

The Marlojong Tradition Among the Mandailing People in Pasaman: A Study of Living Law in Islamic Family Law

Regar Saputra*

Universitas Islam Negeri Imam Bonjol, Padang, Indonesia

regarsaputra80@gmail.com

Nofrizal

Universitas Putra Indonesia YPTK Padang, Padang, Indonesia

carlesnof@gmail.com

DOI: <https://doi.org/>

Received:	Revised:	Approved:
-----------	----------	-----------

* Corresponding Author

Abstract

The marlojong tradition among the Mandailing community in Pasaman remains a significant social practice within the dynamics of Islamic family law in Indonesia. This tradition occurs when a man and a woman choose to leave the woman's family home in order to obtain social and customary legitimacy due to the absence of parental or family approval for their intended marriage. The practice reflects a dynamic interaction between customary law, Islamic law, and state law in the daily lives of local Muslim communities. This article aims to analyze the marlojong tradition as a form of living law within the framework of Islamic family law among the Mandailing people in Pasaman. The study employs a normative legal research method combined with a socio-legal approach. Primary legal materials include Al-Qur'an, hadith, the Compilation of Islamic Law, and national marriage regulations, while secondary materials consist of classical fiqh works, anthropological studies, and relevant academic literature. The findings reveal that marlojong functions as a social mechanism to preserve family honor, resolve marriage-related conflicts, and maintain the relationship of couples who intend to marry. From the perspective of Islamic family law, the practice may be accepted as long as it fulfills the essential pillars and requirements of marriage and does not contradict the principle of *maslahah*. Nevertheless, the tradition also has the potential to create social and administrative problems if it is not accompanied by proper marriage registration and adequate protection of women's rights. This article argues that marlojong represents a form of social negotiation among customary norms, religious values, and state law, reflecting the existence of living law within local Muslim communities.

Keywords: *living law; marlojong; Islamic family law; Mandailing customary law; customary marriage.*

Introduction

Islamic family law in Indonesia has evolved through a dynamic interaction between state law, religious law, and customary law that is alive within society. In the context of Indonesian Muslim society, social practices related to marriage, divorce, and family relations do not always fully adhere to formal state regulations but are also influenced by local traditions passed down through generations. This phenomenon demonstrates that law is not merely understood as written rules but also as a living social practice (living law) within society.¹ These local traditions which continue to be upheld play a crucial role in understanding how Muslim communities interpret Islamic family law in a contextual manner. One customary practice that has survived is the marlojong tradition among the Mandailing people in Pasaman, West Sumatra. This tradition refers to the act of a couple “eloping” to get married because they have not received their families’ blessing or are facing certain social obstacles. In practice, the couple will seek protection from traditional or religious leaders so that the marriage ceremony can still take place.² Although at first glance it appears to contradict family norms, the Mandailing community views marlojong as a conflict-resolution mechanism that holds both customary and social legitimacy.

Numerous scholars have studied the relationship between customary law and Islamic law. Ratno Lukito explains that the interaction between Islamic law and customary law in Indonesia reflects a complex process of negotiation between religious norms and local traditions.³ Bernard Adeney-Risakotta emphasizes that the legal experiences of Indonesia’s Muslim communities are often influenced by a combination of state law, religious law, and local customs.⁴ Meanwhile, Muhammad Latif Fauzi observes that the practice of Islamic family law in Indonesia cannot be separated from the diverse social realities of local Muslim communities.⁵ However, research specifically examining the marlojong tradition from the perspective of “living law” in Islamic family law remains relatively limited.

Indonesia is known as a country with a very high level of legal diversity. In addition to state law, which applies nationally, there are also religious and customary laws that are alive and evolving within society. The existence of these various legal systems gives rise to a condition of legal pluralism, enabling Indonesian society to have its own mechanisms for resolving various social issues, including those related to marriage. In this context, law is understood not only as written regulations in statutes but also as living social norms observed by the community. This concept aligns with the “Living Law” theory developed by Eugen Ehrlich, which states that the law that actually exists within society often exerts greater influence than the formal law enacted by the state.⁶

¹ Eugen Ehrlich, *Fundamental Principles of the Sociology of Law* (Cambridge: Harvard University Press, 1936), 493.

² Salma, dan Syahril. “Marlojong sebelum Perkawinan: Kiat Adat Menghadapi Wali ‘Adal di Ranah Batahan, Pasaman Barat.” *Al-Ahkam* 29, no. 1 (2019): 45–66

³ Ratno Lukito, “Islamic Law and Adat Encounter: The Experience of Indonesia” (PhD diss., McGill University, 1997).

⁴ Bernard Adeney-Risakotta, “Traditional, Islamic and National Law in the Experience of Indonesian Muslim Women,” in *Narratives of Muslim Womanhood and Women’s Agency* (United Kingdom: Routledge, 2018), 82–97

⁵ Muhammad Latif Fauzi, *Aligning Religious Law and State Law: Negotiating Legal Muslim Marriage in Pasuruan, East Java* (Boston: Brill, 2023).

⁶ Eugen Ehrlich, *Fundamental Principles of the Sociology of Law* (Cambridge: Harvard University Press, 1936), 493.

In Indonesian Muslim society, the relationship between Islamic law and customary law has existed for a long time. These two legal systems are not always in conflict with one another but often interact and form new, distinctive legal patterns tailored to the social conditions of the local community. One such form of interaction can be found in the practice of customary marriage, which is still upheld by various ethnic groups in Indonesia. In a number of regions, communities continue to follow marriage procedures based on customs passed down from generation to generation, even though at the same time they are also subject to the provisions of Islamic law and state law. This situation demonstrates that legal practices in society do not always operate in isolation but rather through a process of negotiation among the various systems of norms in effect.

