it is understandable that the principle of marriage is monogamy but not absolute, because according to the marriage law in article 1 paragraph 3 states that a husband may only marry one wife, but in paragraph 2 of the same article it is stated that the court can grant permission to a husband to have more than one wife provided there is consent and agreement from those concerned.²⁴ Based on the elucidation of this article, it can be understood that the principle of marriage is open monogamy. Therefore, it is possible for a husband to practice polygamy under certain circumstances and of course it must be under the supervision of the

²¹ Sahiron Syamsuddin, *Hermeneutika Dan Pengembangan Uloomul Qur'an* (Yogyakarta: Nawasea Press, 2017), 39.

²² Abd Raziq and Faturrahman Faturrahman, "Pendekatan Sosiologi Dan Antropologi Tentang Poligami," *Jurnal Tana Mana* 1, no. 2 (2020): 166-74, <https://doi.org/10.33648/jtm.v1i2.141>.

²³ Abduttawwab Haikal, *Poligami Dalam Islam Dan Monogami Barat* (Jakarta: Pedoman Ilmu Jaya, 2014), 9.

²⁴ Abdul Rahman, *Konfilasi Hukum Islam Di Indonesia* (Jakarta: Akademika Pressindo, 1992), 34.

court. The basis for the permissibility of practicing polygamy is contained in Article 4 (2) of the Marriage Law and also in Chapter IX Article 57 of the Islamic Law Conflation (KHI), namely the wife cannot carry out her obligations as a wife, the wife has an incurable disease and the last one is the wife. unable to produce offspring.²⁵ If one understands and examines the reasons that form the basis for the permission to practice polygamy above, it can be understood that these grounds and reasons refer to the main purpose of marriage, namely to form an older household, in terms of the Conflation of Islamic law called *sakinah, mawaddah, wa rahmah* which is based on The One Almighty God. So when a husband has a wife who is still alive, but turns out to be unable to give birth and has really and seriously been treated and checked in health technology and it is true that the problem is the wife's side, then a husband can be polygamous by submitting an application to the court.²⁶

The Islamic Law Conflation settings refer to the sharia *maqasid* application. However, the requirements that are too binding in the conflation need to be reviewed again by providing some leeway, because if you see and understand that many people are apathetic towards these rules, they practice illegal polygamy because they cannot fulfill the strict requirements, namely having to obtain a permit for polygamy from the religious court. In addition, the community cannot only see the legality of polygamy, the community must also look at it from other angles and perspectives, namely the nature and purpose of marriage so that polygamy, even in urgent situations, is at least a solution and not a source of problems in the household.

The Tradition of Mangalap Tukkot Viewed from the Perspective of Maqashid Syariah

Maqashid sharia is the basic concept used to understand the purpose of sharia law. There are five main objectives in *maqasid sharia*, namely protecting religion, protecting souls, protecting offspring, protecting intellect, and protecting property. In the context of polygamy, several *maqashid sharia* that are relevant are protecting offspring, protecting reason, and protecting property.²⁷ If a husband wants to carry out the "mangalap tukkot" tradition in Batak Angkola terms or practice polygamy because of infertility, then he must ensure that the husband fulfills the conditions set out in sharia law, such as fairness and equality in treating all wives. In addition, the husband must also consider the psychological and emotional impact of the decisions he makes on himself and his family, and ensure that the new wife will not harm the existing wife.²⁸

In the context of *maqashid sharia*, if the "mangalap tukkot" tradition is carried out in the right way, taking into account the interests of all parties and maintaining a balance between individual and societal interests, then the goal of protecting offspring can be fulfilled. However, if the "mangalap tukkot" tradition is carried out solely for reasons of infertility without taking

²⁵ Dahlia Haliah Ma'u, "The Harmonization of Polygamy Between Islamic Law and Legal Law in Indonesia."

²⁶ Muhammad Shahrur, *Methodology of Contemporary Islamic Fiqh* (Yogyakarta: eLSAQ Press, 2004), 53.

²⁷ Asafri Jaya Bakri, *Konsep Maqashid Syariah Menurut Al-Syatibi* (Jakarta: Raja Grafindo Persada, 1996).

