

MANDAILING CUSTOMARY DOWRY DETERMINATION PRACTICES IN PADANG LAWAS DISTRICT IN PERSPECTIVE OF *URF* THEORY

M. Wildan Hamidi Pasaribu

State Islamic University Negeri Syarif Hidayatullah, Jakarta

wildanhamidi07@gmail.com

Lempang Hasibuan

State Islamic University Maulana Malik Ibrahim, Malang

200504220001@alumni.uin-malang.ac.id

Abdulsalam Al Anesi

An Najah University Burao, Somalia

Nooraddeen777@gmail.com

Received: 27-April-2024; Accepted: 08-May-2024; Published: 28-June-2024;

ABSTRACT

This study aims to determine the practice of determining dowry in traditional marriage in Padang Lawas Regency, North Sumatra, the impact of dowry practices in marriage, and how the views of scholars and community leaders regarding the practice of determining dowry. The type of research used is qualitative research with an empirical approach using primary data and secondary data. The results of this study indicate that the tradition of the practice of determining dowry in Padang Lawas regency is still firmly held and inherited by the community as one of the marriage processions that must be obeyed. then the impact of the practice of determining the tuor if it does not get an agreement between the two sides of the family, the marriage is delayed, the marriage is canceled or can elope. furthermore, the practice of determining the dowry in mandailing traditional marriage in Padang Lawas from the perspective of *'urf*, cannot be generalized into the category of *'urf shahih* or *'urf fasid*, but must be reviewed from each process. When viewed from the perspective of *'urf*, the tradition of tuor (dowry) practice in padang lawas generally falls into the category of *'urf shahih*, because there is no *shara'* argument that is violated. However, there are provisions of the tuor tradition that are different from the provisions of Islamic law, namely the delivery of the dowry, the dowry of the wife who was divorced before *dukhul*, and the fine of the dowry.

Keywords: Dowry, Mandailing customs, Padang Lawas, and *'urf*.

ABSTRAK

Penelitian ini bertujuan untuk mengetahui praktik penentuan mahar dalam perkawinan adat di Kabupaten Padang Lawas Sumatera Utara, dampak praktik penentuan mahar dalam perkawinan, dan bagaimana pandangan para ulama dan tokoh masyarakat mengenai praktik penentuan mahar. Jenis penelitian yang digunakan adalah penelitian kualitatif dengan pendekatan empiris dengan menggunakan data primer dan data sekunder. Hasil penelitian ini menunjukkan bahwa tradisi praktik penentuan mahar di Kabupaten Padang Lawas masih dipegang teguh dan diwariskan oleh masyarakat sebagai salah satu prosesi perkawinan yang wajib dipatuhi. kemudian dampak dari praktek penentuan mahar apabila tidak mendapat kesepakatan antara kedua belah pihak keluarga, perkawinan tertunda, perkawinan batal atau dapat kawin lari. Lebih jauh lagi, praktik penentuan mahar dalam perkawinan adat Mandailing di Padang Lawas dari sudut pandang 'urf, tidak bisa digeneralisasikan ke dalam kategori 'urf shahih atau 'urf fasid, melainkan harus ditinjau dari setiap prosesnya. Jika dilihat dari sudut pandang 'urf, maka tradisi praktik tuor (mas kawin) di padang lawas secara umum masuk dalam kategori 'urf shahih, karena tidak ada dalil shara' yang dilanggar. Namun terdapat ketentuan tradisi tuor yang berbeda dengan ketentuan hukum Islam, yaitu penyerahan mahar, mahar istri yang diceraikan sebelum dukhul, dan denda mahar.

Kata Kunci: Mahar, adat Mandailing, Padang Lawas, dan 'urf.

1. Introduction

Indonesia is a country rich in cultural diversity. It has hundreds of ethnic groups that inhabit thousands of islands from Sabang to Merauke. Each tribe has its cultural characteristics, meaning that tribes in Indonesia are not the same from one tribe to another. For example, in the culture of marriage customs. This difference arises because the Indonesian population consists of a pluralistic society and has a variety of rituals, traditions, norms, customs and cultures. The existence of norms in every society cannot be separated from the influence and belief (religion). Thus, local wisdom is a legacy from our ancestors in organizing the value of life that is integrated in the form of religion, culture and customs. As time progresses, the community adapts and develops wisdom in the form of knowledge combined with customary norms and cultural values which are then applied to daily life¹.

¹ Munir Salim, "Adat Sebagai Budaya Kearifan Lokal Untuk Memperkuat Eksistensi Adat Ke Depa," *Jurnal Hukum Pidana Dan Ketatanegaraan* 5, no. 2 (2016): 244–55.

Marriage is an important event for human survival. Because marriage does not only concern the two prospective husbands and wives but also concerns the family and society. In general, marriage is seen as something sacred. So that every religion links the rules of marriage with religious rules. In general, each religion has its text for regulating marriage law². Likewise, culture has its own rules regarding marriage in Indonesia.

Mahar is one of the requirements that must be met by a prospective husband when he wants to get married. The dowry given to the wife is part of one of the proofs of a man's respect for his future wife³. The Mandailing tribe is one of the tribes in North Sumatra, precisely in Padang Lawas Regency. The majority of the Mandailing tribe is Islam, in contrast to other tribes whose majority is Christianity⁴. In addition, Mandailing people are known as tribes that have their own culture. It has a variety of local wisdom that makes the Mandailing tribe unique. Until now, the Mandailing people still maintain the traditions born from their ancestors⁵.