The Mandailing people are one of the ethnic groups with a strong traditional system that is still upheld today. Within the social structure of Mandailing society, tradition serves not only as a guide for behavior but also as a mechanism for regulating family relationships, inheritance, leadership, and marriage. One tradition still practiced among the Mandailing people is *marlojong*. Generally, *marlojong* can be understood as the act of the prospective groom taking or “abducting” the prospective bride before obtaining official consent from her family. Although the term “abduction” is often used to describe this practice, in many cases *marlojong* is carried out based on an agreement between the two prospective spouses as a strategy to expedite or facilitate the marriage process.⁷

The existence of the *marlojong* tradition has sparked various debates from the perspective of Islamic family law. On the one hand, Islam emphasizes the importance of the guardian’s involvement in marriage and encourages a marriage process that is conducted openly and with the family’s consent. On the other hand, the practice of *marlojong* is still upheld by some communities because it is considered part of a valid customary mechanism that holds social legitimacy. These differing viewpoints highlight a tension between formal legal norms and living customary norms within society. Therefore, the *marlojong* tradition is an intriguing subject for study as a legal phenomenon that illustrates the relationship between Islamic law, customary law, and state law.

Empirically, the practice of *marlojong* among the Mandailing community in Pasaman cannot be separated from the various social factors underlying it. Several studies indicate that this practice often arises when there are obstacles in the marriage process, such as a lack of parental consent, high customary fees, differences in social status, or family conflicts. Under such circumstances, *marlojong* is viewed as a solution that allows the couple to proceed with the marriage. After the *marlojong* process is completed, the families of both parties typically hold a customary deliberation to resolve the issues that have arisen and determine the necessary steps to ensure the marriage is accepted by the community.⁸

This phenomenon demonstrates that *marlojong* cannot be understood merely as an individual act, but rather as part of a social mechanism that derives its legitimacy from the customary norms alive within the community. From the perspective of Living Law, the continuity of the *marlojong* tradition demonstrates that communities possess their own legal systems that regulate their social relationships. These norms continue to be observed because

⁷ Ratno Lukito, *Islamic Law and Adat Encounter: The Experience of Indonesia* (Montreal: McGill University, 1997), 112.

⁸ Mhd. Syahnan, “Adat dan Perkawinan pada Masyarakat Mandailing,” *Al-Risalah* 18, no. 2 (2018): 145.

they are considered consistent with the values alive within the community. Thus, the existence of marlojong serves as evidence that law is not only shaped by the state but also arises and evolves from the social practices of the community itself.⁹

Various previous studies have examined the relationship between customary law and Islamic law in Mandailing society. Ratno Lukito explains that the relationship between Islamic law and customary law in Indonesia is generally dynamic and mutually influential.¹⁰ Meanwhile, Muhammad Latif Fauzi demonstrates that family law practices in Indonesian Muslim society are often the result of negotiations between religious, customary, and state norms. Research on Mandailing customary marriage also indicates that various customary practices are still maintained even though the community lives under a modern legal system. However, most of this research has focused primarily on anthropological and cultural aspects, while studies specifically analyzing marlojong from the perspectives of Living Law and Islamic family law remain relatively limited.

Given these circumstances, there is a significant research gap that warrants further examination. Most previous studies have not comprehensively explained how the marlojong tradition functions as a “living law” within the community or how this practice is understood from the perspective of Islamic family law. Yet, understanding the relationship between customary law and Islamic law is crucial for explaining why a particular practice persists even when it appears to contradict formal legal provisions. Therefore, this article argues that the marlojong tradition is a manifestation of Living Law that emerged from the social needs of the Mandailing community and continues to be upheld because it possesses strong customary legitimacy. The existence of this tradition demonstrates that the implementation of Islamic family law in society does not proceed in a linear fashion but rather through a complex process of interaction between religious norms, customary law, and the state. This study aims to analyze the marlojong tradition in the Mandailing community in Pasaman through the perspective of Living Law, evaluate its status within Islamic family law, and explain the social factors that have allowed this tradition to persist amid social change and the development of the national legal system.

Methodology

This study is a normative legal research combined with a socio-legal approach to analyze the marlojong tradition among the Mandailing community in Pasaman from the perspectives of Living Law and Islamic family law. Normative legal research was employed because the study’s primary focus lies on analyzing legal norms related to customary marriage practices, Islamic family law, and national legal regulations concerning marriage. Meanwhile, the socio-legal approach is used to understand the relationship between legal norms and the social reality of the Mandailing community, which still maintains the marlojong tradition as part of a customary mechanism for resolving marriage-related issues. This approach is considered important because the phenomenon of marlojong cannot be understood solely from a

⁹ Bernard Adeney-Risakotta, “Traditional, Islamic and National Law in the Experience of Indonesian Muslim Women,” dalam *Narratives of Muslim Womanhood and Women’s Agency* (London: Routledge, 2018), 84.

¹⁰ Ratno Lukito, *Islamic Law and Adat Encounter*, 120.

normative perspective but must also be analyzed based on the social, cultural, and legal practices that are alive within the community.¹¹

This study employs several approaches, namely the statutory approach, the conceptual approach, the legal anthropology approach, and the fiqh approach. The statutory approach is used to examine various legal provisions related to marriage within the Indonesian legal system, such as Law No. 1 of 1974 on Marriage, as amended by Law No. 16 of 2019, the Compilation of Islamic Law, and other relevant regulations. The conceptual approach is used to understand the theory of “Living Law,” legal pluralism, and the concept of as well as customary law and Islamic family law. The legal anthropology approach is used to analyze how the Mandailing community interprets the marlojong tradition as a living social norm that is collectively observed. The fiqh approach was used to examine the views of Islamic scholars regarding marriage, the marriage guardian (wali nikah), family consent, and the status of customary law within Islamic law.¹²

The data sources for this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include the Qur’an, hadith, the Compilation of Islamic Law, the Marriage Law, and various regulations related to Islamic family law in Indonesia. Secondary legal sources were obtained from classical fiqh texts, books on customary law, academic journals, theses, dissertations, and previous research on the Mandailing community and the marlojong tradition. In addition, this study also utilized various anthropological and sociological studies of law that examine the relationship between customary law and Islamic law in Indonesian society. Tertiary legal sources, such as legal dictionaries, encyclopedias, and other supporting materials, were used to clarify terminology and concepts relevant to the study.

