

The Progressiveness of Islamic Law in the Tradition of Marriage Conditions: An Analysis of the Practice of Planting Durian Trees in Tompo Bulu Village, South Sulawesi

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Abstract

This study examines the legal progression of the obligation to plant a durian tree as a marriage requirement formalized through Village Regulations No. 05/2022 and No. 17/2022 in Tompo Bulu Village, South Sulawesi. In practice, these Village Regulations impose sanctions on prospective brides and grooms who do not comply with the rules by granting the village imam the authority to refuse to perform the marriage ceremony, thereby creating a direct tension with the pillars and valid conditions of marriage in fiqh al-munakahat. This study aims to analyze the legitimacy of *Siyasah Syar'iyah* in the Village Regulations, the legal implications of the mechanism for refusing marriage contracts, and the philosophical values of the tradition of planting durian trees. Using empirical legal research methods and a legal anthropology approach, data was collected through in-depth interviews, field observations, and a documentary study of the two relevant Village Regulations. The most significant finding of this study is that, to date, there has not been a single case of a marriage contract being rejected; 98 percent of villagers voluntarily fulfill their obligations, while the remaining 2 percent are residents who married outside the village's jurisdictional area, meaning the Village Regulation cannot legally be enforced against them. This demonstrates that sanctions function as a deterrent mechanism rather than an instrument of punishment.

Keywords: Maqasid Syari'ah, *Siyasah Syar'iyah*, Village Regulations, Legal Pluralism.

Abstrak

Penelitian ini mengkaji progresivitas hukum kewajiban menanam pohon durian sebagai syarat perkawinan yang diformalisasi melalui Peraturan Desa No. 05/2022 dan No. 17/2022 di Desa Tompo Bulu, Sulawesi Selatan. Dalam praktiknya Perdes tersebut

memiliki sanksi bagi calon pengantin yang tidak mematuhi aturan tersebut dengan memberikan kewenangan kepada imam desa untuk menolak menikahkan, sehingga menciptakan ketegangan langsung dengan rukun dan syarat sahnya nikah dalam fikih munakahat. Penelitian ini bertujuan menganalisis legitimasi Siyasa Syar'iyah Perdes, implikasi hukum mekanisme penolakan akad nikah, dan nilai-nilai filosofis tradisi menanam pohon durian. Dengan memakai metode penelitian hukum empiris serta pendekatan antropologi hukum, data dilakukan pengumpulan melalui wawancara mendalam, observasi lapangan, dan studi dokumenter atas dua Perdes yang relevan. Temuan terpenting penelitian ini adalah bahwa hingga saat ini belum pernah terjadi satu pun kasus penolakan akad nikah, 98 persen warga desa memenuhi kewajiban secara sukarela sementara dua sisanya adalah warga yang menikah di luar wilayah yurisdiksi desa, sehingga Perdes secara hukum tidak dapat diberlakukan kepada mereka. Hal ini membuktikan bahwa sanksi berfungsi sebagai mekanisme pencegahan (*deterrence*) bukan instrumen hukuman.

Kata Kunci: Maqasid Syari'ah, Siyasa Syar'iyah, Peraturan Desa, Pluralisme Hukum.

A. Introduction

Local wisdom Indigenous communities face serious existential challenges, particularly in maintaining culturally-based conservation practices amid the tide of globalization and modernization.¹ According to a UNESCO report (2022), approximately 40% of cultural heritage both tangible and intangible in Southeast Asia is at risk of extinction due to the penetration of foreign cultures. Many traditional practices that have long maintained social and environmental balance are beginning to be forgotten, particularly in Indonesia a country with 1,340 ethnic groups and extraordinary biodiversity. This threat is twofold: the loss of cultural identity and the weakening of *indigenous* mechanisms for maintaining ecological balance.² Data from a 2023 report by the Ministry of Tourism and Creative Economy (Kemenparekraf) reveals that approximately 60% of Indonesia's youth, aged 18–25, are more familiar with foreign cultural trends than with the traditions and cultures of their own regions.³

Indonesian society is fundamentally built upon a foundation of values, norms, and cultural practices passed down from generation to generation.⁴ This heritage is not merely present in the form of art and language, but is also manifested in social rituals, including wedding ceremonies in various regions. Marriage is not only understood as the union of two individuals but also as a social event that embodies traditional symbols, social commitments, and spiritual values.⁵ Marriage, as a fundamental social institution, is often the first target of foreign cultural penetration,

¹ Lanny Nurhasanah, Bintang Panduraja Siburian, and Jihan Alfira Fitriana, "Pengaruh Globalisasi Terhadap Minat Generasi Muda Dalam Melestarikan Kesenian Tradisional Indonesia," *Jurnal Global Citizen: Jurnal Ilmiah Kajian Pendidikan Kewarganegaraan* 10, no. 2 (2021): 31–39, <https://doi.org/10.33061/jgz.v10i2.5616>.

² "Pelestarian Budaya Lokal Di Tengah Arus Globalisasi Dan Peran Generasi Muda Indonesia-Kompasiana.Com,"

³ M.Pd Nicolaus Bangun Prabowo, Drs. Holillulloh, M.Si., M. Mona Adha, S.Pd., "Pengaruh Globalisasi Terhadap Bergesernya Tata Cara Adat Midodareni Pada Masyarakat Adat Jawa," 2021, 167–86.