Mandailing people have a kinship system known as *Dalihan Na Tolu*. This system has a function to regulate, control, and provide direction in establishing relationships in society. *Dalihan Na Tolu* consists of three interrelated elements, namely *Kahanggi* (family friends), *Anak Boru* (the party taking the wife), and *Mora* (the party giving the wife). These three elements always have a role in aspects of activities in the Padang Lawas community of North Sumatra, both for *Sirianon* (joyful events), and *Siluluton* (mourning events)⁶.

² Ismail Ismail, Zainal Abidin, and Gasim Yamani, "Analysis of Marriage Customs of the Saluan Ethnic Perspective of Islamic Law in Banggai District," *International Journal of Contemporary Islamic Education* 4, no. 1 (2022): 63–76.

³ Bushra Yasmeen, Muhammad Ramzan, and Asma Seemi Malik, "Perception of Dowry: Effects on Women Rights in Punjab," *Journal of Development and Social Sciences* 2, no. IV (2021): 897–909, [https://doi.org/10.47205/jdss.2021\(2-iv\)71](https://doi.org/10.47205/jdss.2021(2-iv)71).

⁴ Khoirur Rahmi Sibarani, "Pendaftaran Tanah Ulayat Yang Menjadi Hak Milik Perseorangan Pada Suku Batak Toba Di Pulau Samosir, Sumatera Utara," *Jurnal Kajian Konstitusi* 1, no. 2 (2021): 216–43, <https://doi.org/10.19184/jkk.v1i2.27770>.

⁵ Zulham Siregar, "Sejarah Suku Mandailing Di Kecamatan Bandar Kabupaten Simalungun," *Jurnal Berbasis Sosial* 1, no. 1 (2020): 10–16.

⁶ Abbas Pulungan, *Dalihan Na Tolu, Peran Dalam Proses Interaksi Antara Nilai Adat Dengan Nilai Islam Pada Masyarakat Mandailing Dan Angkola Tapanuli Selatan* (Medan: Perdana Publishing, 2018). 84.

Currently, many Mandailing customary provisions in Padang Lawas Regency are subject to Islamic law. For example, related to inheritance, death, birth. However, in the case of marriage, the role of adat still dominates. The community still adheres to the values contained in adat. A Mandailing proverb reads "*Ombar do adat dohot ugamo*". This proverb means that custom and religion coexist. The Padang Lawas proverb also says "*Padang Lawas Tani adat digomgom ibadat*". This means that Padang Lawas is a land of custom that is integrated with religion. Another term also states "*Halak na maradat halak namaradab*". This expression means that a customary person is a person of character. Thus, Mandailing people until now hold tightly in carrying out customs in daily life.

Marriage in Mandailing customs is not only a physical and mental bond between a man and a woman. However, Mandailing people have customs to obey. Mandailing custom means that marriage is a customary marriage bond that has legal consequences on the customary law that applies in the Padang Lawas community. The existence of this law gave birth to an application relationship known as *Rasah Sanak* (relationship between children, bachelor or girl) and *rasah tuha* (relationship between families of prospective husbands and wives)⁷.

One of the series before the implementation of marriage in Padang Lawas Regency is known as *tuor* (marriage dowry). *Tuor* has a pure origin from the policy of the ancestors that occurred in ancient times. *Tuor* (dowry) in Mandailing custom is the mention of dowry that will be given by the prospective husband to the prospective wife based on the provisions of the customary agreement. Giving *tuor* in Mandailing customs is one form of customs that is still well preserved today. The series of processes in giving *tuor* in Mandailing customs in Padang Lawas Regency, North Sumatra, is one of the requirements that must be fulfilled by the prospective husband before proceeding to the marriage contract process.

⁷ Hilman Hadikusuma, *Hukum Perkawinan Adat* (Bandung: Citra Aditya Bakti, 1995). 28.

Tuor (dowry) given by the prospective husband can affect the position of the prospective wife because *tuor* has a deep philosophy and symbolic meaning in accordance with the value system passed down from generation to generation. The wife-to-be is no longer the responsibility of her father in the customary manner, because her rights have been handed over to the prospective husband and her offspring will follow her husband's clan and must follow the customs of her husband's family⁸. Thus *tuor* is an important requirement that must be fulfilled by a prospective husband to a prospective wife to continue to the level of marriage. The prospective husband and prospective wife then proceed to the process of *makkobar tuor* (dowry deliberation). The implementation is at the house of the prospective wife involving traditional community leaders from both parties. This session will discuss *tuor* (dowry), the time of delivery of *tuor* (dowry), customary bonds and requirements that must be prepared by both parties before heading to marriage.

The agreement that has been carried out by both parties regarding the *tuor* (dowry) cannot be canceled. If this happens, there will be sanctions. If the male party violates it, the dowry cannot be returned. This means that the entire dowry that has been handed over cannot be returned. Not only that, the offending male party must also *manim bus alaman nimora* (the male party gives one goat to help the reception), *uang toppas kandang* (money paid because it is the first person from his village to marry a woman in the village), and *hepeng namosok* (money for the party) which then if the female party violates it will pay twice the dowry agreement that has been determined.

Some of the studies used as previous research are Zikri Darussamin, Rahman, and Imam Ghozali, (2020)⁹; Basiruddin, (2022)¹⁰. This research looks at the tradition of

⁸ Widyawati And Noor Efni Salam, "Makna Tradisi Uang Panai Dalam Adat Pernikahan Suku Bugis Di Sungai Guntung Kecamatan Kateman Kabupaten Indragiri Hilir Provinsi Riau," *Jurnal Online Mahasiswa Fakultas Ilmu Sosial Dan Ilmu Politik* 5, No. 2 (2018): 1–15.