Data collection was conducted through library research by cataloging, classifying, and analyzing various legal sources and literature relevant to the research subject. All data were then qualitatively analyzed through data reduction, legal interpretation, and drawing conclusions. The analysis was conducted by comparing formal legal norms with the social practices of the Mandailing community in the implementation of the marlojong tradition. Using this method, this study seeks to explain how the marlojong tradition is maintained as a living law within the community while also assessing its status from the perspectives of Islamic family law and Indonesian national law.¹³

Mandailing Community’s Customary System and Its Social Context

The Mandailing community is known as one of the ethnic groups in North Sumatra that possesses a strong customary structure, which is still upheld to this day. In the social life of the Mandailing community, custom holds a very important position because it serves as a guideline for regulating family relationships, kinship systems, leadership, dispute resolution, and the conduct of marriages. Custom is understood not only as a cultural tradition but also as a social norm that holds binding force for community members. Consequently, various

¹¹ Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: Rajawali Pers, 2018), 14.

¹² Johnny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif* (Malang: Bayumedia Publishing, 2019), 302.

¹³ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2021), 93.

social practices that have developed within Mandailing society generally possess strong customary legitimacy and are passed down from generation to generation.¹⁴

One of the key principles in Mandailing adat is the concept of “dalihan na tolu.” This concept constitutes a social system that governs kinship relations within Mandailing society through three main elements: mora (the bride’s family), kahanggi (a group of the same lineage), and anak boru (the groom’s family). These three elements each have their own social functions and are interrelated in various customary activities, including the conduct of marriages. In the context of marriage, the entire customary process typically involves consultations among the extended family as a form of respect for the social structure prevailing in Mandailing society.¹⁵

Pasaman’s status as one of the regions in West Sumatra inhabited by the Mandailing people has also influenced the character of local customs. In Pasaman, the Mandailing community lives side by side with the Minangkabau people, who have their own matrilineal-based customary system. The convergence of these two traditional systems creates a unique cultural dynamic, in which Mandailing values are preserved while adapting to the Minangkabau social environment.¹⁶

In the context of marriage, this dual influence is evident in how the Mandailing community in Pasaman views marriage procedures and legitimacy, including their approach to the marlojong tradition as a mechanism for resolving marital conflicts.

The religious life of the Mandailing people is inseparable from their deeply rooted Islamic identity. As an ethnic group that is predominantly Muslim, Islamic values have been internalized into various aspects of Mandailing life, including the practice of adat. The well-known Mandailing adat saying, “ombar adat dohot syara,” reflects the community’s belief that adat and religion go hand in hand. This principle serves as the foundation for the community in harmonizing customary obligations with the demands of Islamic law in daily life.¹⁷

In the realm of marriage, Mandailing customs prescribe a series of procedures that must be followed by couples intending to marry. These procedures include the proposal (hata sibuha-buhai), the engagement (marpadan), family consultations, and the marriage ceremony, which is witnessed by all members of the dalihan na tolu. The presence of the entire extended family at every stage of the marriage process reflects the values of togetherness and respect for the social structure that characterize Mandailing society.¹⁸

The Marlojong Tradition: Definition, Background, and Implementation Process

Amid this strong customary system, the marlojong tradition has developed as one of the social mechanisms in the marriage process. Etymologically, the term marlojong derives from the word lojong, which means “to go” or “to run away.” In practice, marlojong refers to the act of the prospective groom taking the prospective bride away from her family’s home

¹⁴ Ratno Lukito, *Islamic Law and Adat Encounter: The Experience of Indonesia* (Montreal: McGill University, 1997), 118.

¹⁵ Mhd. Syahnan, “Adat dan Sistem Kekerabatan Masyarakat Mandailing,” *Al-Risalah* 18, no. 2 (2018): 149.

¹⁶ Zulkifli Lubis, *Mandailing: Identitas Etnik dan Budaya* (Medan: Pustaka Bangsa Press, 2017), 201.

¹⁷ Ali Akbar, “Tradisi Marlojong dalam Perkawinan Adat Mandailing,” *Jurnal Antropologi Sumatera* 11, no. 1 (2020): 67.

¹⁸ Sahrul Harahap, “Penyelesaian Adat terhadap Kasus Marlojong di Mandailing,” *Jurnal Hukum dan Budaya* 7, no. 2 (2021): 88.

before obtaining official consent from the bride's family. Although often equated with eloping, the practice of marlojong in Mandailing society is not always carried out by force. In many cases, this action is taken based on an agreement between the two prospective spouses as a form of resistance against social barriers that stand in the way of their marriage.¹⁹ The marlojong tradition typically occurs when the couple's relationship does not receive family approval, particularly from the bride's parents. This refusal can be influenced by various factors, such as differences in social status, economic conditions, kinship ties (including prohibitions against marriage within the same clan), and customary demands deemed too burdensome by the groom's side. Under certain circumstances, the bride's family may also reject the marriage out of concern for the family's honor and social standing in the community. When traditional deliberations fail to reach a consensus, the couple often chooses marlojong as a solution to ensure the marriage can still take place.²⁰

In cases of same-clan marriage prohibitions, marlojong is a very common alternative. Mandailing custom prohibits marriage between members of the same clan because it is considered to be contrary to the principles of kinship and clan honor. However, in contemporary society, this prohibition often leads to conflict between the younger generation who have already chosen their partners and the older generation, who strictly adhere to tradition. When family discussions fail to reach an agreement, marlojong often becomes the final option chosen by the couple.²¹

