

Marriage Tradition of *Marlojong* in Community of Mandailing Natal District (Study of Islamic and Positive Law Implementation)

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Abstract : *This study is aimed to describe the marriage tradition of Marlojong in community of Mandailing Natal District. This study focuses on study of Islamic and positive law implementation of the marlojong. This study is conducted by using descriptive qualitative approach because this study is to understand phenomena related to the implementation of marriage law in a natural setting of society, to understand a phenomenon based on information data obtained from informants. The result shows that there are there motivations of marlojong marriage implementation in Mandailing Natal District. First because they were unable to pay the dowry / tuor requested by the parents of the girl. Second, because they were not allowed to get married. Third, because they avoided the costs of implementing the marriage customs. The implementation of marlojong marriage in the Mandailing Natal community does not contradict the provisions of Islamic law. Pillars and marital conditions are met in accordance with the provisions of Islamic law. So that the marlojong marriage carried out by the Mandailing community is legal according to Islamic Law. The implementation of Marlojong marriage to the Mandailing Natal community according to Positive Law in Indonesia is legal because it does not violate the material requirements and formal requirements that have been determined in Law No. 1 of 1974 concerning Marriage and Compilation of Islamic Law.*

Keywords : *Marlojong; Islamic and positive law; community*

I. Introduction

In the majority Muslim community of Mandailing Natal, in the practice of marriage, starting from the process of specialization, marriage contract, party procession / *walimah al urs / horja*, and even divorce and inheritance distribution, it is sometimes difficult to distinguish what legal practices are put forward. In other words, practices are still found in the community that are difficult to explain and differentiate between practices that maintain customary law, which are Islamic law, and which are positive laws, because they are carried out simultaneously or there is a mixture. For example in determining the number of *tuhor / boli* or *batang boban*, dowry and *boru* luggage, which sometimes does not reflect simplicity and kinship, or the marriage process itself such as the practice of *marlojong* which is deemed not in accordance with Islamic law, positive law and customary law. This is partly due to the lack of adequate understanding, the absence of official referrals that serve as a handle, or a shift and demand for needs in accordance with the situation and conditions in the implementation of existing laws. Nevertheless, religious leaders, traditional leaders, or community leaders, are some elements that are not often used as a reference and mediator for the community in the process of implementation or resolution when there is an agreement in the household or marriage.

Geographically, Mandailing Natal District is under the authority of the Panyabungan Religious Court (which before 2001 was still under the Padangsidempuan Religious Court and part of South Tapanuli district). A. Suriyaman in his book entitled "*Hukum Adat, Dahulu, Kini dan Akan Datang*", writes that Mandailing is one of the parts of the Batak community who inhabit the area of South Tapanuli (Padangsidempuan). If based on the comparison of numbers,

the population of this district can be said to be the majority of Muslims. The rationale is that besides following Islamic law and positive law, if there are customary laws that develop in the community, it should be customary in accordance with Islamic law, or based on Islamic teachings, or at least not contrary to Islam. This is also based on the fact that until now the villages in this district generally developed Islam.

On the other hand, it is undeniable that in the community of Mandailing Natal district, before the birth of Law Number 1 of 1974, Republic of Indonesia Law Number 7 of 1989 concerning the Religious Courts and Compilation of Islamic Law (KHI), had been carried out practices or marriage processions that could said to be a tradition or custom of the local community even though it has not been recorded (not yet a written law). The practice and procession of marriage carried out by the community is the practice of customary law and practice of the understanding of certain fiqh schools.

The presence of a number of regulations or legal systems afterwards in principle can be accepted by the Mandailing Natal community, carried out, or integrated, or acculturation and segregation, although on the other hand there is a possibility that they are not accepted and not implemented. The presence of laws and KHI resulted in additional collections of laws that live in the community. The rule of law will attract each other so that there will be a law that is ignored, some will be abandoned or maybe everything will be enforced or it may be that the law that comes later is not accepted and implemented so that the rule of life in society is likely to remain bound with custom, being bound by Islamic law (a particular school of jurisprudence), bound by positive law, or even understanding which views existing laws as limited to regulations which tend to be nationally and not binding.