⁹ Zikri Darussamin, Rahman Rahman, And Imam Ghozali, "The Relationship Between Islam And Traditional Marriage Of Siak Malay," *Justicia Islamica* 17, No. 2 (2020): 323–42, <https://doi.org/10.21154/justicia.v17i2.2152>.

¹⁰ Basiruddin, "Mahar And Dui' Menre' In Bugis Marriage, Sidenreng Rappang District."

marriage seen from before the party, when the party takes place, and after the party is held. This research reviews from Al Maqosid al 'ulya hakimah. Efrinaldi, Jayusman, Shafra, & Nurfatati, (2022); Suwarjin, (2021)¹¹ examines the issue of the dowry having to be in the form of gold. The results of this study are valid following the law of 'urf. Similar to the results of research conducted by Mahmud Huda and Nova Evanti, (2018)¹². The *A'matoang* tradition is also by the law of 'urf. This research was conducted by Abdul Aziz Khotibul Umam, Muh Zaitun Ardi, & Samsidar Jamaluddin, (2024)¹³.

Based on the background that has been described, the title of this research is "Mandailing Customary Dowry Determination Practices in Padang Lawas Regency, North Sumatra". The objectives of this research are; 1) to find out how the practice of determining tuor (dowry) in Mandailing customs in Padang Lawas Regency, 2) to find out the impact of the stipulation of dowry on the bride and groom, family and community, 3) to find out the opinions of scholars and traditional leaders on the practice of determining dowry in Mandailing traditional marriage in Padang Lawas Regency and the review of Islamic law from the perspective of 'urf theory.

2. Method

This type of research is descriptive qualitative with an empirical approach. Collecting data, analyzing and presenting data as needed is the definition of qualitative methods¹⁴. This research was conducted in Padang Lawas Regency, North Sumatra. The reason is because the Padang Lawas community is predominantly Muslim. On the other

¹¹ Suwarjin Suwarjin, "The 'Golden Worship' Tradition: A Sociological Study Of Islamic Law In Traditional Marriages Of The Lembak Tribe Community, Bengkulu," *Jurnal Ilmiah Mizani* 8, No. 1 (2021): 243–55.

¹² Mahmud Huda And Nova Evanti, "Uang Panaik Dalam Perkawinan Adat Bugis Perspektif ' Urf (Studi Kasus Di Kelurahan Batu Besar Kecamatan Nongsa Kota Batam)," *Jurnal Hukum Keluarga Islam* 3, No. 2 (2018): 133–58, <https://journal.unipdu.ac.id/index.php/jhki/article/view/1523>.

¹³ Abdul Aziz Et Al., "The Islamic Legal Perspective On A ' Matoang In The Marriage Process (Exploring Agreements Within The Monromonro Utara Community , Jenepono Regency)," *International Journal Of Health, Economics, And Social Sciences (Ijhess)* 6, No. 1 (2024): 56–59, <https://doi.org/10.56338/ijhess.V6i1.4662>.

¹⁴ Didik Suharjito, *Pengantar Metode Penelitian* (Bandung: IPB Press, 2019). Hal. 148

hand, they are still very obedient to customary law until now. Data sources in this study used primary and secondary data. Primary data is obtained by researchers directly from traditional leaders, religious leaders, and people who have participated in the Mandailing traditional marriage procession in Padang Lawas Regency, North Sumatra. Secondary data researchers obtain data from official documents, such as Mandailing data books, Fikih books, journals, theses, theses, dissertations, and other literature such as the book of Jurisprudence *Fathul mu'in*, *Bidayatul Mujtahid*, *Al Ashabu wan Nazhair*, *Buku Tor tor* in Mandailing traditional ceremonies.

Data collection in this study used interviews to obtain answers in accordance with the problems taken in this study¹⁵. Interviews conducted by researchers with religious leaders who are trusted by the community as a reference for asking questions about Islamic law, then traditional leaders who are recognized by the community and appointed by the Padang Lawas Regency government as the Padang Lawas Regency Customary Stakeholder Agency (BPA) and the community who are actors in the *tuor* (dowry) practice process.

3. Finding and Discussion

a. Determination of *Tuor* (Mahar) in Padang Lawas Regency, North Sumatra

Mahar is defined in the Indonesian Dictionary as an obligatory gift of money or goods from the groom to the bride when the marriage contract is held¹⁶. In terminology, dowry is property that belongs to the wife and husband because of the contract or *dukhul*¹⁷. According to the Hanafiyyah scholars, dowry is :

الْمَهْرُ هُوَ مَا يَسْتَحَقُّهُ الْمَرْءُ بَعْدَ النِّكَاحِ أَوْ الْوِطْءِ

It means: Mahr is something that a woman is entitled to because of the marriage contract or *wati*.

¹⁵ Kartini Kartono, *Pemimpin Dan Kepemimpinan: Apakah Kepemimpinan Abnormal Itu?* (Jakarta: Rajawali Press, 2009). Hal. 187

¹⁶ DEPDIKNAS, *Kamus Besar Bahasa Indonesia* (Jakarta: Balai Pustaka, 2002). Hal. 696

¹⁷ Amirur Nuruddin, *Hukum Perdata Islam Di Indonesia* (Jakarta: Prenada Media, 2004). Hal. 54

As for according to the Malikiyyah Scholar Mahar is:

الْمَهْرُ هُوَ مَا يَجْعَلُ لِلزَّوْجَةِ فِي نَظِيرِ الْأَسْتِمْتَاعِ بِهَا

It means: Dowry is something that is made (paid) to the wife as a reward or service for sexuality¹⁸.