The marlojong process generally begins with a joint decision by the prospective bride and groom to leave the bride's family home. The couple then goes to the home of a male relative or a specific traditional leader to seek protection and support so that their relationship can be formalized through marriage. After the marlojong process is completed, the groom's family typically sends a traditional envoy to the bride's family to deliver a notification and request an amicable resolution. This stage is known as the traditional reconciliation process, which aims to restore relations between the two families.²²

During this traditional reconciliation meeting, traditional leaders and extended family members discuss the various social and customary consequences arising from the act of marlojong. The groom's side is usually subject to customary sanctions in the form of a fine or the obligation to fulfill certain conditions as a form of accountability for actions deemed to violate ideal customary procedures. If an agreement is reached, the marriage can proceed through traditional rituals and an official marriage contract. In practice, these traditional deliberations often also involve local religious leaders to ensure that the upcoming marriage meets the requirements set forth by Islamic law.²³

¹⁹ Eugen Ehrlich, *Fundamental Principles of the Sociology of Law* (Cambridge: Harvard University Press, 1936), 493.

²⁰ Abdul Aziz Dahlan, *Adat dan Islam dalam Masyarakat Mandailing* (Padangsidempuan: IAIN Press, 2019), 135.

²¹ Hazrul Affandi, Hasir Budiman Ritonga, dan Raja Ritonga, "Mandailing and Angkola Semarga Marriage: Comparative Study of Polemic Custom Law and Positive Law in Indonesia," *Islamic Circle* 4, no. 1 (2023), <https://doi.org/10.56874/islamiccircle.v4i1.1920>.

²² Sahrul Harahap, "Penyelesaian Adat terhadap Kasus Marlojong di Mandailing," *Jurnal Hukum dan Budaya* 7, no. 2 (2021): 88.

²³ Hady Hidayat Tambunan, Rosnidar Sembiring, Idha Aprilyana Sembiring, dan Afnila, "Fenomena Marlojong Pada Masyarakat Hukum Adat Mandailing di Kecamatan Panyabungan Kabupaten Mandailing Natal," *Locus Journal of Academic Literature Review* 2, no. 6 (2023): 566–575, <https://doi.org/10.56128/ljoalr.v2i6.195>.

The existence of this customary resolution mechanism demonstrates that marlojong is not, in fact, an act that is entirely outside the customary system. On the contrary, this practice has become an integral part of the recognized patterns of social resolution within Mandailing society. Although marlojong was initially considered a violation of ideal customary norms, the community still provides a space for resolution through deliberation and family reconciliation. This demonstrates that Mandailing customs are flexible in adapting to the social realities of their community. A Mandailing traditional leader in Pasaman stated: “Marlojong does not mean abducting a woman for malicious purposes, but rather seeking a resolution when the family refuses to give consent. Afterward, the matter must still be resolved through deliberation.” This statement shows that, in the community’s view, marlojong is an act with a specific social context and is not automatically regarded as an unforgivable moral transgression.

The Marlojong Tradition from the Perspective of Living Law

From the perspective of Living Law, the marlojong tradition reflects the existence of a living and evolving law within society. Eugen Ehrlich explains that true law is not only found in written regulations but also in social practices collectively adhered to by the community.²⁴ In the context of Mandailing society, the continuity of the marlojong tradition indicates that the community still considers the practice to have social legitimacy, even though it is not formally in full compliance with state legal procedures or the ideals of Islamic law. This practice persists not because of coercion, but because it is accepted and carried out voluntarily as part of the community’s normative order.

Ehrlich’s Living Law theory demonstrates that the most fundamental source of law is social life itself, not the state or the legislative branch. Law emerges from customs, social recognition, and the norms prevailing within a community. In the context of marlojong, the Mandailing community in Pasaman does not require formal legitimation from the state to maintain this tradition. Such legitimation stems from the collective recognition of the community, traditional leaders, and religious figures, who provide a space for marlojong as a recognized conflict-resolution mechanism.²⁵

Satjipto Raharjo also argues that effective law in a society is law that aligns with local social needs and cultural values.²⁶ From this perspective, the marlojong tradition can be understood as the community’s legal response to the limitations of the formal system in resolving marital conflicts. When the state fails to provide adequate mechanisms to address socio-cultural barriers to marriage, the community creates and maintains its own normative solutions.

The continued existence of marlojong also demonstrates the complex relationship between custom and religion in Mandailing society. As a Muslim community, the Mandailing people fundamentally regard Islam as their guiding principle in life. However, in certain social practices, adat still holds a very strong position and influences how the community interprets

²⁴ Eugen Ehrlich, *Fundamental Principles of the Sociology of Law* (Cambridge: Harvard University Press, 1936), 493.

²⁵ Ehrlich, *Fundamental Principles of the Sociology of Law*, 501.

²⁶ Satjipto Raharjo, *Hukum dan Masyarakat* (Yogyakarta: Genta Publishing, 2017), 45.

Islamic law. This situation aligns with a Mandailing adat saying that states “ombar adat dohot syara,” which describes the close relationship between adat and religion in community life.²⁷ This relationship between custom and Islam leads to the practice of marlojong often being interpreted differently by the community. Some view marlojong as an act contrary to Islamic teachings because it is carried out without the ideal procedures and has the potential to cause family conflict. However, others believe that as long as the marriage proceeds with a marriage contract that is valid according to sharia, the act of marlojong is understood merely as part of the traditional social process before the marriage is officially recognized by both religion and the state. These differing perspectives indicate a process of negotiation between customary norms and religious norms in the legal practices of Mandailing society. John R. Bowen notes that in Indonesian Muslim societies, legal practices cannot be fully understood solely through normative Islamic texts but must be viewed within the social and cultural context in which those laws are practiced.²⁸ This perspective is highly relevant for understanding the role of marlojong in the lives of the Mandailing community in Pasaman, where the practice is not merely a challenge to Islamic law but rather a creative adaptation by the community in response to diverse social realities.