⁴ Nurhasanah, Siburian, and Fitriana, "Pengaruh Globalisasi Terhadap Minat Generasi Muda Dalam Melestarikan Kesenian Tradisional Indonesia."

⁵ Hidayat Dwitama Jufri et al., "Bissu Sebagai Pemimpin Adat Pernikahan: Kajian Tentang Warisan Budaya Masyarakat di Desa Bontomatene Kecamatan Segeri Kabupaten Pangkep," *Rihlah: Jurnal Sejarah Dan Kebudayaan* 11, no. 02 (2023): 107–24, <https://doi.org/10.24252/rihlah.v11i02.43988>.

where complex traditional rituals that require time and money are beginning to be replaced by practices considered more modern and practical; yet, many of these traditional customs embody critical ecological values.

The community in the village of Tompo Bulu, Balocci Subdistrict, Pangkajene Kepulauan (Pangkep) Regency, South Sulawesi, has a population of 1,897.⁶ As detailed in the following population table:

I Table Population Data for Tompo Bulu Village

No	Description	Total	Percentage	Density (per km ²)	Sex Ratio
1	Population	1,897	11.20	32.98	98.02
2	Head of Household	611			
3	Male	939			
4	Women	958			

Based on the population figures above, the people of Tompo Bulu Village have preserved a unique tradition dating back to the *Kakaraengan* era, which requires the planting of a tree as a prerequisite for traditional marriage.⁷ This tradition has been formalized through Village Regulation (Perdes) No. 05 of 2022 on Customary Institutions (Chapter IX, Article 15) and Perdes No. 17 of 2022 on Tree Planting Regulations.⁸

For the local community, planting trees is not merely a symbolic activity but a form of local wisdom that connects humans with nature. The phenomenon of environmental conservation through wedding traditions has become increasingly relevant and urgent in the context of the global ecological crisis marked by climate change and deforestation.⁹ According to the 2022 *Living Planet Report* released by the *World Wildlife Fund* (WWF), Indonesia despite its abundance of tropical forests still faces alarming deforestation rates, with the loss of 6 million hectares of forest per year since 2000. This figure clearly indicates the failure of conservation models that rely solely on formal regulations.¹⁰ Data from the Ministry of Environment and Forestry (KLHK) shows that every year Indonesia loses more than 600,000 hectares of forest cover due to land conversion, mining, and industrial activities. This situation creates widespread ecological impacts ranging from increased flood intensity, landslides, clean water crises, to the destruction of flora and fauna ecosystems.¹¹

However, in the context of modern Indonesia, the sustainability of local traditions such as this is inseparable from the dynamics of the legal system that governs them. Marriage, as defined in Law No. 1 of 1974 on Marriage as amended by Law No. 16 of 2019 defines marriage as a physical and spiritual bond between a man and a woman aimed at forming a happy and lasting family based on belief in the One Supreme

⁶ Website BPS Pangkep, "Badan Pusat Statistik Kabupaten Pangkajene Dan Kepulauan," Website BPS Kabupaten/Kota, 2023, <https://pangkepkab.bps.go.id/>.

⁷ TIM Penyusun and RPJM Desa, "Rencana Pembangunan Jangka Menengah Desa Tompo Bulu," 2020.

⁸ Peraturan Desa Tompo Bulu tentang Lembaga Adat Istiadat dan Perdes Menanam Pohon

⁹ HA Maskun, "Perlindungan Hukum Keanekaragaman Hayati (Relasi Sawit Dan Deforestasi): Jariah Publishing," 2021,

¹⁰ Building A Nature-positive Society, *LIVING PLANET REPORT 2022*, 2022.

¹¹ Pusat Data dan Informasi Kementerian Kehutanan, "Statistik Kementerian Kehutanan," n.d.

God, registered in accordance with the provisions of Article 1; Article 2 further states that a marriage is valid if conducted in accordance with the laws of each party's respective religion and faith.¹² Meanwhile, the Compilation of Islamic Law (KHI) affirms that marriage is a strong covenant (*Mitsaqan Ghalidhan*) intended to obey Allah's command, and performing it is a form of worship.¹³

Based on regulations that have been legalized through Village Regulations No. 05/2022 and No. 17/2022, these regulations carry strict penalties whereby the village imam/religious counselor has the authority to refuse to marry prospective couples who do not fulfill the obligation to plant a tree.¹⁴ Within the framework of Islamic jurisprudence (fiqh), the pillars and conditions of marriage are clearly defined to include the presence of a guardian, witnesses, a dowry, and the exchange of consent (*ijab kabul*).¹⁵ Therefore, every cultural practice accompanying marriage is often evaluated based on its alignment with these pillars and conditions. If failing to plant a tree obstructs the marriage contract intended as an act of worship, a thorough study is required to determine whether the tradition of planting a tree is acceptable within the framework of Islamic law or considered a practice lacking a sharia basis.¹⁶ Some groups with a textualist perspective tend to view it as an action not recognized in classical fiqh, thus raising questions about its legal status; conversely, indigenous communities regard this tradition as part of their collective identity and not in conflict with religious values.