Based on some of the definitions described, the dowry can be concluded as a gift of property in the form of money, or property from the groom to the bride based on the agreement of the two families, namely the man's family and the woman's family.

Mandailing custom defines *tuor* (dowry) as something given by the prospective groom to the prospective bride that has been determined by customary agreement. *Tuor* is a requirement that must be fulfilled in Mandailing traditional marriage in Padang Lawas Regency. *Tuor* can be negotiated according to the agreement of the two families. The *Ttor* tradition in Padang Lawas Regency is still valid today because it is still being passed down and taught to the community.

The *tuor* given by the groom to the bride is a form of appreciation and respect. The process of determining the *tuor* is carried out at the home of the prospective bride. If both parents of the bride have died, it will be held at the house of her father's brother. The woman is cared for by someone else, the implementation is by the agreement of the wife's family. The implementation is carried out at night. The aim is not to interfere with activities during the day. The process of implementing *Makkobar tuor* (dowry deliberation) for the prospective wife is represented by the entire family, *daliha natolu* (mora, kahanggi, anakboru), and all elements of *hatobangon* (king, religious leaders, and traditional leaders) as well as the prospective groom¹⁹.

¹⁸ Darmawan, *Eksistensi Mahar Dan Walimah* (Surabaya: Srikandi, 2007). Hal. 7

¹⁹ Yulia Risa and Emizal Amri, "Fungsi Tuor Bagi Orang Mandailing," *Culture & Society: Journal Of Anthropological Research* 3, no. 2 (2021): 85–96, <https://doi.org/10.24036/csjar.v3i2.94>.

Some tuor provisions that apply to Mandailing customs in Padang Lawas Regency such as placing tuor (dowry) in the requirements of marriage, tuor (dowry) cannot be owed in the sense that the payment must be completed before the contract. The dowry of a wife who is divorced before *dukhu* remains the full right of the wife when the dowry has been agreed upon in a traditional trial, the marriage can no longer be canceled if there is a violation, and there will be a dowry fine.

'*Urf* is something that people often know and has become part of the tradition, whether in words, actions, or things that leave something or are often called customs. According to *Shara'*, there is no difference between '*urf* and tradition²⁰. Another definition of '*urf* is an action or word where the soul feels calm in carrying it out because it is in line with logic and can be accepted by its human nature²¹. The scholars of Jurisprudence define '*urf* as any action or word that has become customary in society and is repeated continuously²². Thus, '*urf* can be summarized as actions or words that are done by many people continuously among the community.

Scholars generally divide '*urf* in three views, namely '*urf* in terms of its nature, '*urf* in terms of its applicability in society, and '*urf* in terms of its validity²³.

- 1) '*urf* in terms of its nature is divided into two, namely, '*urf lafzhi* and '*urf 'amali*. '*urf lafzhi* is a habit of the community in using certain word expressions, making it a special meaning that comes to mind, even though the language rules have other meanings. '*urf 'amali* is a community custom related to actions or *muamalah*. For example, buying and selling without consent and marriage.

²⁰ Suwarjin, "The 'Golden Worship' Tradition: A Sociological Study of Islamic Law in Traditional Marriages of the Lembak Tribe Community, Bengkulu."

²¹ Ma'sum Zainy Al-Hasyimy, *Sistematika Teori Hukum Islam (Qowa'id Fiqhiyyah)* (Jombang: Maktabah Al-Syarifah Al-Khodijah, 2008). Hal. 79

²² Umar Shihab, *Hukum Islam Dan Transformasi Pemikiran* (Semarang: Dina Utama Semarang, 1996). Hal. 30

²³ Ahmad Fahmi Abu Sunnah, *L-'urf Wa Al-'Adah Fi Ra'y Al-Fuqaha* (Kairo: Lembaga Penerbitan Al-Azhar, 1947). Hal. 17

- 2) *'urf* based on the laws that apply in society is divided into two parts, namely *'urf 'amm* (general custom) and *'urf khas* (special custom). *'urf 'amm* (general custom) is a tradition that is used by the community widely and thoroughly regardless of place, time, and circumstances. For example, giving gifts to those who have done us a favor. *'urf khas* (special custom) is a customary law that applies only to a certain place, time, and situation, or a custom that only applies to some people²⁴. An additional example is the halal bil halal event that some Muslims in Indonesia do on Eid al-Fitr.
- 3) *'urf* based on its validity is divided into two, namely, *'urf shahih* (valid custom) and *'urf fasid* (invalid custom). *'urf shahih* (valid custom) is a custom in the community that does not contradict the arguments of shara' and does not eliminate maslahat and does not bring *mafsadat*. For example, paying the dowry in cash or in debt. *'urf fasid* (invalid custom) is a tradition carried out by a group of people that contradicts the provisions of Sharia, because it legalizes the forbidden or cancels the obligatory. For example, usury agreements, and drinking wine or the like when holding a party.

b. Tour (Dowry) Determination Practice

The scholars as a whole agree that paying the mahr is obligatory. The scholars divide the mahr into two types: *mahr musamma* and *mahr mitsil*. *Mahr musamma* is a dowry that has been determined in the form and amount in the *sighat akad*. This type of dowry is divided into two: *Mahr musamma mu'ajjal*, which is a dowry that must be given to the wife immediately. *Mahr musamma ghair mu'ajjal*, which is a dowry that has been determined in form and amount, but the payment is deferred. *Mahr Musamma* is usually determined by deliberation between the families of the bride and the groom. The amount and form must be mutually agreed upon.