The Marlojong Tradition from the Perspective of Islamic Family Law

Under Islamic family law, a marriage must fulfill certain essential elements (rukun) and conditions. Wahbah Al-Zuhaili explains that the essential elements of marriage include the presence of a prospective groom and bride, a marriage guardian (wali nikah), two witnesses, as well as the exchange of consent (ijab and kabul).²⁹ All of these elements must be fulfilled for a marriage to be considered valid under Islamic law. In the context of the marlojong tradition, the most frequently debated issues concern the consent and involvement of the marriage guardian, as well as the administrative process of the marriage.

Islam explicitly requires the presence of a wali in marriage. This is based on a hadith of the Prophet Muhammad, peace be upon him, which states that a marriage without a wali is invalid. In the context of marlojong, the act of a couple leaving the bride's family home without consent raises questions regarding the status of the marriage wali in the contract to be concluded. If the guardian remains unwilling to grant permission, Islamic jurisprudence provides for the mechanism of a wali hakim a guardian appointed by the authorities or a judge to replace a reluctant (adhol) guardian. Amir Syarifuddin explains that a wali hakim may act if the blood-related guardian refuses to consent to the marriage without a reason justified by Islamic law.³⁰

This provision regarding the judicial guardian provides a crucial legal loophole for the validity of marriages conducted through the marlojong process. In practice, couples undergoing the marlojong process often enlist the services of a marriage officiant or an official from the Office of Religious Affairs (KUA) to act as a judicial guardian if the blood-related guardian is unwilling to be present. Thus, a marriage conducted following the

²⁷ Abdul Aziz Dahlan, *Adat dan Islam dalam Masyarakat Mandailing* (Padangsidempuan: IAIN Press, 2019), 135.

²⁸ John R. Bowen, *Islam, Law, and Equality in Indonesia: An Anthropology of Public Reasoning* (Cambridge: Cambridge University Press, 2003), 212.

²⁹ Wahbah Al-Zuhaili, *Al-Fiqh al-Islami wa Adillatuhu*, vol. 8 (Damaskus: Dār Al-Fikr, 1985), 35.

³⁰ Amir Syarifuddin, *Hukum Perkawinan Islam di Indonesia* (Jakarta: Kencana, 2020), 67.

marlojong process can, in principle, meet the requirements for a valid marriage under Islamic law, even though the mechanism differs from the ideal procedure.

Some religious figures in Pasaman argue that marlojong is acceptable as long as it does not violate the principles of Islamic sharia. If the couple still fulfills the pillars and requirements of marriage, then the marriage contract is considered valid under religious law.³¹ However, this practice is considered less than ideal if carried out without proper family communication, as Islam strongly encourages family consultation and the guardian's consent in the marriage process. Some scholars view that situations of necessity (emergency) or pressing need (hajjah) in the context of marriage can serve as justifications for utilizing alternative mechanisms such as a judicial guardian.

On the other hand, some groups believe that "marlojong" has the potential to cause harm, particularly to women. In some cases, women who undergo the "marlojong" process face social pressure due to societal stigma surrounding the practice of "eloping." Furthermore, this practice can also pave the way for early marriage or marriages that are not officially registered, thereby potentially infringing upon women's rights from both administrative and legal perspectives.³² This situation indicates that while "marlojong" enjoys strong social legitimacy, it also carries legal risks that must be taken into account.

Research by M. Fadhlān Is on the marlonjong tradition (a local spelling variant) at the Panyabungan Religious Court shows that this practice has even become one of the factors judges consider when granting age exemptions for marriage.³³ This phenomenon indicates that the formal legal system has indirectly accommodated the social reality of marlojong in its rulings, thereby demonstrating the interaction between state law and the living law within society. In the context of Islamic law, custom can be considered a legal factor as long as it does not conflict with the principles of sharia. The fiqh principle al-'adah muhakkamah indicates that customary practices can have legal force if they serve the public interest and are accepted by society.³⁴ Wahbah Al-Zuhaili explains that this principle applies if there is no explicit textual evidence (nas) prohibiting it and the practice entails a tangible public interest. In this context, the marlojong tradition, which leads to a religiously valid marriage, can be understood as a form of social adaptation by the Mandailing community in resolving marital conflicts that holds legitimacy within the framework of fiqh.

Ahmad Rofiq emphasizes that Islamic law in Indonesia cannot be applied rigidly without considering the social context of the local community.³⁵ This perspective supports a more flexible approach in evaluating the marlojong tradition, taking into account the principles of maslahah (public interest) and sadd al-dzari'ah (preventing the means to harm) simultaneously. On the one hand, marlojong brings public interest because it enables valid marriages to take place. On the other hand, oversight is necessary to ensure that the practice is not abused, which could instead cause harm to one of the parties, particularly women.

³¹ Mukhlisin Jamil, "Adat dan Hukum Islam di Indonesia," *Al-Manahij* 13, no. 1 (2019): 45–60.

³² National Commission on Violence against Women, "Siaran Pers Komnas Perempuan Tentang Perkawinan Anak Merupakan Praktik Berbahaya," 3 Agustus 2021.

³³ M. Fadhlān Is, "Tradisi Marlonjong Menjadi Pertimbangan Hakim dalam Pemberian Dispensasi Usia Nikah (Studi Kasus Pengadilan Agama Panyabungan)," *EL-AHLI: Jurnal Hukum Keluarga Islam* 3, no. 1 (2022), <https://doi.org/10.56874/el-ahli.v3i1.847>.