Various previous studies have examined the tradition of planting trees in the context of traditional weddings from sociological and ethnographic perspectives.¹⁷ However, research focusing on the analysis of the legitimacy of such traditions within the framework of Maqasid al-Shari'ah and Siyasa al-Shari'ah remains very limited. Previous studies have been strong in ethnographic description and mapping sociological values, but have not yet addressed the dimension in which this tradition is formalized into a legal product and has direct consequences for the validity of the marriage contract.¹⁸ This study seeks to fill this gap by offering a more in-depth and comprehensive legal-theological analysis, particularly regarding how the legitimacy of Tompo Village Regulations No. 05 and 17 of 2022 (Bulu) can be assessed from the perspective of Maqasid Syari'ah.

¹² Indonesia, "3 Kitab Undang-Undang: KUHPer Kitab Undang-Undang Hukum Perdata, KUHP Kitab Undang-Undang Hukum Pidana, KUHP Kitab Undang-Undang Hukum Acara Pidana Beserta Penjelasannya," 2017, 1009.

¹³ Pustaka Widyatama (Publisher), "Kompilasi Hukum Islam (Cet. I. Islamic Marriage, Inheritance, and Waqf Laws for Indonesian Muslims. Hukum Perkawinan -- Hukum Kewarisan - Hukum Perwakafan)," 2004, 111.

¹⁴ Data hasil wawancara informan kunci, 25 Oktober 2025 (Berdasarkan riset arsip dokumen Perdes)

¹⁵ Dr Hj. Iffah Muzammil, "FIQH MUNAKAHAT (Hukum Pernikahan Dalam Islam)," *Journal of Chemical Information and Modeling* 53, no. 9 (2019): 1689–99.

¹⁶ Khairil Anwa, Mohd Soberi Awang, and Mualimin Mochammad Sahid, "Maqasid Syariah According To Imam Al-Ghazali and Its Application in the Compilation of Islamic Law in Indonesia," *Malaysian Journal of Syariah and Law* 9, no. 2 (2021): 75–87, <https://doi.org/10.33102/mjssl.vol9no2.315>.

¹⁷ Dalam Bidang and Ilmu Ahwal Al-Syakhshiyah, "Tradisi Menanam Pohon Pisang Dalam Horja Godang Perkawinan Di Desa Pasar Sempurna Kecamatan Marancar Di Tinjau Dari Hukum Islam," 2021, <http://etd.uinsyahada.ac.id/7792/>.

¹⁸ BF Adryanto, "Analisis Maqhasid Al-Shari'ah Terhadap Peraturan Bupati Magetan Nomor 11 Tahun 2020 Tentang Gerakan Wajib Menanam Pohon Sebagai Syarat Pernikahan," 2022, [https://etheses.iainponorogo.ac.id/20400/1/TESES UNTUK PERPUSTAKAAN PUSAT NEW.pdf](https://etheses.iainponorogo.ac.id/20400/1/TESES%20UNTUK%20PERPUSTAKAAN%20PUSAT%20NEW.pdf).

Factors such as differing interpretations between textual and contextual approaches in the jurisprudence of marriage (fiqh al-munakahat), as well as the tension between the authority of the village imam and the requirements of the marriage rites, clearly indicate a gap between what is considered ideal according to legal and religious norms and the social reality existing within the community. It is this interaction between custom, religion, and the state that gives rise to both tension and harmony, as explained by John Griffiths through the theory of legal pluralism, which posits that Indonesian society operates at the intersection of three legal systems that do not always move in the same direction.¹⁹

Based on the identification of these gaps, this study formulates three main research questions: (1) How is the legitimacy of *Siyasah Syar'iyah* established through the Tompo Bulu Village Regulation?; (2) What are the legal implications of the rejection of a marriage contract for prospective couples who fail to fulfill the obligation to plant a tree?; (3) What philosophical values underpin the tradition of planting durian trees as a prerequisite for marriage in Tompo Bulu Village? This study contributes to the development of eco-fiqh and contemporary Islamic law, while supporting SDG 15 (*Life on Land*) through the modeling of legal legitimacy for community-based conservation instruments.

.... وَلَا تَعَاوَنُوا عَلَى الْإِثْمِ وَالْعُدْوَانَ عَاوَنُوا اللَّهَ إِنَّ اللَّهَ شَدِيدُ الْعِقَابِ

“... and help one another in righteousness and piety, but do not help one another in sin and aggression. Fear Allah; indeed, Allah’s punishment is severe.”

B. Theoretical Framework (Literature Review)

I. Maqasid al-Shari’ah and Ecological Reconstruction

The Maqasid al-Shari’ah are the fundamental objectives of Islamic law, traditionally articulated as the five primary safeguards: *hifz al-din*, *hifz al-nafs*, *hifz al-aql*, *hifz al-nasl*, and *hifz al-mal*. In the development of contemporary Islamic legal thought, the environmental dimension is increasingly viewed as an important part of the objectives of Sharia because ecological damage directly impacts the survival of human life, lineage, and property.²⁰ Therefore, the concept of *hifz al-bi’ah* can be positioned as a relevant extension of the Maqasid for interpreting community-based conservation policies, such as the obligation to plant trees in wedding traditions.