The presence of some of these legislation will not necessarily change the practice of law or custom / tradition in pre-existing societies, although on the other hand there are also practices that have shifted and even changed in line with changing times marked by advances in science and technology, changes and demands and the influence of Islamic law and positive law. In other words, even if the public understands that, many educational values are embedded in traditional processions / ceremonies and should be maintained, there is a possibility that there will be a shift in values, some that must be changed or even abandoned because they are not in accordance with the demands of time, situation, condition and economic value, or not in accordance with Islamic law and positive law.

II. Review of Literature

2.1 Definition of *Marlojong* Marriage

Indonesia is the country with the most ethnic and cultural diversity and customs in the world. Tribal and cultural diversity certainly causes differences in customs between one community group and another community group especially in the marriage tradition. In tribes and groups indigenous peoples are known to have many different forms of marriage. One of them is the tradition of elopement. Married to the Balinese community is certainly different from the NTB community, as well as the traditions of other community groups such as the Mandailing community, known as *marlojong* marriage.

Apart from all these differences, the customary principles which are in principle patrilineal kinship such as in batak and lampung land marriages are a violation of customary law which cannot be prosecuted, but are resolved by deliberation between the related relatives on the basis of civil customary law. Whereas for indigenous people whose principle is

matrilineal or parental kinship, marriages are a customary violation that violates the power of the parents, but it has been common that similar cases are resolved in negotiations between the two relatives relating to the agreement to marry between the woman and the man who marries is a settlement based on customary legal law or customary inter-legal law by way of deliberation outside the court.

Before the author describes the elopement in the Mandailing community (*marlojong* marriage) first described in terms of general elopement. Indonesia Dictionary explains that Eloping means marriage by running away from the girl he is going to marry with the girl's consent to avoid customary practices which are considered to be protracted and costly.

In general, elopement is an event when a man flees a woman whom he is going to marry with the woman's consent, to avoid customary procedures which are considered to be protracted and costly. This understanding is in line with what Hadikusuma (1997) said that eloping often occurs because the couple wants to avoid the customary requirements of marriage.⁴⁸ Running marriage is also a form of marriage that is not based on parental consent, but is based on unilateral will or the willingness of both parties concerned.

2.2 *Marlojong* Marriage in the Mandailing Community

The Mandailing Natal community is one community that still holds tightly to its culture and customs. This is evidenced by the social life of the community, which until now still adheres *dalihan Natolu* kinship system. The existence of *dalihan Natolu* which is the three pillars in the implementation of customs, even more so than the transfer of *dalihan Natolu* has a special place in traditional government. Another proof that the Mandailing Natal community still adheres to customs is the position of the *hatobangon* which is very strategic in daily life in the midst of society.

In this section, the author will describe one of the traditional marriages of the Mandailing community, which until now is still widely found in practice, namely elopement according to the results of research that has been done.

Sogopan Siregar explained that elopement was still mostly carried out by the Mandailing Natal people. In the calculation of *Sogopan* in the sub-district of North Panyabungan, mating will occur at least 3 in one year in one village. Next is the statement of Sogopan:

"*Marlojong* marriage is still very often carried out by the Mandailing community. If averaged in one village there are three cases of *marlojong* marriage within one year. So if it is based on this, then North Panyabungan Sub-district has one kelurahan and 11 villages, then the number of *marlojong* marriages is around 36. This is only an estimate because there is no record in this Office whether or not the marriage is not."

The *sogopan* statement above can illustrate that in the people of North Panyabungan Subdistrict, *marlojong* marriages are very common. Although there is no definite data about the number, the mention of 3 villages in one year is evidence that *marlojong* marriage in the Panyabungan Utara sub-district often occurs.

Muhammad Ya'kup Pulungan Explains that 15% of the total marriage is married to *Marlojong*.¹ Based on data on marital records in KUA, Ranto sub-district, the average number of marriages per month is 14 marriages.² This means that within one year the number of marriages in Ranto Baek Subdistrict was 168. Of these, 22 of them were married *marlojong*.