³⁴ Al-Zuhaili, *Al-Fiqh al-Islami wa Adillatuhu*, vol. 8, 286.

³⁵ Ahmad Rofiq, *Hukum Perdata Islam di Indonesia* (Jakarta: Rajawali Pers, 2021), 58.

The Relationship Between Customary Law, Islamic Law, and State Law in the Marlojong Tradition

The existence of the marlojong tradition demonstrates a dynamic relationship between customary law, Islamic law, and state law. In the social practices of the Mandailing community, these three legal systems do not always operate separately but influence and negotiate with one another in determining the legitimacy of a social action. This situation reflects the phenomenon of legal pluralism, which is a distinctive characteristic of Indonesian society. Law No. 1 of 1974 on Marriage stipulates that marriages must be conducted in accordance with the couple's respective religions and registered in accordance with state regulations.³⁶ This marriage registration is not merely an administrative formality but serves as a legal protection mechanism for all parties involved, particularly the wife and children. In the practice of "marlojong," communities prioritize customary and religious legitimacy over completing state administrative procedures. Consequently, many "marlojong" cases result in marriages that are not officially registered, leading to various legal issues later on.

Theresia Dyah Wirastri and Stijn Cornelis van Huis note that over the past fifty years, Indonesian marriage law has undergone various reforms aimed at strengthening the protection of women's and children's rights.³⁷ However, in the social reality of local communities, the implementation of these reforms still faces significant challenges, particularly in regions that remain strongly rooted in customary traditions. The phenomenon of marlojong serves as a concrete example of the tension between the formal legal reform agenda and the persistence of customary norms in community life.

This phenomenon demonstrates that local communities have their own unique ways of understanding justice and legal legitimacy. Ratno Lukito notes that the relationship between customary law and Islamic law in Indonesia often takes the form of a flexible social compromise.³⁸ This is evident in the marlojong tradition, where customary and religious leaders play a crucial role as mediators of family conflicts and as guardians of prevailing social norms. This dual role demonstrates that in Mandailing society, religious and customary authorities are inseparable from one another.

Khoiruddin Nasution emphasizes that Islamic family law in Indonesia must be understood within the context of legal pluralism, which is a reality of community life.³⁹ From this perspective, the marlojong tradition is not an anomaly or deviation but rather part of the pluralistic legal system in place within Mandailing society. The community dynamically negotiates customary, religious, and state values in resolving various life issues, including matters of marriage.

Roni Tabroni et al., in their study of customary marriage in Maluku, demonstrate that the phenomenon of hybridity and the intersection of customary law and Islamic law is a

³⁶ Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan, Pasal 2 ayat (1) dan (2).

³⁷ Theresia Dyah Wirastri dan Stijn Cornelis van Huis, "The State of Indonesia's Marriage Law: 50 Years of Statutory and Judicial Reforms," *AHKAM: Jurnal Ilmu Syariah* 24, no. 2 (2024), <https://doi.org/10.15408/ajis.v24i2.38424>.

³⁸ Ratno Lukito, *Islamic Law and Adat Encounter: The Experience of Indonesia*, 130.

³⁹ Khoiruddin Nasution, *Hukum Perkawinan dan Keluarga Islam Indonesia* (Yogyakarta: ACAdeMIA, 2020), 112.

process occurring in many regions across Indonesia.⁴⁰ These findings reinforce the argument that marlojong is not an isolated phenomenon but rather part of a broader pattern of how Indonesian Muslim communities integrate various legal systems into their daily lives. From a “living law” perspective, the marlojong tradition serves as evidence that the law as it exists in society is not always identical to the state’s written law. Social law that develops within a community can possess strong legitimacy because it is built upon the cultural values, religious beliefs, and social needs of the local community. The existence of marlojong as a mechanism recognized by the Mandailing indigenous community even though it operates outside formal state procedures reflects the vitality of “living law” in the real-life dimensions of community life.

Social Implications, Women’s Protection, and Policy Directions

An examination of the marlojong tradition cannot be separated from the issue of protecting women’s rights. Although in many cases marlojong is carried out by mutual agreement, there are also situations where women face pressure or lack the agency to make decisions. The National Commission on Violence Against Women (Komnas Perempuan) notes that various customary marriage practices lacking adequate formal procedures have the potential to pave the way for child marriage and unregistered marriages that harm women and children. Furthermore, the social stigma against women who undergo “marlojong” is also an issue that requires attention. In the view of some members of society, women who leave their family homes through the marlojong process may be viewed negatively and bear a greater social burden than men. This imbalance in social burden reflects unequal power dynamics between men and women in this customary practice, thus requiring special attention from the perspectives of human rights and gender justice.

From a policy perspective, the existence of the marlojong tradition demands a prudent approach from the government. On the one hand, the government must respect the cultural diversity and customary practices that form part of local communities’ identities. On the other hand, the state has an obligation to ensure that every citizen, particularly women and children, receives adequate legal protection. Therefore, a dialogue is needed between state authorities, traditional leaders, and religious leaders to formulate mechanisms that allow the marlojong tradition to be practiced while still fulfilling the obligations of marriage registration and the protection of rights guaranteed by national law.⁴¹

ations of marriage registration and the protection of rights guaranteed by national law. Muhammad Subhan and Jumni Nelli emphasize that the application of the principle of *ma’alat al-afal* (considering the consequences of an action) is crucial in assessing the validity of a practice under Islamic law.⁴² In the context of marlojong, this principle reminds us that the validity of a practice is measured not only by its initial intent and process but also by the

⁴⁰ Roni Tabroni dkk., "Hybridity, Intersection, and Challenge: Navigating the History of Customary and Islamic Family Law in Moluccan Marriages," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 18, no. 1 (2025): 1–28, <https://doi.org/10.14421/ahwal.2015.18101>.