The Qur’an and hadith also provide a normative foundation for ecological ethics in Islam, such as the command to cultivate the earth, the prohibition against causing destruction, and the encouragement to plant trees as an act of charity. Among the normative texts are Surah Hud 11:61 regarding humanity’s role as stewards of the earth,

وَالِى تُمُودَ أَحَاهُمْ صٰلِحًا ۚ قَالَ يَقَوْمِ اَعْبُدُوا اللّٰهَ مَا لَكُمْ مِّنْ اِلٰهٍ غَيْرُهُ ۗ هُوَ اَنْشَاَكُمْ مِّنَ الْاَرْضِ وَاسْتَعْمَرَكُمْ فِيهَا فَاسْتَغْفِرُوْهُ ثُمَّ تُوْبُوْا اِلَيْهِ لِاَنَّ رَّبِّي قَرِيْبٌ مُّجِيْبٌ

¹⁹ John Griffiths, “Legal Pluralism,” *International Encyclopedia of the Social & Behavioral Sciences*. Elsevier Research.Rug.Nl, 2001, <https://research.rug.nl/en/publications/legal-pluralism>.

²⁰ Muhammad Faishal Fadhli, “Penerapan Konsep Maqashid Asy-Syari’Ah Menurut Imam Al-Ghazali Dan Imam Asy-Syathibi Dalam Inferensi Hukum Islam Kontemporer,” *Journal of Islamic and Occidental Studies* 1, no. 1 (2023): 63–91, <https://doi.org/10.21111/jios.v1i1.5>.

To the people of Thamud, We sent their brother, Salih. He said, "O my people, worship Allah! You have no god other than Him. He created you from the earth and made you its inhabitants. Therefore, ask forgiveness of Him, then turn to Him in repentance. Indeed, my Lord is near and answers the prayers of His servants."

QS. Ar-Rum 30:41 regarding the prohibition of corruption,

ظَهَرَ الْفَسَادُ فِي الْبَرِّ وَالْبَحْرِ بِمَا كَسَبَتْ أَيْدِي النَّاسِ لِيُذِيقَهُمْ بَعْضَ الَّذِي عَمِلُوا لَعَلَّهُمْ يَرْجِعُونَ

Corruption has appeared on land and sea because of what people's hands have wrought. (Through this) Allah makes them taste some of the consequences of their deeds so that they may return (to the right path).

As well as the hadith in Sahih Muslim No. 2900 regarding the ongoing charity of planting trees.

صحيح مسلم ٢٩٠٠: حَدَّثَنَا ابْنُ مُؤَمَّرٍ حَدَّثَنَا أَبِي حَدَّثَنَا عَبْدُ الْمَلِكِ عَنْ عَطَاءٍ عَنْ جَابِرٍ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَا مِنْ مُسْلِمٍ يَغْرِسُ غَرْسًا إِلَّا كَانَ مَا أُكِلَ مِنْهُ لَهُ صَدَقَةٌ وَمَا سُرِقَ مِنْهُ لَهُ صَدَقَةٌ وَمَا أَكَلَ السَّبُعُ مِنْهُ فَهُوَ لَهُ صَدَقَةٌ وَمَا أَكَلَتِ الطَّيْرُ فَهُوَ لَهُ صَدَقَةٌ وَلَا يَرْزُقُهُ أَحَدٌ إِلَّا كَانَ لَهُ صَدَقَةٌ

Ibn Numair narrated to us, my father narrated to us, and 'Abd al-Malik narrated to us from 'Aṭā' from Jābir, who said: The Messenger of Allah, may Allah's peace and blessings be upon him, said: "There is no Muslim who cultivates a garden, but every plant he eats from it counts as charity for him, what is stolen from it is charity for him, what is eaten by wild animals is charity for him, what is eaten by birds is charity for him, and nothing is taken from it except that it becomes charity for him."²¹

2. **Siyasah Syar'iyah as the Basis of Public Policy**

Abdul Wahab Khallaf defines Siyasah Syar'iyah as the authority of the ruler to regulate public affairs to achieve the public good and prevent harm, provided it does not contradict Sharia. This concept is important because not all social issues are explicitly addressed in the textual sources, leaving room for policy ijtihad open to legitimate authorities.²²

In this study, the Tompo Bulu Village Regulation regarding the obligation to plant trees can be analyzed through Siyasah Syar'iyah, which provides a foundation for public policies based on *maslahah* issued by *ulil amri*. As long as such policies do not alter the pillars and conditions of a valid marriage but merely regulate the surrounding socio-ecological aspects, their role is more appropriately understood as an instrument for regulating the public good rather than an intervention into the essence of the marriage contract itself including actions by village governments within the framework of Law No. 6 of 2014 on Villages.²³

3. **Custom (Al-'Urf) and the Principle of Custom (Al-'Adah) as a Legal Standard**

²¹ "Shahih Muslim (صحيح مسلم) Hadis No. 2900," <https://muhamadbasuki.web.id/kitab/hadis/shahih-muslim/no/2900#gsc.tab=0>.

²² Prof. Dr. Abdul Wahhab Khallaf, "Kaidah Hukum Islam," *Pustaka Amani - Jakarta*, 2003.