¹ Muhammad Ya'kup Pulungan, Head of KUA Ranto baek Sub-district. Personal Interview, Ranto Baek. 2016.

² *Ibid.*,

Sutan Hasibuan believes that marriage *marlojong* in the Panyabungan Kota District is very common. Based on Sutan's explanation for the Panyabungan City region within one year of *marlojong* marriage there were 40-50 cases.³

Furthermore, Muhammad Yazid explained that in the Kotanopan Sub district area married *marlojong* there were approximately 30 to 40 events in one year.⁴ Yahya Mansyali explained that for the Panyabungan Selatan sub-district, marrying *marlojong* also happens very often. Yahya explained that it was difficult to place the right amount because in KUA there was no obligation to record whether the marriage was *marlojong* or not. But what is certain is that *marlojong* is still widely practiced.⁵

Table 1. The Number of Marlojong Marriage Events in the Mandailing Natal Community In one year

No.	Sub-District	Total	
		Village	Marlojong Marriage Event
1.	Batang Natal	31	60
2.	Ranto Baek	18	25-30
3.	Kotanopan	36	40-60
4.	Ulupungkut	13	30
5.	Tambangan	20	40
6.	Lembah Sorik Merapi	9	20
7.	Muara Sipongi	16	25
8.	Panyabungan	39	36
9.	Panyabungan Selatan	11	30
10.	Panyabungan Barat	10	40-50
11.	Panyabungan Utara	12	30-40
12.	Panyabungan Timur	15	40
13.	Huta Bargot	14	25-30
14.	Muara Batang Gadis	17	20-30

³ Sutan Hasibuan, Head of KUA Panyabungan City. Personal Interview. Kayu Jati. Panyabungan 2016.

⁴ Muhammad Rasyid, of Head KUA Kotanopan. Personal Interview. Kotanopan. 2016.

⁵ Yahya Mansyali, Head of KUA south Panyabungan. Personal Interview. Kantor Kua Panyabungan Selatan. 2016.

15.	Siabu	29	60
16.	Bukit Malintang	11	20

Source: Results of interviews with Head of KUA, custom leaders and the community at Mandailing Natal

2.3 The Views of the Mandailing Community towards *Marlojong* Marriage

Basically, the Mandailing community, especially the perpetrators of marriages, has assumed that elopement is common, this can be understood because of the frequent occurrence of elopement in the Mandailing community. But even so, every act certainly must have an assessment, especially if the act concerns the issue of law, both traditional, religious and national law.

The large number of marriages does not automatically give a good assessment of the behavior of the people who do it. So to see how the views of the people about elopement must be separated, where the view of custom (represented by *hatobango*) is, which the view of Malim Kampong is and which is the view of ordinary people or even the people who become perpetrators of the marriages themselves

To see a more equitable view of the two ways of eloping in the Mandailing community, the writer will divide this view into two parts. First, the field of elopement by *boru namarlojong*, both views on mating and running by means of *boru tangko binoto*.

First, the views of custom leaders and malim kampong against elopement by means of *boru namarlojong*. Based on interviews that the authors have done both with traditional leaders and Malim Kampong, the results show that elopement by *Boru Namarlojong* is an act that violates the provisions of Mandailing marriage customs. In other words, elopement is a violation of the norms that live in the Mandailing community.

Sogopan Siregar⁶ explained that elopement is a wrong and not good behavior. Ahamad Sutan⁷ also considered that elopement was not good. Whereas Muhammad Yakup Pulungan⁸ said that elopement was an act that violated the norms of the Mandailing community. Muhammad Yazid⁹ said that in fact what happened was elopement was not good. And Yahmansyah¹⁰ considered that elopement was wrong.

Dahrum Batubara¹¹ considers that eloping is running away is an unethical act. While Mukhlis Lubis¹² explained that elopement is a violation of custom. Likewise, Irwan Lubis¹³,

⁶ Sogopan siregar, Head of KUA NorthPanyabungan.