⁴¹ YUSDANI, Menuju Fiqh Keluarga Progresif (Yogyakarta: Kaukaba, 2021), 33.

⁴² Muhammad Subhan dan Jumni Nelli, "Penerapan Ma'alat al-Afal dalam Hukum Perkawinan Islam di Indonesia," *Al-Ittihad: Jurnal Pemikiran dan Hukum Islam* 11, no. 2 (2025), <https://doi.org/10.61817/ittihad.v11i2.258>.

consequences it produces. A marriage that is religiously valid but not registered with the state, for example, will result in adverse legal consequences for children born of that marriage.

In his study on progressive family fiqh, Yusdani emphasizes the need for contextual ijtihad in responding to ever-changing social developments. This perspective can be applied in evaluating the marlojong tradition: rather than judging the practice from a rigid normative standpoint, Islamic legal studies need to understand it within the social context that gave rise to it, and then formulate guidelines that can harmonize customary demands, sharia principles, and the broader need for legal protection.

Conclusion

The marlojong tradition among the Mandailing community in Pasaman is a form of “living law” that demonstrates the dynamic relationship between customary law, Islamic law, and state law in the practice of family law. This tradition emerged as a social mechanism to resolve marital conflicts, particularly when a couple’s relationship does not gain family approval due to various obstacles such as differences in social status, clan-related issues, or unmet customary economic demands. In practice, marlojong is not merely understood as an act of “eloping,” but also as a form of customary resolution that possesses social legitimacy and its own reconciliation mechanisms within Mandailing society.

From the perspective of “living law” developed by Eugen Ehrlich, the marlojong tradition demonstrates that true law is not merely the law codified in statutes, but rather a living norm that is collectively recognized and observed by the community. The continued existence of marlojong amid the modernization of the national legal system demonstrates the vitality of customary norms in Mandailing society, while also reflecting the limitations of formal law in addressing all of the community’s social needs. From the perspective of Islamic family law, the marlojong tradition is acceptable as long as the marriage that follows fulfills all the essential elements and conditions prescribed by Sharia, including the presence of a valid marriage guardian (whether a blood-related guardian or a judicial guardian), two witnesses, and the exchange of consent (*ijab kabul*). The principle of *al-'adah muhakkamah* provides the basis for recognizing marlojong as a customary practice that can be considered within the framework of Islamic law as long as it serves the public interest and does not conflict with the principles of Sharia. However, this practice still requires social and religious oversight to prevent its misuse, which could cause harm to the parties involved, particularly women and children.

This study emphasizes that Islamic family law in Indonesia cannot be understood exclusively through a normative approach divorced from social reality. A study of marlojong among the Mandailing community in Pasaman demonstrates the need for an integrative and contextual approach in examining Islamic family law practices—one that takes into account local cultural dimensions, the social needs of the community, and the principles of justice that form the essence of Islamic sharia. With such an approach, studies of Islamic family law are expected to provide a more adequate response to the dynamics of local Muslim communities in Indonesia.

This study has limitations because it focuses solely on the Mandailing community in Pasaman. Therefore, future research could employ a comparative approach to examine

traditional marriage customs in other regions to enrich the study of “living law” within Islamic family law in Indonesia. In addition, field research involving in-depth interviews with marlojong practitioners, traditional leaders, religious leaders, and legal officials also needs to be conducted to obtain a more comprehensive picture of the dynamics of this tradition in contemporary society.

Bibliography

- Adeney-Risakotta, Bernard. "Traditional, Islamic and National Law in the Experience of Indonesian Muslim Women." In *Narratives of Muslim Womanhood and Women's Agency*, 82–97. United Kingdom: Routledge, 2018. <https://doi.org/10.4324/9780203713129-6>.
- Affandi, Hazrul, Hasir Budiman Ritonga, dan Raja Ritonga. "Mandailing and Angkola Semarga Marriage: Comparative Study of Polemic Custom Law and Positive Law in Indonesia." *Islamic Circle* 4, no. 1 (2023). <https://doi.org/10.56874/islamiccircle.v4i1.1920>.
- Al-Zuhailī, Wahbah. *Al-Fiqh al-Islamī wa Adillatuhu*. Vol. 8. Damaskus: Dār Al-Fikr, 1985.
- Atikah, Nur, dan Akhmad Rifa'i. "Akulturasi Budaya pada Pernikahan Etnis Mandailing dan Minangkabau di Pasaman." *Jurnal Pendidikan Tambusai* 7, no. 3 (2023). <https://doi.org/10.31004/jptam.v7i3.9524>.
- Badan Pusat Statistik Kabupaten Pasaman. *Kabupaten Pasaman dalam Angka 2025*. Pasaman: BPS Kabupaten Pasaman, 2025.
- Bowen, John R. *Islam, Law, and Equality in Indonesia: An Anthropology of Public Reasoning*. Cambridge: Cambridge University Press, 2003.
- Dahlan, Abdul Aziz. *Adat dan Islam dalam Masyarakat Mandailing*. Padangsidimpuan: IAIN Press, 2019.
- Ehrlich, Eugen. *Fundamental Principles of the Sociology of Law*. Cambridge: Harvard University Press, 1936.
- Faisal. "Living Law dalam Praktik Perkawinan Adat Mandailing." *Jurnal Al-Ahkam* 29, no. 2 (2022): 155–172.
- Fauzi, Muhammad Latif. *Aligning Religious Law and State Law: Negotiating Legal Muslim Marriage in Pasuruan, East Java*. Leiden: Brill, 2023.
- Harahap, Basyral Hamidy. *Orientasi Nilai-Nilai Budaya Batak: Suatu Pendekatan terhadap Perilaku Batak Toba, Angkola, dan Mandailing*. Jakarta: Sanggar Willem Iskandar, 2016.
- Harahap, Sahrul. "Penyelesaian Adat terhadap Kasus Marlojong di Mandailing." *Jurnal Hukum dan Budaya* 7, no. 2 (2021): 82–95.
- Hakim, Muhammad Lutfi, dan Khoiruddin Nasution. "Accommodating Non-Muslim Rights: Legal Arguments and Legal Principles in the Islamic Jurisprudence of the