²³ Vitria Larseman Dela; Kholilah, "Kewenangan Desa Dan Penyelenggaraan Pemerintahan Desa Dalam Perspektif UU No. 6 Tahun 2014 Tentang Desa," *Jurnal Wahana Konseling*, 2019.

In usul al-fiqh, 'urf, or custom, refers to a living tradition recognized by society that may be considered in the formulation of legal rulings, provided it does not contradict the nash. The fiqh principle *al-'adah muhakkamah* (custom may serve as law) affirms that custom can serve as a legal basis, particularly in the dynamic realms of muamalah and social practices. Therefore, this principle allows for the internalization of local traditions into the legal system, provided they meet the criteria of *al-'urf al-shahih* not contradicting the nash, serving a genuine public interest, and not causing harm.²⁴

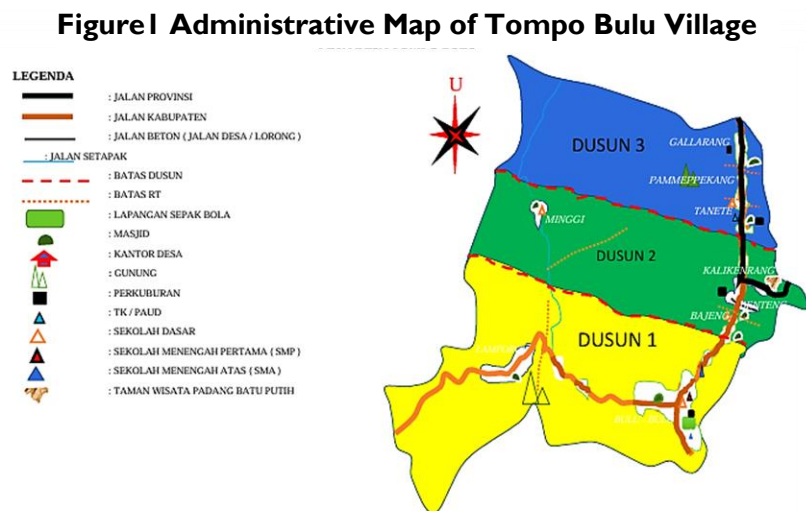
4. Legal Pluralism in the Relationship Between the State, Customary Law, and Islamic Law

Griffiths' theory of legal pluralism explains that state law, customary law, and religious law can interact constructively within a single social order without necessarily negating one another.²⁵ In Indonesian society, these three often do not operate separately but rather interact, negotiate, and even reinforce one another in daily social practice. The framework of legal pluralism is essential for this study because the tradition of planting a tree as a prerequisite for marriage cannot be understood from a single normative perspective alone.

The Tompo Bulu Village Regulation serves as a concrete example of the intersection between state law which grants the authority to enact village regulations customary law which preserves traditions dating back to the *Kekaraengan* era and Islamic law which serves as the primary reference for determining the validity of marriage contracts.

C. Research Method

This study employs an empirical legal research method (*field research*) with a *legal anthropology* approach, which views law as an integral part of culture and social processes.²⁶ The research location is Tompo Bulu Village, Balocci Subdistrict, Pangkajene Islands Regency, South Sulawesi. The research location can be seen more clearly in the image below:



²⁴ Asosiasi Dosen Hukum Keluarga Islam Indonesia, *Progres Hukum Keluarga Islam Di Indonesia Pasca Reformasi (Dimensi Hukum Nasional-Fiqh Islam-Kearifan Lokal)*, 2018.

²⁵ T Farina et al., "Pengakuan Dan Perlindungan Hutan Adat Dalam Mewujudkan Hak Masyarakat Hukum Adat di Provinsi Kalimantan Tengah," *Review-Unes.Com*, 2025, 2025, <https://doi.org/10.55606/jhpi.v4i1.5553>.

²⁶ SH Suyanto, "Metode Penelitian Hukum Pengantar Penelitian Normatif, Empiris Dan Gabungan," 2023,

Key informants were selected through purposive sampling based on their direct involvement in traditional tree-planting practices and the implementation of the village regulation, as detailed in the following table:

Table 2 Key Research Informants

No	Key Informant	Position/Status
1	ABD. Kadir Hakim, S.Pd.I., M.Pd	Head of Tompo Bulu Village
2	Mursalim Yunus, B.Ed	Secretary of Tompo Bulu Village
3	Village Traditional Leader	Head of the Traditional Institution
4	Village Imam	Village Religious Leader
5	5 Bride and Groom	Tradition Bearers

Source: Primary Data, 2025

Data collection methods included: (1) in-depth interviews using a semi-structured approach to explore normative and empirical perspectives; (2) direct field observations of the tree-planting ritual performed prior to the marriage ceremony; and (3) a documentary study of Village Regulations No. 05/2022 and No. 17/2022, records from customary institutions, and village government archives. Data were analyzed qualitatively using source triangulation and methodological triangulation to ensure the validity and reliability of the findings, then interpreted within the theoretical framework of Maqasid Syari'ah, Siyasa Syar'iyah, and legal pluralism.