²⁴ Satria Efendi and M. Zein, *Ushul Fiqh* (Jakarta: Kencana, 2005). Hal. 154

Secondly, *Mahr mitsil* is a dowry whose amount has not been determined and its form has not been mentioned. *Mahr mitsil* is determined by a woman who resembles the wives of all her relatives, both paternal and maternal. In the book of *fathul mu'in*, it is stated that the *mitsil* dowry is "A sum of dowry that is usually desired by women, every woman who is equal in lineage and nature from among women from among her *ashabah* is the same, to measure the *mahr mitsil* of a woman, first look at the dowry of her mother's father's brother, then her father's sister, then her brother's daughter, then her paternal aunt, and so on"²⁵.

The implementation process carried out by Mandailing custom at the time of determining the dowry is as follows²⁶:

- 1) Opening (from the woman's side);
- 2) Opinions from both parties regarding the level of dowry size;
- 3) Time limit for delivery of dowry;
- 4) Timing of the marriage contract and *walimatul 'urs*;
- 5) Conclusions read out by the event protocol.

The Mandailing traditional procession is very special because each party must bring *Dalihan na tolu elements*, all of which have the right to speak using *hata-hata adat* (traditional language). In addition, to open customary deliberations must be prepared, *Burangir* (betel leaves) whose ingredients are soda, *sodtang*, areca nut, and tobacco, are placed in a large deep covered with yellow cloth. The composition of those who have the right to speak in the traditional procession is as follows²⁷:

- 1) Spokesperson (protocol) of the suhut;

²⁵ Zainuddin bin Abdul Aziz, *Fathul Mu'in* (Beirut: Darul Ikhyal Kutub Al-Arabiyyah, 1968). Hal. 108.

²⁶ Asrita Sari, Sumarsih Sumarsih, and Rahmad Husein, "Teaching Modals through Markobar in the Ceremony of Pabagas Boru," in *Proceedings of the 7th Annual International Seminar on Transformative Education and Educational Leadership* (Medan: AISTEEL, 2022), 1 10, <https://doi.org/10.4108/eai.20-9-2022.2324505>.

²⁷ Wawancara Sutan Parlindungan Hasibuan, Ketua Badan Pemangku Adat Padang Lawas, 03 September 2021

- 2) *Suhut* (who have a event);
- 3) *Anak boru suhut* (A son-in-law who has a dream);
- 4) *Pisang raut* (sister-in-law of boru's son);
- 5) *Paralok-alok* (meeting participants who attended);
- 6) *Hatobangan* (traditional leaders of the village);
- 7) *Raja torbing balok* (The traditional king of the next village);
- 8) *Raja Panusunan Bulung* (The great king of custom).

The above sequence is presented at the *makkobar godang* (big meeting) event, namely at the wedding party deliberation and *mangupa* and giving customary titles, and others. The *makkobar menek* (small meeting) is followed by the male and female families in determining the dowry. After there is an agreement on the amount of the dowry and the payment limit, the male party goes home. The male party comes back to *manulak sere* (hand over the dowry) at the agreed time by bringing *mora*, *kahanggi*, *anakboru*, and *hatobangan* from his village. Likewise, the woman must invite the *mora*, *kahanggi*, *anak boru* and *hatobangan* in the village. The *manulak sere* process is included in a traditional session called *jamita parhutaon* (one village deliberation).

c. Impact of Tour Determination Practices (Dowry)

The practice of determining *tuor* (dowry) is one of a series of processes in the traditional marriage of the Padang Lawas community. A good marriage must follow every process that applies in the Padang Lawas traditional community. If not, it will cause an unfavorable view from the community itself. In the practice of determining *tuor* (dowry), there are several things that are of concern, namely the impact on the continuity of the marriage of the bride and groom, the family, and the customary community. For the indigenous community itself, there is actually no direct impact, but what is of concern is that the practice of determining *tuor* is carried out at night at the woman's house until midnight and even before dawn prayer. In addition, the practice of *tuor* determination can actually be carried out

more quickly but tends to be protracted because of the stages, namely the *pokat* of the families of both parties, *jamita parhutaon*, and *makkobar adat*.

The impact practice of determining *tuor* for the bride and groom, there are several impacts if there is no dowry agreement between the two families, namely as follows²⁸:

- 1) Delay in marriage. All matters relating to the dowry must be settled before the marriage contract. If the dowry has not been settled, the marriage contract cannot proceed.
- 2) Cancellation of marriage. If there is no agreement on the dowry between the man's family and the woman's family, the marriage cannot take place.
- 3) *Kawin lari*. If there is no agreement between the families of the boy and girl, the bride and groom already love each other. Then, both will go for elopement.

d. Perspectives of Padang Lawas Scholar and Community Leaders on the Practice of Tuor (Dowry)