⁷ Ahmad Sutan, Head of KUA Panyabungan

⁸ M. Yakup Pulungan, Head of KUA Ranto Baik

⁹ Muhammad Yazid, Head of KUA Kotanopan

¹⁰ Yahmansyah, Head of Kua South Panyabungan

¹¹ Dahrum Batubara, customary figure in Lembah Sorik marapi Sub-district

¹² Mukhlis Lubis, customary figure in Panyabungan Timur

¹³ Irwan Lubis, customary figure in Panyabungan Utara Sub-district,

Kaliman Nasution¹⁴, Puli Batubara¹⁵, Pahro Lubis¹⁶, H. Imran¹⁷, Sutan Balyan¹⁸ and other *hatobangon* considered that elopement was a bad act and violated custom.

The view of the Malim Kampung and *hatobango* above clearly provides an assessment that elopement is wrong and violates custom. The next question is what sanctions are given to the perpetrators of elopement?¹⁹

Irwan Lubis Explains that basically violations of custom have sanctions, sanctions in customary violations vary. There are fines, there are those who are fostered and tone whose sanctions are in the form of social sanctions from the community. Irwan Lubis further explained that the doubt for runaway perpetrators is only social, the elopers will get shame because of their actions, and then the other sanctions are told to apologize to the family especially the girl's family.²⁰

Bahrum coal also explained that there were no sanctions in the form of customary fines imposed on the perpetrators of elopement. The sanction was only advised and told to apologize. Advisory is done both before the marriage contract and during the marriage inauguration in the *markobar* procession.

III. Research Methods

Based on the focus of the study, research is an empirical study. Whereas from the point of view of the data, this research is field research, which is collecting data by directly going down to the field to get more accurate information about the object that becomes the author's research, and so that it matches what is desired by the author himself.

In terms of the disciplines needed to see legal actions as a social phenomenon, this study uses a social science approach, namely how the community in reality implements Islamic law, especially in examining the *marlojong* marriage in the Mandailing Regency marriage Christmas.

In terms of the research model (mode of inquiry) this research was conducted with a qualitative research model because this study is to understand phenomena related to the implementation of martial law in a natural society setting, to understand a phenomenon based on information data obtained from informants. Then multidimensional reality arises from varied and complex situations. Therefore a study of a social phenomenon must be carried out by analyzing the context and this can be done only through a qualitative approach which is a research method that uses data in the form of views on ethnographic studies in Mandailing Natal traditional marriage viewed from the perspective of Islamic Law. The Ethnographic approach is a description and interpretation of the culture or system of a social group, researchers examine the group and study the patterns of behavior, habits, and way of life of the community.

The preliminary step in this research is observation, namely seeing and observing the behavior and implementation of the marriage of the Muslim community of Mandailing Natal.

¹⁴ Kaliman nasution, customary figure in Sibau Sub-district

¹⁵ Puli Batubara, customary figure in Huta Bargot Sub-district

¹⁶ Pahro Lubis, customary figure in Bukit Malintang Sub-district

¹⁷ H. Imran customary figure in Muara batang Gadis

¹⁸ Sutan balyan customary figure in batang natal Sub-district

¹⁹ Irwan Lubis, customary figure in Panyabungan Utara Sub-district, Personal Interview. Mompang Jae. 2016

²⁰ Bahrum Bartubara, Toko adat Kecamatan Lembah Sorik Marapi, wawancara Pribadi. 2016

Observe the things that happened in the practice of the married life of the Mandailing Natal Muslim community.

IV. Discussion

4.1 *Marlojong* Marriage in the Mandailing Community According to Islamic Law

In Islam a marriage is considered valid if the marriage has been carried out by fulfilling the terms and conditions in accordance with the provisions contained in Islamic law. The term referred to in marriage is a matter that must be present in marriage. Will not include one part of the essence marriage.²¹ Thus the pillars of marriage must be fulfilled when a marriage contract is held, because the contract is invalid if the pillars are not fulfilled.²²

Thus to see whether the implementation of *marlojong* marriage is a legitimate marriage according to Islam, it will be explained regarding the substance of the implementation, so that it can be measured whether the implementation of *marlojong* marriage is valid according to Islam or not.