D. Research Results

I. Anatomy of Tompo Bulu Village Regulations

The Tompo Bulu Village Regulations governing the obligation to plant trees consist of two complementary legal instruments, namely Village Regulation No. 05 of 2022 on Customary Institutions and Village Regulation No. 17 of 2022 on Tree Planting Provisions. Based on primary document data, the structure of these two village regulations can be summarized as follows:

Table 3 Anatomy of Tompo Bulu Village Regulations

Regulatory Aspects	Provisions
Legal Basis	Law No. 6/2014 on Villages; Government Regulation No. 43/2014
Village Regulation Number	No. 05/2022 (Customary Institutions) & No. 17/2022 (Tree Planting)
Key Provisions	Chapter IX, Article 15, subparagraphs (c) & (d); Article 17, Chapter I
Required Tree Species	Durian, coconut, or similar productive fruit-bearing trees
Number of Trees	2 trees per married couple; 2 trees per child born
Planting Location	1 tree at the couple's location; 1 tree on village government land
Formal Sanctions	The village imam/religious advisor has the authority to refuse to perform the marriage ceremony

Compliance Rate	±98% of married couples (field data 2022–2025)
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Source: Tompo Bulu Village Regulations No. 05/2022 and No. 17/2022 (primary document data)

The data above indicates that the obligation to plant trees in Tompo Bulu Village has been formally institutionalized through specific and operational village regulations.

2. Community Compliance Rate with the Village Regulation

Based on the results of interviews and documentation, one of the most significant findings of this study is the fact that, to date, there has not been a single case of a marriage contract being rejected in Tompo Bulu Village since Village Regulations No. 05/2022 and No. 17/2022 were enacted. The village imam confirmed that since the Village Regulations were implemented, so far not a single prospective bride or groom has failed to comply with the regulations; the majority of the community in the village consistently adheres to all applicable rules.

Field data indicates that among 100% of Tompo Bulu Village residents who have gotten married, compliance rates are as follows:

Table 4: Residents' Compliance with the Village Regulation

Category	Description	Percentage
Compliant (married in the village)	Fulfilling the obligation to plant a tree before the marriage ceremony in Tompo Bulu Village	98%
Not covered by the Village Regulation	Native residents of Tompo Bulu Village who hold their wedding outside the village (following their partner's domicile)	2
Cases of refusal to perform the marriage ceremony	Couples in the village who refuse/fail to fulfill the obligation to plant a tree	0 (never occurred)

Source: field data and interviews with key informants

The data in Table 3 reveals a fact that is academically significant. The 98% compliance rate does not mean that 2% of residents violated the Village Regulation; rather, that 2% consists of residents of Tompo Bulu Village who married outside the village's jurisdiction whether in their partner's village, in another city, or within the regency. Since the Village Regulation is operational and delegative in nature, functioning as a local law that must be obeyed by anyone within that territory, the obligation to plant a tree naturally cannot be enforced upon them.²⁷ The village secretary explained that the 2% of them are not those who refuse or fail to comply with the regulation. However, because they married outside Tompo Bulu Village, the regulation applies only to those who marry within Tompo Bulu Village.²⁸

Thus, the effectiveness of the Village Regulation within its jurisdictional area is effectively 100 percent; not a single couple who married in Tompo Bulu Village has

²⁷ Komang Mila Damayanti and Deli Bunga Saravistha, "Kedudukan Peraturan Desa (Perdes) Dalam Sistem Hukum Indonesia," *Jurnal Yustitia* 16, no. 2 (2022): 130–39, <https://doi.org/10.54629/jli.v15i2.187>.

²⁸ Data hasil wawancara dengan sekretaris desa Tompo Bulu, pada 15 Oktober 2025

refused or failed to fulfill the obligation to plant a tree. This fact proves that the sanction of refusing to perform the marriage ceremony, granted to the village imam/religious counselor, functions not as an actively enforced instrument, but as an effective preventive mechanism; the mere existence of the sanction is sufficient to ensure full compliance without ever needing to be enforced.

3. The Value of Tradition According to Informants

Informants including the Village Head, Village Secretary, traditional leaders, the village imam, and the bride and groom explained that the obligation to plant trees is not perceived as an administrative burden but rather as a continuation of a local tradition that has been passed down since the *Kekaraengan* era. This tradition is understood as an expression of gratitude for the formation of a new family as well as a commitment to environmental sustainability around the settlement; for the community, every tree planted serves as both a marker and a reminder of the couple's responsibility toward their family and the community. The philosophical value of this tree-planting practice can be linked to the cultural values held in high regard by the Bugis indigenous community, including:

First, *Sipakatau* (mutual respect): The planting process involves the extended family, neighbors, and traditional leaders working collectively, embodying mutual cooperation as a core social value.

Second, *Sipakalebbe* (mutual respect): Respect for ancestral traditions, nature, and future generations is reflected in an ecological commitment demonstrated through the planting process.

Third, *Sipakainge* (mutual reminder): Every tree planted serves as a permanent reminder to the couple of their responsibility toward environmental sustainability and the community.

E. Discussion

I. Legitimizing *Siyasah Syar'iyah* Through the Tompo Bulu Village Regulation

Research data indicates that this Village Regulation does not exist in a normative vacuum. The formulation of the Village Regulation is grounded in Law No. 6/2014 on Villages, which recognizes the village's inherent authority to regulate the interests of its community; Government Regulation No. 43/2014 as its implementing regulation;²⁹ and Law No. 41/1999 on Forestry, which recognizes community participation in forest conservation.³⁰ Thus, from a formal hierarchical perspective, this Village Regulation does not conflict with higher-ranking laws and regulations.