According to the Padang Lawas cleric, *Ustaz* Syarifuddin Pulungan²⁹. He is a teacher at various Islamic boarding schools in Padang Lawas, including Babul Hasanah Islamic Boarding School, Darul Falah, Al-Mukhlisin, and Al-Jumhuriyah. He is one of the MUI (Majelis Ulama Indonesia) Padang Lawas administrators and an NU (Nahdlatul Ulama) figure in Padang Lawas. He is one of the *Ustaz* who is a place for people to ask questions about various religious legal issues. Based on interviews conducted, he was of the opinion that the *adat makkobar* (customary deliberation) did more harm and wasted than good because the deliberations lasted a long time until midnight before they finished. The event could have been shortened. God's Word in Q.S. Al-Mu'minun (23): 3:

وَالَّذِينَ هُمْ عَنِ اللَّغْوِ مُعْرِضُونَ

²⁸ Wawancara Sutan Parlindungan Hasibuan, Ketua Badan Pemangku Adat Padang Lawas, 3 September 2021

²⁹ Wawancara Ustazd Syarifuddin Pulungan, Tokoh Ulama Padang Lawas, 07 September 2021

It means: People who distance themselves from useless actions and words.

The Prophet Muhammad Shallallahu 'alaihi Wasallam say:

مِنْ حُسْنِ إِسْلَامِ الْمَرْءِ تَرْكُهُ مَا لَا يَعْنِيهِ³⁰

It means: Among the virtues of a person's Islam is abandoning things that are not useful. (H.R. At-Tirmidhi and Ibn Majah).

Hal yang sama juga disampaikan Ustaz Muslimin salah satu Ustaz yang menjadi rujukan masyarakat jika bertanya mengenai hukum agama bahwa dalam acara *makkobar adat* (musyawarah adat) yang jadi pembahasan dibuat berulang-ulang, di dalamnya beradu pandai bersilat lidah dengan kiasan-kiasan yang berlebihan. Contohnya ketika penyerahan mahar kepada pihak perempuan pihak laki-laki akan berkata:

The same thing was also conveyed by *Ustaz Muslimin*³¹, one of the *Ustaz* who is a reference for the public when asking about religious law, that in the *adat makkobar* (customary deliberation) event, the discussion was repeated over and over again, in which there was a clash of clever tongues with exaggerated metaphors. For example, when handing over the dowry to the woman, the man will say:

“Taringot di tona ni hamu na saulak, madung hami jalaki rap hami oban tuor ni boru ni mora, semoga martarimo dihamu, madung habis do hodok nami manjalaki na, habis imbuli ni telapak tangan nami mangusaho onna.”

It means: “Remembering the dowry that we have agreed on, we have looked for and we have brought it as a dowry for our daughter's, hopefully, it will be accepted in front of our, because the sweat is dry we are looking for it and the hair on our palms is running out of the effort.”

³⁰ Muhammad Bin Shalih Utsaimin, *Syarah Al-Arba'in Nawawiyah*, (Jakarta: Darul hak, 2008) h. 80

³¹ Wawancara Ustazd Muslimin, Tokoh Masyarakat, 15 September 2021

Expressions like this are too excessive and there are many more excessive figures of speech in practice. According to *Ustaz Muslimin*, the implementation of customs followed by the people of Padang Lawas follows the traditions of their ancestors. Even though Allah Ta'ala has said in Surah Al-Baqarah verse 170 which means: "Follow what Allah has revealed, they answered, no! We follow what we found in our ancestors, even though their ancestors did not know anything and were not guided."

Regarding the dowry which cannot be deferred according to custom, it must be handed over in full at the *adat makkobar* (customary meeting) after the process is complete then it can proceed to the marriage contract process. According to *Ustaz Syarifuddin Pulungan*, in Islamic law, the dowry can be partially deferred or owed. The requirements given by the custom are too burdensome if the man cannot afford to pay them. In fact, in the hadith of the Prophet Muhammad PBUH there are three things that must be hastened, namely: Prayer when the time has come, the body with its *fardu kifayah*, a girl if she has found a suitable partner. According to *Ustaz Muslimin*, things are almost the same, but he added that perhaps there is goodness in this rule, the aim of which is that the two of them will no longer have to worry about dowry in the future and that completing the dowry is a sign of the man's readiness and sincerity in wanting to get married.

Regarding the dowry of a wife who is divorced before having sexual relations with her husband and wife, according to customary law, the dowry cannot be requested or returned. The dowry is the wife's absolute right. These customary rules are not in accordance with Islamic law according to *Ustaz Syarifuddin Pulungan*. According to *Ustaz Muslimin*, this is the same thing because the word of Allah is clear in the Al-Quran, Surah Al-Baqarah verse (2): 236-237, regarding the dowry of women who are divorced before having sex with husband and wife whose dowry has not been determined or the dowry has not been determined.

Regarding dowry fines, when the dowry has been agreed upon and has been brought to the customary court. So no one can violate the agreement anymore, such as canceling a marriage. If someone breaks it, there will be a fine or sanction given. If the woman breaks it, she will pay double the agreed dowry. If the man breaks it, the dowry given will not be returned. According to *Ustaz* Syarifuddin Pulungan, there is no Shari'a in Islam. The fine is against Islamic law. These rules are only made by custom. According to *Ustaz* Muslimin, there are no detailed regulations regarding fines. However, if you look at the goal, it is to bind and protect the two of them so that no one cancels the marriage, because if the marriage is canceled even though the invitations have been distributed, this is a shameful thing and could be a disgrace.