The first thing to consider is the subsection of the marriage itself. For the Mandailing community, the community is understood to be a bond between a man's family and a woman to realize a prosperous home life. This understanding of the Mandailing community seems to be the same and does not conflict with Islamic law.

Next is the pillar of marriage itself. In Islam the pillars of marriage have been established as described by the jurists in their books. At least the pillars of marriage in Islam are five, namely the prospective bridegroom, prospective bride, marriage guardian, witnesses to marry and consent *qabul*. The marriage requirements follow these pillars.²³ In the event of marriage, *marlojong* is also so that the marriage will be carried out where the order is complete, there is the bride and groom, witness, guardian and abducted. Thus, the implementation of *marlojong* marriage in the Mandailing Natal community can be completed in full.

Then from the five pillars of marriage, there are conditions that make the legitimacy of a marriage. So, if the conditions are fulfilled, then marriage becomes legal and from there arises obligations and marital rights.²⁴ The conditions that must be fulfilled are as follows:

1) Prospective groom is required

- a) is Muslim so that people who are religious other than Islam are not legally married to women who are Muslim,
- b) Men. Thus Islam prohibits marriage of a kind.
- c) Clear the person and can give approval
- d) There are no marital barriers

Zakaria al-Ansari in his book classifies the women who are unlawful to marry. As he explained:

فالحرام امالعينه سواء كان لانسب وهو نكاح الام والبنت والاخت والعمة والخالة وبنت لاخت وبنت لاخت أو لرضاع وهو كالانسب أولمصاهرة وهو نكاح زوجة لاب وزوجة لابن وزوجة لابنت وزوجلام²⁵

Meaning: the reason for the prohibition of marriage is sometimes because the same person is caused by a relationship between marriage, i.e. marrying a natural mother, biological

²¹ Abd al-Muhaimin As'ad, *Risalah Nikah Penuntun Perkawinan*, print. I (Surabaya: Bulan Terang, I, 1993), P. 33.

²² Kamil Muhammad Uwaidah, *Fiqh Wanita* (Jakarta: Pustaka Al-Kautsar, 1998), P. 405.

²³ Abd ar-Rahman al-Jaziri, *Kitab al-Fiqh 'ala al-Madzahib al-Arba'ah*, Juz 4 (Bairut Libanon: Dar Al -Fikr), P. 16.

²⁴ Sayyid Sabiq, *Fiqh Sunnah*, Jilid 2 (Beirut Libanon Dar Al -Fikr, Jilid II, 1992), P. 48.

²⁵ Zakaria al- Anshari, *Syarqawi ala al- Tahrir*, juz II, (Surabaya: al-Hidayah, tt), P. 214

daughter, biological sister, female father, sister sisters, daughters of sons, daughters from a sister, or due to a relationship that is a relationship, such as a *nasab* relationship or because of a *musharah (semenda)*, namely marrying the wife of the father, the wife of a son (son-in-law), and the husband of the *dukhul* mother.

He further added that the woman who was illegitimate because she was collecting (haram lil jam'i), namely:

واما للجمع بين المرء و أمها أو أختها أو عمتها أو خالتها وبين أكثر من اربع له²⁶

Meaning: the cause is prohibited because it collects a woman with her mother, with her biological sister, with her bundle, with her mother, and a woman for someone who has four wives.