²⁸ Yulia Fatma, "Age Limits For Marriage in Islamic Family Law (Comparison Between Muslim Countries: Turkey, Pakistan, Morocco And Indonesia)," *JURIS (Scientific Journal of Sharia)* 18, no. 2 (2019): 117, <https://doi.org/10.31958/juris.v18i2.1670>.

into account the necessary considerations, then this goal may not be fulfilled and instead it will create new problems in family life.²⁹

In terms of keeping one's mind, the "mangalap tukkot" tradition must also be carried out carefully and consider the impact on all parties involved. If a person feels emotionally or psychologically burdened by polygamy, then this goal may not be fulfilled. Finally, guarding one's wealth is also one of the maqashid sharias that must be considered in the context of the "mangalap tukkot" tradition. This tradition can create a huge financial burden on a husband, especially if he is unable to provide for all of his wife's and children's financial needs. Therefore, before carrying out this tradition, the husband must ensure that he has sufficient resources to meet the needs of his family. Psychologically, polygamy provides a negative opportunity; that is, all wives will feel hurt when they see their husbands marrying another woman, even though they give permission orally and are in a legal marriage bond, but deep down they will feel hurt. One of the reasons for polygamy is because the wife is infertile; this reason, in terms of the Angkola customary tradition, is called the mangalap tukkot tradition. God created humans with different physical conditions; some are physically good and some are not. Because of these physical differences, Islam allows polygamy. In responding to polygamy on the grounds of having no offspring in the current context, it must be accompanied by a medical statement.³⁰ Because before the existence of medical technology, infertility was synonymous with the wife's side, but in contrast to the current context with the development of medical technology, infertility is no longer relevant; it is only identified with the wife's side, but it turns out that infertility also exists on the husband's side.³¹ So according to the author, medical information must also be involved in addressing this matter, so that the tradition of mangalap tukkot is no longer relevant if it is only synonymous with the wife's illness. Because, in the tradition of mangalap tukkot, the statement that a wife is infertile usually only comes from the husband's side without carrying out a perfect medical examination,

Some of the opinions of the scholars regarding polygamy on the grounds of not having children, a neomodernist Fazlur Rahman for example said that ethically the essence of the Qur'an is more focused on the concept of monogamous marriage. He argues that in QS an-Nisa'/4:129. It states that it is impossible and will be difficult for a man to be fair and to love more than one wife in the same period of time. Therefore, Rahman argues, the permissibility of polygamy is the wisdom of the Koran to temporarily accept the Arab social structure regarding the habit of polygamy, but in essence the moral ideal of the Koran is monogamy.³²

By using Fazlur Rahman's Double Movement theory, namely by using the special and the general. First, the Arab social setting at that time regarding the revelation of An-Nisa verse (3). This verse was revealed after the Uhud war occurred, because many friends died at that time leaving wives, wealth and children, the Prophet recommended that his friends who were still alive marry him because wives are not used to managing their assets. However, the friends who

²⁹ Santoso et al., "Harmony of Religion and Culture: Fiqh Munākahat Perspective on the Gayo Marriage Custom."

³⁰ Musdah Mulia, *Islam Menggugat Poligami* (Jakarta: Gramedia Pustaka, 2004), 54.

³¹ Musdah Mulia, 54.

³² Muhammad Azhar, *Fiqh Kontemporer Dalam Pandangan Neomodernisme Islam* (Yogyakarta: Lesiska, 1996), 57.

married her denied it and only wanted to take advantage of the assets of the mujahid widows and orphans and did not do justice to the management of the orphans' assets. So Allah encourages the companions to marry other women who are not orphans of two, three or four women. It is hoped that the friends will do justice to the wives. Because if a friend does not do justice then the wife who is not an orphan will sue and report to her parents. Then in the second movement, namely socio-historically in a general form and applied contextually now, so that while at the time of the revelation of the verse it was said in Surat An-Nisa verse (129) that a man will not do justice to a woman who is married earlier of one, as the condition for polygamy is fair, especially in the current context. So if you use this theory, polygamy is prohibited in today's context. so that while at the time of the revelation of the verse it was said in Surah An-Nisa verse (129) that a man will not do justice to a woman who is married to more than one, as the condition for polygamy is fair, especially in the current context. So if you use this theory, polygamy is prohibited in today's context. so that while at the time of the revelation of the verse it was said in Surah An-Nisa verse (129) that a man will not do justice to a woman who is married to more than one, as the condition for polygamy is fair, especially in the current context. So if you use this theory, polygamy is prohibited in today's context.³³