Therefore, the practice of determining tutors is a protracted process even though it can actually be done quickly. Tuor (dowry) provisions are also considered different from Islamic law, such as dowry which cannot be owed, dowry fines, and dowry for wives who are divorced before *dukhul*. Based on the '*urf*' perspective, the determination of Tuor (dowry) if viewed from its nature falls into the '*urf amali*' category. In terms of the validity of '*urf*', the determination of tuor (dowry) in Padang Lawas Regency is included in the '*urf Khas*' category. In terms of the validity of '*urf*' that occurred in Padang Lawas Regency, it cannot be generalized into the category of '*urf Sahih*' or '*urf Fasid*', but must be viewed from each process, in substance the tuor (dowry) tradition is the same as Islamic law, namely the rules of *ushul fiqh* which state:

الْعَادَةُ مُحْكَمَةٌ

It means: Custom can be used as a legal basis

The word *al'adt* above is *al-'urf* which means a habit that is carried out repeatedly by society which does not conflict with Islamic law. The Islamic religion provides laws related to the application of customary law with sharia, in other

words as long as it does not conflict with the text of the Qur'an and Hadith. Islamic law makes customs one of the tools in supporting sharia law with the provisions that they must be adopted selectively and proportionally because not all customs can be used as a legal basis³².

Thus, Islam is a religion that has rules for every human movement. Like Islamic Law which has an existence, it not only functions as social control, but can also be a means of social engineering. The existence of *'urf* in Islamic law is used as a legal basis that is useful for strengthening patterns of habits and behavior that exist among society, so that it can lead to good goals and can eliminate habits that are considered bad. *'urf* provides space for rich local traditions that are deeply rooted in society. For example, the marriage tradition that occurs in the *Mandailing* tribe, Padang Lawas Regency, North Sumatra. The same is true for the Bugis community in Sidenreng *Rappang Regency*³³. In the study of Islamic law, *'urf* is an important epistemological basis for developing Islamic law³⁴. Customary law follows society as long as society still maintains a customary act as a necessity, then the act is a legal, not just an act of art or morality. It is also hoped that this research will contribute to the community's understanding of the determination of dowry in Padang Lawas district, North Sumatra. Then this research can also contribute to the preservation of Mandailing tribal customs related to marriage.

4. Conclusion

The tradition of the practice of determining the dowry in Padang Lawas Regency is still firmly held and passed down by the community as one of the marriage processions that must be obeyed. The dowry that has been agreed upon by both parties is then continued to the customary court to be tied into a customary agreement. The traditional trial was held at the woman's house, and was attended

³² Dahlan Tamrin, *Kaidah-Kaidah Hukum Islam* (Malang: UIN Maliki Press, 2010). Hal. 203

³³ Basiruddin, "Mahar And Dui' Menre' In Bugis Marriage, Sidenreng Rappang District," *Journal Of Islamic Studies And Society* 3, No. 2 (2022): 12–39.

³⁴ Sucipto, "*'urf* Sebagai Metode Dan Sumber Penemuan Hukum Islam Oleh:," *Asas* 7, No. 1 (2015): 25–40.

by *dalihan natolu* (*mora, kahanggi, dan anakboru*), *hatobangon* (religious figures and traditional figures). The impact of the practice of determining tutors is that if there is no agreement between both sides of the family, then the marriage is delayed, the marriage is annulled or they can elope.

Scholar in Padang Lawas Regency think that the practice of determining tutors is a protracted process even though it can actually be done quickly. Tuor (dowry) provisions are also considered different from Islamic law, such as dowry which cannot be owed, dowry fines, and dowry for wives who are divorced before *dukhlul*. Based on the '*urf*' perspective, the determination of Tuor (dowry) if viewed from its nature falls into the '*urf 'amali*' category. In terms of the validity of '*urf*', the determination of tuor (dowry) in Padang Lawas Regency is included in the '*urf Khas*' category. In terms of the validity of the '*urf*' that occurred in Padang Lawas Regency, it cannot be generalized into the category of '*urf Sahih*' or '*urf Fasid*', but must be reviewed from each process. In substance, the tuor (dowry) tradition is the same as Islamic law.

BIBLIOGRAPHY

- Al-Hasyimy, Ma'sum Zainy. *Sistematika Teori Hukum Islam (Qowa'id Fiqhiyyah)*. Jombang: Maktabah Al-Syarifah Al- Khodijah, 2008.
- Aziz, Abdul, Khotibul Umam, Muh Zaitun Ardi, And Samsidar Jamaluddin. "The Islamic Legal Perspective On A ' Matoang In The Marriage Process (Exploring Agreements Within The Monromonro Utara Community , Jeneponto Regency)." *International Journal Of Health, Economics, And Social Sciences (Ijhess)* 6, No. 1 (2024): 56–59. <https://doi.org/10.56338/Ijhess.V6i1.4662>.
- Aziz, Zainuddin Bin Abdul. *Fathul Mu'in*. Beirut: Darul Ikhyal Kutub Al-Arabiyyah, 1968.
- Basiruddin. "Mahar And Dui' Menre' In Bugis Marriage, Sidenreng Rappang District." *Journal of Islamic Studies And Society* 3, No. 2 (2022): 12–39.
- Darussamin, Zikri, Rahman Rahman, And Imam Ghazali. "The Relationship Between Islam And Traditional Marriage Of Siak Malay." *Justicia Islamica* 17, No. 2 (2020): 323–42. <https://doi.org/10.21154/Justicia.V17i2.2152>.
- Darmawan. *Eksistensi Mahar Dan Walimah*. Surabaya: Srikandi, 2007.
- Depdiknas. *Kamus Besar Bahasa Indonesia*. Jakarta: Balai Pustaka, 2002.
- Efendi, Satria, And M. Zein. *Ushul Fiqh*. Jakarta: Kencana, 2005.
- Efrinaldi, Jayusman, Shafra, And Nurfatati. "Urf Review Of The Practice Of Gold