2) Prospective bride

- a) Muslim
- b) Women
- c) Clear the person
- d) Can be asked for approval
- e) There are no marital barriers

In the provisions of Mandailing customary marriage, the marriage requirements for prospective brides also exist. Irwan Lubis explained that a man who wants to marry a woman must pay attention to whether she can marry her or not. Irwan Lubis said that women who are forbidden to marry are women who have blood relations with their denominations, such as their mothers, younger siblings, and female sisters from their fathers, children and grandchildren. Irwan Lubis further explained that he should not marry two sisters at the same time. Then for the Mandailing marriage community as high as it is also prohibited, the fire used to be, now marriage as high as it is no longer prohibited because the community agrees that what is said is the existence of very close blood relations rather than clan similarities.²⁷

The explanation of Irwan Lubis above clearly about the prohibition of marrying a woman is caused by blood relations. So that it can be seen that the requirements of a man in *marlojong* marriage are prevented from marrying women.

Furthermore Dahrum Coal also explained that a person who is going to get married must reach an adult age and must be equal to him. In the custom of Mandailing firmly Dahrum does not allow marriage between two people of different faiths. Thus the couple requirements about religion are also fulfilled and do not violate the provisions of Islamic law.

Next is the requirement regarding guardians in marriage? Sayid Sabiq explained the requirements for the guardian of marriage as follows:

- a) An independent person or not a slave
- b) Has reached the age or is already good, whether he is a Muslim or non-Islamic person.
Therefore, the slave may not be the guardian of marriage in marriage. Likewise, it may not be a marriage guardian of a crazy person or a child. The reason is because they have not been able to become guardians to any of them, even to him. Therefore, he is not entitled to be someone else's self.
- c) Understanding

²⁶ Ibid. P. 215

²⁷ Irwan Lubis, Customary figure in North Panyabungan, Personal Interview. Mompang Jae. 2016.

d) Islam, which is the case if the one represented is Muslim as well. The reason is because non-Islam does not deserve to be a guardian of Muslims²⁸, as Allah says:

Meaning: God will not give way to unbelievers over believers "(An-Nisa ': 141).²⁹

e) Having guardianship³⁰.

In practice, *Marlojong* marriage in Mandailing Natal. The guardian of his marriage is his own father and thus it can be ascertained that the guardian is a person who has guardianship. Then about the requirements of other guardians must be men, Muslims are also fulfilled, because this research is devoted to people who are Muslim.

Next is the witness. Witnesses in Islam are required as follows:

a) Minimum of two men

b) Present in the *qabul* agreement

c) Can understand the intent of the contract

d) Islam

e) Adults³¹

In conducting *marlojong* marriage at Mandailing Natal, the ceremony also uses witnesses, usually witnesses are taken from both families on the condition that the person who is a witness is someone who is considered capable of advising the bride and groom. The measure of being able to advise the two brides is proof that a guardian in Mandailing's traditional marriage is a person who must be mature, wise and can understand the purpose of the implementation of the nad contract. Thus in the case of witnesses there is also no conflict with Islamic law.

Next is about contract. In Islam contract must consist of *Ijab Qabul*. Marriage must be done with the consent of the guardian and *qabul* of the groom.³² *Ijab* is for marry off children or women who are under guardianship to a man. Whereas *qabul* is the result of marriage receipts from a man who will be the husband of the woman he married to him.³³ Then the pronouncement used in the contract must use a marriage or marriage certificate.³⁴

In the implementation of *marlojong* marriage, marriage is carried out by posing a marriage contract. Where the father as guardian will marry his son to the men who will marry him with the expression "I marry you my son (by mentioning his name) with dowry (mentioning the amount of dowry in accordance with the agreement). Then the man will answer "I accept his marriage (while mentioning the name of the woman he married) with maha (mentioning the number of dowries) paid in cash.³⁵

4.2 *Marlojong* Marriage in the Mandailing Society According to the Positive Legal Perspective

The positive law that the author meant in this study was Law No. 1 of 1974 concerning marriage and Presidential Instruction No. 1 of 1999 concerning Compilation of Islamic law. The law on marriage and KHI has stipulated the provisions of the marriage. The wetness of marriage in the marriage law and the compilation of Islamic law stipulates that marriage must

²⁸ Sayid Sabiq, *Fikih Sunnah* 7, Translation. Kahar Masyhur, (Jakarta: Kalam Mulia, 1990),P. 1.