A contemporary Islamic thinker Nasr Hamid Abu Zayd sees Surat An-Nisa verse 3 explaining that the practice of polygamy is prohibited, he calls it al-Tahrim al-Dhmani. Nasr Hamid Abu Zayd sees with an awareness of the historicity of the text which is part of a linguistic text that comes from social and cultural processes so that it must be placed in the present context in the relationship between men and women.³⁴ This is in line with the *ma'na cum maghza* theory, namely looking at the meaning of the Qur'anic text when it was revealed, then developing the message for the present, simply having a dialogue between the text and the contextual.³⁵

An Islamic mufassir from Indonesia such as M. Quraish Shihab argued that polygamy is only permissible at certain times and circumstances, or it can be said that polygamy is only a small space that can only be entered under certain circumstances and there is very little chance.³⁶ According to al-Thufi, polygamy can be seen from the point of view of the benefits or in other words, the theory of *maslahah* can be used to see the problem of polygamy. According to him, polygamy brings more *mufsadat* or danger than benefits, because humans as social beings have jealous nature and character. This trait will arise in families who practice polygamy, so that polygamy is the beginning of conflict in a family.³⁷

³³ N. Nafisatur Rofiah, "Polygamy Perspective Theory of Double Movement Fazlur Rahman," PREFACE: Journal of Education, History, and Social Sciences 4, no. 1 (2020): 1-7, <https://doi.org/10.30743/mkd.v4i1.930>.

³⁴ Siti Lailatul Khoiriyah, "Nasr Hamid Abu Zaid's Thoughts About Polygamy and Its Relevance to Law No. 1 of 1974 Concerning Marriage," Al-Ahwal: Journal of Islamic Family Law 10, no. 1 (2017): 23, <https://doi.org/10.14421/ahwal.2017.10103>.

³⁵ Sahiron Syamsuddin, *Hermeneutics and Development of Ulumul Qur'an* (Yogyakarta: Nawasea Press, 2017), 141-43.

³⁶ M. Quraish Shihhab, *Perempuan: Dari Cinta Sampai Seks Dari Nikah Mut'ah Sampai Nikah Sunnah Dari Bias Lama Sampai Bias Baru* (Jakarta: Lentera Hati, 2005), 201.

³⁷ al-Tufi, Najm Al-Din, *Kitab Al-Tayin Fi Shh Al-Arba'in* (Bairut: Muassasah al-Rayyan, 1998).

In the opinion of the fuqaha, one of the reasons that causes a person to be able to practice polygamy is because he is infertile or unable to get offspring or in the Angkola community he practices polygamy because he is sterile, it is called the mangalap tukkot tradition. Fuqaha argues that if our partner is infertile, then the first thing to do is to seek treatment for at least one year. Then after knowing and making an effort with treatment but not getting results, a husband may practice polygamy provided he does it fairly and with careful consideration.

If seen from a psychological perspective, every wife will definitely not be willing to see her husband having a relationship with a woman other than herself. Every wife must have in her heart no room for affection for other men. So psychologically the wife will never be pleased and willing if her husband gives some of his love to another woman. Meanwhile, in the Angkola community, in the mangalap tukkot tradition, a wife cannot do anything because this problem has been made into a tradition, namely the mangalap tukkot tradition. Even though in their hearts they are not really pleased, as an Angkola people who uphold the dalihan natolu tradition, they must follow the existing customary traditions.

The opinion which states that impotence is used as a basis for men to be able to practice polygamy is as if impotence or infertility is a disease that only comes from women and is not owned by men.³⁸In addition, there are also those who argue that male lust is the basis for the permissibility of polygamy, even though men and women are biologically the same, some even argue that women's lust is greater than that of men. Meanwhile, if you look at the Al-Qur'an there are no verses that explain the basis for someone to be able to practice polygamy, the Al-Qur'an as explained in QS An-Nisa/4:3 only states "then marry women whom you like , three or four only.