Field findings reinforce the relevance of this Village Regulation; based on interviews with the Village Secretary, the compliance rate of 98% is not solely due to formal sanctions, but rather because this tradition has been internalized as a living social norm (*living law*). The village imam confirmed that in the three years (2022–2025) since the Village Regulation's implementation, there have been no cases of marriage ceremonies being postponed due to non-compliance by the bride and groom;

²⁹ Kholilah, "Kewenangan Desa Dan Penyelenggaraan Pemerintahan Desa Dalam Perspektif UU No. 6 Tahun 2014 Tentang Desa."

³⁰ Sumirahayu Sulaiman, *Jenis-Jenis Hutan Dan Manfaat Hutan*, Hukum Kehutanan, 2022,

this indicates that the sanctions function as a *preventive* mechanism rather than a permanent ban.

From the perspective of *Siyasah Syar'iyah*, the Tompo Bulu Village Regulation can be analyzed through three dimensions. First, the dimension of formal legality, wherein the regulation stems from the legitimate authority of the village government under Indonesia's constitutional system, in accordance with the principle that leaders have the authority to establish policies for the public good as long as they do not conflict with Islamic law.³¹ Second, the obligation to plant trees embodies the value of *hifz al-bi'ah*, which is constructed as an extension of the contemporary *Maqasid*. Third, the categorization of this traditional *'urf* meets the criteria of *al-'urf al-shahih* because it does not contradict the *nash* and there is no evidence prohibiting the planting of trees before marriage; it contains tangible benefits in the form of environmental conservation and the preservation of livelihoods; and it does not cause harm.³²

The *fiqh* principle of *al-'adah muhakkamah* provides legitimacy for the incorporation of this tradition into the legal system. This policy can be categorized as *al-mashlahah al-mursalah* a public interest not explicitly mentioned in the textual sources but consistent with the overall objectives of *Sharia*.³³ Thus, the Tompo Bulu Village Regulation possesses strong *Siyasah Syar'iyah* legitimacy, transforming an ecological tradition from a mere customary practice into a policy that is legally sound under Islamic law.

2. Legal Implications of Rejecting a Marriage Contract

Normatively, the village regulation grants village imams and religious counselors the authority to refuse to marry couples who fail to fulfill their obligation to plant a tree. However, empirical data shows that this authority has never been exercised because all couples who marry in Tompo Bulu Village choose to comply with the provisions of the village regulation.

The phenomenon of the absence of any rejection of the marriage contract actually introduces a deeper dimension of *Siyasah Syar'iyah* analysis. In the jurisprudence of marriage (*fiqh munakahat*), marriage is a fundamental right of every Muslim that must not be obstructed without a reason justified by Islamic law.³⁴ The relevant question is not whether the rejection of the marriage contract is valid, but rather why such sanctions have never needed to be applied.

The answer to this question lies in the principle of *Siyasah Syar'iyah* regarding *preventive* deterrence through the threat of sanctions. In Islamic legal theory, a good public policy is one that fosters voluntary compliance without relying on coercion.³⁵ The village head of Tompo Bulu stated that planting trees has become an integral part of wedding preparations for the local community, on par with preparing the dowry or handling administrative paperwork. This obligation is not perceived as a burden

³¹ Khairan Muhammad Arif, "Hakikat Karakter Dan Urgensinya Dalam Perspektif Islam," *Tahdzib Al-Akhlaq: Jurnal Pendidikan Islam* 3, no. 1 (2020): 1–19, <https://doi.org/10.34005/tahdzib.v3i1.828>.

³² Yadi Herdiana et al., "Analisis 'Urf Terhadap Tradisi Janur Kuning Dalam Adat Pernikahan Desa Girijaya Kecamatan Cikajang Kabupaten Garut," *JIMMI*, vol. 2, 2021, <http://ejournal.stai-aljawami.ac.id/index.php/jimmi>.

³³ Mohammad Rusfi, "Validitas Maslahat Al-Mursalah Sebagai Sumber Hukum," *Al-'Adalah* XII (2014): 63–74.

³⁴ LL.M Firman Arifandi, LL.B., "Anjuran Menikah & Mencari Pasangan," n.d., 1–70.

³⁵ Sumardi Efendi, "Prinsip Syura Dalam Pembentukan Kebijakan Publik Menurut Hukum Islam," *CONSTITUO: Journal of State and Political Law Research* 3, no. 1 (2024): 69–78, <https://doi.org/10.47498/constituo.v3i1.3455>.

imposed from outside, but rather stems from the awareness that this tradition has long been rooted in their own ancestral heritage.

This statement confirms that the Tompo Bulu Village Regulation has successfully achieved what experts in *Siyasah Syar'iyah* refer to as the integration of external norms into internal norms a transformation in which rules originally derived from an external authority (the village government) are ultimately internalized as part of the community's own moral and religious identity. This process aligns with the fiqh principle of *al-umuru bi maqashidiha* (every matter is judged by its purpose),³⁶ the purpose of the Tompo Bulu Village Regulation is not to punish but to foster ecological awareness, and that objective has been fully achieved.