²⁹ Departement of Religion (Depag) RI, *Al-Qur'an and meaning*, P. 132.

³⁰ Ahmad Rofiq, *Hukum Islam di Indonesia* (Jakarta: Raja Grafindo Persada, 1995), P. 71.

³¹ *Ibid.*,P. 71.

³² Moh Anwar, *Fiqh Islam Muamalah, Munakahat, Faraid, dan Jinayah...* (Bandung: Al- Ma'arif, 1971), P. 126.

³³ Imam Nawawi, al-majmu; Syarh al-Muhazzab. Jilid XVII (Beirut: Dar alFikr, t,th), P. 149

³⁴ *Ibid.*, see also Muhammad bin Idris al-Syafi'i. Ial-Umm (beirut: dar al-maktab al-Ilmiyah, t,th), jilid V, P. 82

³⁵ Interviews with custom and mandailing natal communities. 2016

be carried out based on each religion and belief and noted. Thus it can be said that the *marlojong* marriage that took place in the Mandailing Natal community was in accordance with the provisions of religion and the beliefs of each party as explained in the previous discussion.

Furthermore the marriage requirements in the marriage law can be divided into two, namely material requirements and formal requirements. Material requirements consist of.

- 1) There must be agreement from both parties to the bride and groom. The meaning of the agreement is that no one can force the prospective bride and the bridegroom, without the consent of their free will. Approval from both sides of the prospective bride is a relevant condition for fostering a family.
- 2) The age of the prospective groom must have reached at least 19 years and the prospective bride must be 16 years old. Not tied to a marriage rope with someone else.
- 3) Do not violate the prohibition on marriage regulated by Law Number 1 Year 1974 article 8, article 9 and article 10, namely the prohibition of marriage between two people, namely the relationship of blood in a straight line down or up, bloodline to the side, the relationship between marriage, relationship of relationship, relationship between your wife and wife or as aunt, having a relationship with religion or regulations that are prohibited from marriage, have been divorced for the second time, as long as the laws of each religion and belief do not determine otherwise.
- 4) Permit from both parents for prospective brides who are not yet 21 years old.³⁶

In *marlojong* marriage, which is carried out by the Mandailing community, it complies with the material requirements as stipulated in the above laws. The first is about parental permission. *Marlojong's* marriage is a marriage permitted by his parents. This can be evidenced by the arrival of the parents of the girl's house who brought her daughter to be the guardian of her son's marriage. Even though before the child was taken away the girl's parents did not give permission, but in the end he gave permission to get married. At least the presence of parents and their role as guardians for their children is proof of their agreement.

Second is the age for bride candidates. As the author has described above, in terms of Mandailing customary law it is not permissible to marry before reaching the age of adult. Based on a shirt found in Mandailing none of the perpetrators of *marlojong* games were under 16 years old for their women and under the age of 19 for their behavior. Thus regarding the age of *marlojong* marriage there is no conflict with the provisions of the marriage law.

Third, it does not violate the prohibition on marriage as mentioned in Article 8.9 and Article 10. Concerning the prohibition of marriage as contained in these articles the author is in accordance with the prohibition of marriage in the provisions of Islamic Law. As the authors describe above, the marriage of Mandailing customs also recognizes the prohibition of marriage as contained in the marriage law and Islamic law. Thus it can be ascertained that *marlojong* marriage does not violate the provisions of the marriage law.

Both Formil Terms.

- 1) Notification of will hold marriage to the employee who records marriage.
- 2) The implementation of marriage according to the laws of religion and their respective beliefs.
- 3) Marriage registration by the marriage registrar employee.

In formal conditions as stipulated in the marriage law and KHI, *marlojong* marriage practices are also carried out. This can be evidenced by reporting to authorized officials to

³⁶ See Explanation of Law No. In 1974 concerning Marriage in the Prohibition of Marriage chapter 8.9 and article 10

register the marriage of the family or the bride and groom after the deliberation of the marriage. Thus there is no implementation that violates the formal requirements in the implementation of *marlojong* marriage.