- Marriage Mahar In The Community Of Tanjung Senang District Bandar Lampung.” *Al-Istinbath: Jurnal Hukum Islam* 7, No. 1 (2022): 287–310. <https://doi.org/10.29240/jhi.v7i1.4085>.
- Hadikusuma, Hilman. *Hukum Perkawinan Adat*. Bandung: Citra Aditya Bakti, 1995.
- Huda, Mahmud, And Nova Evanti. “Uang Panaik Dalam Perkawinan Adat Bugis Perspektif ‘Urf (Studi Kasus Di Kelurahan Batu Besar Kecamatan Nongsa Kota Batam).” *Jurnal Hukum Keluarga Islam* 3, No. 2 (2018): 133–58. <https://journal.unipdu.ac.id/index.php/jhki/article/view/1523>.
- Ismail, Ismail, Zainal Abidin, And Gasim Yamani. “Analysis Of Marriage Customs Of The Saluan Ethnic Perspective Of Islamic Law In Banggai District.” *International Journal Of Contemporary Islamic Education* 4, No. 1 (2022): 63–76.
- Kartono, Kartini. *Pemimpin Dan Kepemimpinan: Apakah Kepemimpinan Abnormal Itu?* Jakarta: Rajawali Press, 2009.
- Nasution, Pandapotan. *Uraian Singkat Tentang Hukum Adat Mandailing Dan Tata Cara Perkawinannya*. Jakarta: Widya Press, 1994.
- Nuruddin, Amirur. *Hukum Perdata Islam Di Indonesia*. Jakarta: Prenada Media, 2004.
- Pulungan, Abbas. *Dalihan Na Tolu, Peran Dalam Proses Interaksi Antara Nilai Adat Dengan Nilai Islam Pada Masyarakat Mandailing Dan Angkola Tapanuli Selatan*. Medan: Perdana Publishing, 2018.
- Risa, Yulia, And Emizal Amri. “Fungsi Tuor Bagi Orang Mandailing.” *Culture & Society: Journal Of Anthropological Research* 3, No. 2 (2021): 85–96. <https://doi.org/10.24036/csjar.v3i2.94>.
- Salim, Munir. “Adat Sebagai Budaya Kearifan Lokal Untuk Memperkuat Eksistensi Adat Ke Depa.” *Jurnal Hukum Pidana Dan Ketatanegaraan* 5, No. 2 (2016): 244–55.
- Sari, Asrita, Sumarsih Sumarsih, And Rahmad Husein. “Teaching Modals Through Markobar In The Ceremony Of Pabagas Boru.” In *Proceedings Of The 7th Annual International Seminar On Transformative Education And Educational Leadership*, 1–10. Medan: Aisteel, 2022. <https://doi.org/10.4108/eai.20-9-2022.2324505>.
- Shihab, Umar. *Hukum Islam Dan Transformasi Pemikiran*. Semarang: Dina Utama Semarang, 1996.
- Sibarani, Khoirur Rahmi. “Pendaftaran Tanah Ulayat Yang Menjadi Hak Milik Perseorangan Pada Suku Batak Toba Di Pulau Samosir, Sumatera Utara.” *Jurnal Kajian Konstitusi* 1, No. 2 (2021): 216–43. <https://doi.org/10.19184/jkk.v1i2.27770>.
- Siregar, Zulham. “Sejarah Suku Mandailing Di Kecamatan Bandar Kabupaten Simalungun.” *Jurnal Berbasis Sosial* 1, No. 1 (2020): 10–16.
- Sucipto. “‘urf Sebagai Metode Dan Sumber Penemuan Hukum Islam Oleh.” *Asas* 7, No. 1 (2015): 25–40.

- Suharjito, Didik. *Pengantar Metode Penelitin*. Bandung: Ipb Press, 2019.
- Sunnah, Ahmad Fahmi Abu. *L-'urf Wa Al-'Adah Fi Ra'y Al- Fuqaha*. Kairo: Lembaga Penerbitan Al-Azhar, 1947.
- Suwarjin, Suwarjin. "The 'Golden Worship' Tradition: A Sociological Study Of Islamic Law In Traditional Marriages Of The Lembak Tribe Community, Bengkulu." *Jurnal Ilmiah Mizani* 8, No. 1 (2021): 243–55.
- Tamrin, Dahlan. *Kaidah-Kaidah Hukum Islam*. Malang: Uin Maliki Press, 2010.
- Widyawati, And Noor Efni Salam. "Makna Tradisi Uang Panai Dalam Adat Pernikahan Suku Bugis Di Sungai Guntung Kecamatan Kateman Kabupaten Indragiri Hilir Provinsi Riau." *Jurnal Online Mahasiswa Fakultas Ilmu Sosial Dan Ilmu Politik* 5, No. 2 (2018): 1 15.
- Yasmeen, Bushra, Muhammad Ramzan, And Asma Seemi Malik. "Perception Of Dowry: Effects On Women Rights In Punjab." *Journal Of Development And Social Sciences* 2, No. Iv (2021): 897 909.
[https://doi.org/10.47205/Jdss.2021\(2-Iv\)71](https://doi.org/10.47205/Jdss.2021(2-Iv)71).