In the Angkola community, the mangalap tukkot tradition also seems as if only women have impotence, because in ancient times there was no technology in health that could detect who had impotence. So that in the tradition of mangalap tukkot, the disease tends to be on the wife's side. Tradition like this is actually no longer relevant to today's developments because there is already technology in Health that can detect impotence on the part of the wife or husband.

The problem of polygamy is actually the community that determines whether polygamy is permissible or prohibits it by taking into account whether or not the conditions for polygamy exist. However, the community must also continue to see and hear the opinions of experts and then ask for consideration to get approval whether or not polygamy is permissible. While in the tradition of managalap tukkot in the Angkola community there is no endeavor and effort such as adhering to experts, both health experts and religious experts in practicing polygamy (mangalap tukkot), the community only obeys the customs and traditions of the Angkola community.

From the tradition of "Mangalap Tukkot" this resulted in the occurrence of polygamy with underhanded marriages or unofficial marriages because they did not make an application to the

³⁸ Siti Hikmah, "The Facts of Polygamy as a Form of Violence Against Women," *Sawwa: Journal of Gender Studies* 7, no. 2 (2012): 1, <https://doi.org/10.21580/sa.v7i2.646>.

Religious Courts and only carried out wedding processions according to Islamic law and traditional processions without being registered by the state. This is detrimental to the women's side because apart from not being registered in the civil registry, it is also not certain that infertility is on the woman's side. Because this tradition was born from generation to generation from ancestors in the Angkola community, in this case the mindset and mindset and opinions of the Angkola people in the past were infertile disease only on the women's side.

As stated in the marriage law, if the basis for being given permission to practice polygamy is fulfilled, then there must also be a court decision that a husband can practice polygamy. When it is associated with the "mangalap tukkot" tradition, the rule stating that the condition for practicing polygamy must be a decision from the court is not carried out and implemented by the Angkola people in the mangalap tukkot tradition. People carry out the "mangalap tukkot" tradition (polygamy because the wife cannot give birth) without a court decision, so this tradition is of course not in accordance with existing regulations such as in the marriage law. So that many people carry out this tradition without administration and recording in accordance with statutory regulations. From an Islamic point of view, the mangalap tukkot tradition brings more harm than mafsadat and benefits, because human beings are naturally jealous and jealous, with these traits it will become the root of conflict in the family. Therefore, the origin of marriage is monogamy, because only with monogamy will it be easy to overcome jealousy, jealousy and complaining.³⁹

Conclusion

When viewed from an Islamic perspective, Islamic law, traditional law "mangalap tukkot" or the law of polygamy because a wife cannot give birth is permissible as is the opinion of the scholars who allow a husband to practice polygamy with several provisions, one of which is if he cannot give offspring. Whereas when referring to KHI, polygamy on the grounds that a wife cannot give birth is also permissible as in Chapter IX Article 57 of the Islamic Law Confilation. In the current context, even though Islamic law and KHI allow polygamy for this reason, there must also be a statement from a specialist to find out the truth whether the disease is on the part of the wife or husband.

The tradition of "mangalap tukkot" in Islam is permissible if it is in accordance with the regulations and procedures in the current context. Because in this tradition, people practice polygamy without any effort and effort, with a certificate from a specialist doctor to confirm whether the disease is on the wife's or husband's side. In addition, the Angkola people also carry out the "mangalap tukkot" tradition without any court decision, resulting in underhanded or unofficial marriages because they do not make an application to the Religious Court and only carry out wedding processions according to Islamic law and traditional processions without being registered by the state. This is detrimental to the women's side because apart from not

³⁹ Siti Hikmah, "The Facts of Polygamy as a Form of Violence Against Women," *Sawwa: Journal of Gender Studies* 7, no. 2(2012):1,

being registered in the civil registry, of course this tradition is also not in accordance with existing laws and regulations.

Meanwhile, when viewed from the side of the weakness of the "Mangalap Tukkot" tradition, this has resulted in polygamy with unofficial marriages because it does not make an application to the Religious Courts and only carries out wedding processions according to Islamic law and traditional processions without being registered by the state. Of course, this tradition is detrimental to the women's side, because apart from not being registered in the civil registry, it is also not certain that infertility is on the women's side. Because this tradition was born from generation to generation from ancestors in the Angkola community, in this case the mindset and mindset and opinions of the Angkola people in the past were infertile disease only on the women's side.

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