Table 5 Mapping of Maqasid al-Shari'ah in the Tompo Bulu Village Regulation

Maqasid Elements	Status	Relevance in the Village Regulation
<i>Hifz al-Din</i>	Fulfilled	The planting ritual reinforces the religious dimension of marriage
<i>Self-Preservation</i>	Fulfilled	Productive trees ensure the community's food security
<i>Preservation of the Mind</i>	Fulfilled	Intergenerational transmission of ecological wisdom
<i>Hifz al-Nasl</i>	Considered	The postponement is temporary; it does not prohibit marriage
<i>Preservation of Wealth</i>	Fulfilled	Durian trees have long-term economic value
<i>Hifz al-Bi'ah*</i>	Fulfilled	Core policy (conservation of forest buffer zones)

**Hifz al-Bi'ah: a contemporary reconstruction of the Maqasid (Auda, 2008)*

The data in Table 4 show that the Tompo Bulu Village Regulation integrates all six elements of the Maqasid simultaneously. It is important to highlight the role of *hifz al-nasl* (preserving the lineage) in the context of the regulation's limited applicability to the village area. The fact that the regulation does not apply to the 2% of residents who marry outside the village indirectly proves that this regulation does not threaten *hifz al-nasl*; residents living in other cities can still get married without hindrance. The jurisdictional boundaries of the regulation thus function as a safety valve that maintains a balance between *hifz al-bi'ah* and *hifz al-nasl*.

From a fiqh perspective, the absence of cases where marriage contracts were rejected while the Village Regulation was in effect confirms that there is no real conflict between *hifz al-nasl* and *hifz al-bi'ah* in their concrete implementation on the ground. Both are realized simultaneously: marriages continue to take place (*hifz al-nasl* is fulfilled) and the environment is preserved (*hifz al-bi'ah* is fulfilled). This is the strongest empirical evidence that the Tompo Bulu Village Regulation is an example of *Siyasah*

³⁶ Ahmad Djazuli, "Kaidah-Kaidah Fikih: Kaidah-Kaidah Hukum Islam Dalam Menyelesaikan Masalah-Masalah Yang Praktis," 2019.

Syar'iyah policy that successfully integrates, rather than pits against one another, the objectives of sharia.

Normatively speaking, if in the future there is a case where a couple is truly unable to fulfill their obligations due to *force majeure*, the principle of *adh-dharuratu tuhibul mahzhurat* (necessity permits what is otherwise prohibited) provides a basis for the village imam to grant a dispensation. Thus, the design of this Village Regulation already incorporates permanent religious flexibility.

3. The Philosophical Value of Planting a Durian Tree as a Marriage Requirement

An analysis of the choice of the durian tree as the primary crop reveals strong ecological and philosophical rationales behind this tradition. From an ecological-economic perspective, the durian tree (*Durio zibethinus*) takes 4–7 years to bear fruit for the first time precisely during the period when a new family requires an additional source of income so the presence of a productive tree can serve as a vital pillar of livelihood.

Symbolically, the durian's long growth period and the patience required to care for it are interpreted as a reflection of the journey of married life a journey filled with processes, trials, and hopes for long-term happiness. The connection between this tradition and the values of *Sipakatau*, *Sipakalebbi*, and *Sipakainge* underscores that planting a durian tree serves not only as an administrative requirement for marriage but also as a means of internalizing social and ecological ethical values that align with the framework of *maqasid syari'ah* and *siyasah syar'iyah*.

From a legal sociology perspective, the tradition institutionalized through this village regulation has successfully transformed ecological values which were originally voluntary into legal obligations with strong communal enforcement. The 98% compliance rate demonstrates that the mechanism of internalizing values through the institution of marriage which in Islam is the most significant sacred event in the life cycle proves to be more effective than conservation programs based solely on financial incentives. This phenomenon confirms the premise of *eco-fiqh*: environmental conservation is most effective when rooted in a value system that is believed in and practiced by the community itself.

Conclusion

Tompo Bulu Village Regulations No. 05 of 2022 and No. 17 of 2022 possess strong legitimacy both from the perspective of positive law (Law No. 6 of 2014 on Villages) and from the perspective of *Siyasah Syar'iyah*. The tradition of tree planting meets the criteria of *al-'urf al-shahih* and can be categorized as *al-mashlahah al-mursalah*, thus possessing a sufficient Sharia basis as a public policy grounded in the public interest. Although the Village Regulation grants village imams and religious counselors the authority to refuse to marry couples who fail to fulfill their obligation to plant a tree, field data shows that this authority has never been exercised since the regulation took effect. This finding indicates that the authority to refuse serves as an effective deterrent; the mere existence of the penalty is sufficient to ensure full compliance without ever needing to be enforced. The tradition of planting durian trees embodies profound philosophical values, a long-term commitment to family life, and a manifestation of Bugis values (*sipakatau, sipakalebbi, sipakainge*); the 98% compliance rate demonstrates that integrating conservation values into the sacred moment of marriage serves as a highly effective community-based eco-fiqh model. Overall, this study shows that the synergy between state law, customary law, and Islamic law in Tompo Bulu Village has produced a model of legal pluralism that is convergent rather than conflictual in achieving the common good. This model is relevant as a reference for the development of community-based conservation policies for indigenous peoples in Indonesia.

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