- Indonesian Supreme Court in the Post-New Order Era." *Oxford Journal of Law and Religion* 11, no. 2–3 (2023): 288–313. <https://doi.org/10.1093/ojlr/rwad004>.
- Ibrahim, Johnny. *Teori dan Metodologi Penelitian Hukum Normatif*. Malang: Bayumedia Publishing, 2019.
- Is, M. Fadhlan. "Tradisi Marlonjong Menjadi Pertimbangan Hakim dalam Pemberian Dispensasi Usia Nikah (Studi Kasus Pengadilan Agama Panyabungan)." *EL-AHLI: Jurnal Hukum Keluarga Islam* 3, no. 1 (2022). <https://doi.org/10.56874/el-ahli.v3i1.847>.
- Jamil, Mukhlisin. "Adat dan Hukum Islam di Indonesia." *Al-Manahij* 13, no. 1 (2019): 45–60.
- Lubis, Zulkifli. *Mandailing: Identitas Etnik dan Budaya*. Medan: Pustaka Bangsa Press, 2017.
- Lukito, Ratno. *Islamic Law and Adat Encounter: The Experience of Indonesia*. Montreal: McGill University, 1997.
- Mardani. *Hukum Keluarga Islam di Indonesia*. Jakarta: Prenadamedia Group, 2019.
- Marzuki, Peter Mahmud. *Penelitian Hukum*. Jakarta: Kencana, 2021.
- Mustopa. "Qira'at Diversity in Islamic Family Law Verses: Implications for Indonesian Marriage Law." *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 8, no. 2 (2024). <https://doi.org/10.22373/sjhg.v8i2.23513>.
- Nasution, Khoiruddin. *Hukum Perkawinan dan Keluarga Islam Indonesia*. Yogyakarta: ACAdemia, 2020.
- Nasution, Martua. "Relevansi Hukum Islam terhadap Tradisi Adat Pernikahan di Desa Aek Marian Masyarakat Mandailing." *Islamic Circle* 4, no. 2 (2023). <https://doi.org/10.56874/islamiccircle.v4i2.1690>.
- Nasution, Muhammad Syukri Albani. "Analisis Kompilasi Hukum Islam tentang Tipologi Pelaksanaan Hukum Keluarga Islam di Mandailing Natal." *Al-Manahij: Jurnal Kajian Hukum Islam* 9, no. 1. <https://doi.org/10.24090/mnh.v9i1.510>.
- National Commission on Violence against Women. "Siaran Pers Komnas Perempuan Tentang Perkawinan Anak Merupakan Praktik Berbahaya." 2021.
- Raharjo, Satjipto. *Hukum dan Masyarakat*. Yogyakarta: Genta Publishing, 2017.
- Rofiq, Ahmad. *Hukum Perdata Islam di Indonesia*. Jakarta: Rajawali Pers, 2021.
- Salma dan Syahril. "Marlojong sebelum Perkawinan: Kiat Adat Menghadapi Wali 'Adal di Ranah Batahan, Pasaman Barat." *Al-Ahkam* 29, no. 1 (2019): 45–66.
- Soekanto, Soerjono. *Hukum Adat Indonesia*. Jakarta: Rajawali Pers, 2018.
- Soekanto, Soerjono, dan Sri Mamudji. *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Jakarta: Rajawali Pers, 2018.

- Subhan, Muhammad, dan Jumni Nelli. "Penerapan Ma'alat al-Af'al dalam Hukum Perkawinan Islam di Indonesia." *Al-Ittihad: Jurnal Pemikiran dan Hukum Islam* 11, no. 2 (2025). <https://doi.org/10.61817/ittihad.v11i2.258>.
- Syahnan, Mhd. "Adat dan Perkawinan pada Masyarakat Mandailing." *Al-Risalah* 18, no. 2 (2018): 140–160.
- Syarifuddin, Amir. *Hukum Perkawinan Islam di Indonesia*. Jakarta: Kencana, 2020.
- Tabroni, Roni, Ahmad Izudin, Muh. Isnanto, B. J. Sujibto, Dandung Budi Yuwono, dan I Made Suarsana. "Hybridity, Intersection, and Challenge: Navigating the History of Customary and Islamic Family Law in Moluccan Marriages." *Al-Ahwal: Jurnal Hukum Keluarga Islam* 18, no. 1 (2025): 1–28. <https://doi.org/10.14421/ahwal.2015.18101>.
- Tambunan, Hady Hidayat, Rosnidar Sembiring, Idha Aprilyana Sembiring, dan Afnila. "Fenomena Marlojong Pada Masyarakat Hukum Adat Mandailing di Kecamatan Panyabungan Kabupaten Mandailing Natal." *Locus Journal of Academic Literature Review* 2, no. 6 (2023): 566–575. <https://doi.org/10.56128/ljoalr.v2i6.195>.
- Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan.
- Undang-Undang Nomor 16 Tahun 2019 tentang Perubahan atas Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan.
- Instruksi Presiden Nomor 1 Tahun 1991 tentang Kompilasi Hukum Islam.
- Wirastris, Theresia Dyah, dan Stijn Cornelis van Huis. "The State of Indonesia's Marriage Law: 50 Years of Statutory and Judicial Reforms." *AHKAM: Jurnal Ilmu Syariah* 24, no. 2 (2024). <https://doi.org/10.15408/ajis.v24i2.38424>.
- Yusdani. *Menuju Fiqh Keluarga Progresif*. Yogyakarta: Kaukaba, 2021.