In fact there are indeed unregistered marriages, but it is only as small, so that if its punished whether the marriage is recognized by the marriage law, so it must be separated between *marlojong* marriages that are recorded in marriage with *marlojong* games that are not listed. This means that *marlojong* marriages that are not recorded cannot abort the *marlojong* marriage which is recorded and vice versa.

Furthermore, the terms of marriage according to the Compilation of Islamic Law are explained in Chapter IV of Article 14 stated that to carry out marriage must exist

- a. Future husband
- b. Prospective Wife
- c. Guardian of marriage
- d. Two witnesses and
- e. Ijab and Kabul.

The five cases set by the KHI are in accordance with Islamic law. This is because these five cases are part of the pillars of marriage in the Syafi School as one of the leading schools in the world. Article 15 points (1) Compilation of Islamic Law governing prospective brides states as follows:

- 1) For the benefit of family and household, marriage can only be done by prospective brides who have reached the age specified in article 7 of Act No.1 of 1974, namely prospective husbands at least 19 years old and prospective wives at least 16 years old. According to the provisions in Article 15, clearly KHI has limited the age of the prospective bride (prospective husband and wife), in accordance with the Law above it, namely Law No. 1 of 1974 Article 7 number (1). In this case, it turns out that KHI is trying to eliminate the differences that occur among scholars by setting a limit of 16 years for female candidates and 19 for male candidates. This concept is known as the “حكم الحاكم يرفع الخلاف” rule. According to this rule; if a judge imposes a sentence according to an opinion (in the school of *fiqh*), which turns out that opinion is not in accordance with the beliefs of the defendant's school, then the defendant must follow the opinion of the judge according to the qaul (must follow physically and mentally). So if the government / Supreme Court determines the limits of *baligh*, then it is obligatory for the people to obey the judge's decree, because this problem is *khilâf*, and the judge's decree is to eliminate mistakes.
- 2) For prospective brides who have not reached the age of 21 years must obtain permission as stipulated in article 6 paragraph (2), (3), (4) and (5) Law No.1 of 1974. In this case, the Act No. 1 of 1974 Article 6 paragraph (2), (3), (4), and (5) states like this:
 - a) To carry out a marriage, a person who has not reached the age of 21 (twenty one) years must get permission from both parents. In the event that one of the parents dies or is unable to express his will, then the permission referred to in paragraph (2) of this article is sufficient obtained from living parents or from parents who are able to express their will. In the event that both parents have passed away or are unable to express their will, then permission is obtained from the guardian of the person who cared for or family who has blood relations in the lineage straight up as long as they are alive and in a state of expressing their will.
 - b) In the event that there are differences between the persons referred to in paragraph (2), (3) and (4) of this article, or one or more of them does not express their opinion,

then the Court in the area where the person who is going to marry is requested the person can give permission after first hearing the people mentioned in paragraphs (2), (3) and (4) in this article.

V. Conclusion

The implementation of *marlojong* marriage according to Mandailing custom is seen from the procedure for doing it. *Boru namarlojong* according to Mandailing custom is a violation of custom. While *marlojong* marriage by way of *boru tangko binoto* is one of the provisions of the Mandailing Natal marriage customs. The motivation for the implementation of *marlojong* marriage in the Mandailing Community is three. First because they were unable to pay the dowry / *tuor* requested by the parents of the girl. Second, because they were not allowed to get married. Third, because they avoided the costs of implementing the marriage customs. The implementation of *marlojong* marriage in the Mandailing Natal community does not contradict the provisions of Islamic law. Pillars and marital conditions are met in accordance with the provisions of Islamic law. So that the *marlojong* marriage carried out by the Mandailing community is legal according to Islamic Law. The implementation of *Marlojong* marriage to the Mandailing Natal community according to Positive Law in Indonesia is legal because it does not violate the material requirements and formal requirements that have been determined in Law No. 1 of 1974 concerning Marriage and Compilation of Islamic Law.

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