

Manulak Sere Tradition in Traditional Marriage in Tanjung Botung Village Padang Lawas Regency According to Compilation of Islamic Law (KHI) Perspective

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Abstract. *Tradition is a set of values, beliefs, beliefs and symbols that guide human behavior in realizing ways of life. Marriage is one of the religious orders for someone who is able to carry it out immediately. The Mandailing community is one of the North Sumatra groups that maintains traditional social customs today including the Manulak Sere tradition. Researchers want to examine how the Compilation of Islamic Law actually views the community tradition regarding the Manulak Sere tradition. What is the reason why the people of Padang Lawas, especially in Tanjung Botung Village, carry out the Manulak Sere tradition even though in Islamic Law it is not recommended. Furthermore, how is the KHI review of the Manulak Sere tradition in marriage. In the perspective of the Compilation of Islamic Law (KHI), the Manulak Sere tradition does not contradict the nash in the Qur'an and Hadith. However, the Manulak Sere tradition carried out in the Padang Lawas community, especially Tanjung Botung Village, is the Compilation of Islamic Law (KHI) Shahih. This tradition has no conflict with Islamic law. The people of Padang Lawas, especially Tanjung Botung Village, carry out marriage ceremonies in accordance with Islamic law. However, they also cannot abandon customary law, which their ancestors have practiced since ancient times. So it is clear that: Islamic law and customary law both get their respective portions. The implementation of this tradition is not considered by the community as a valid requirement for marriage according to Islam.*

Keywords: *Compilation of Islamic Law (KHI); Mandailing Custom; Manulak Sere.*

1. Introduction

Indonesia is a pluralistic society that has a diversity of cultures, ethnicities, religions and races. One of them is in North Sumatra province, in North Sumatra province has an indigenous population consisting of Nias, Malay, and Batak ethnicities. The Batak sub-ethnicity consists of six sub-parts namely Karo, Pak-Pak, Mandailing, Angkola, Simalungun, Toba, and Angkola.

Ethnic mandailing or batak mandailing is one of the ethnicities spread in the padang lawas district. In this district they live in various sub-districts ranging from Aek Nabara Barumun, Barumun, West Barumun, Barumun Baru, South Barumun, Central Barumun, Batang Lubusutam, Huristak, Huta Raja Tinggi, Lubuk Barumun, Sosa, Sosa Julu, East Sosa, Sosopan, Ulu Barumun, and Ulu Sosa.¹

Mandailing ethnicity has a different culture from other Batak ethnicities, one example is in terms of marriage, there is what is called the *Manulak Sere* tradition. *Manulak Sere* is the delivery of masawin which must be given by the male party to the female party as a bond (contract) that has been agreed upon by both parties. In addition to masawin, there are also things that must be given to the female party such as goods, money and gifts.

The people of Padang Lawas wear the Mandailing customary tradition, also one of the North Sumatran groups that maintain traditional social customs today. The people of Padang Lawas continue to rely heavily on traditions and beliefs that have been passed down from generation to generation. There is no such thing as Mandailing civilization without its culture/traditions, which cannot be separated from its customs. Civilized communities are interdependent and cannot survive alone. Mandailing culture/tradition prioritizes upholding long-held norms and beliefs. Siriaon (joyous) and Siluluton (painful) events and activities, and especially weddings, are always infused with the traditions that each community values. In essence, there are two ways of learning processes carried out by humans in order to internalize traditions, namely through inheritance (transmission) carried out by humans as social beings. Along with the inheritance process, humans also experience various processes of interaction with the surrounding environment, both in the form of the social environment and the natural environment.

Tradition is a set of values, beliefs, beliefs and symbols that guide human behavior in realizing ways of life. As a social heritage, people learn and adhere to norms and uphold values. One of the norms and values of life, they learn through the beliefs of the community.² As cultured/traditional beings or beings who have traditions with their biological needs, humans recognize marriage. Through this marriage, a person will experience a change in his social status, namely from bachelor status to family status and is needed as a responsible and useful member of social life.³

¹ Interview with Pardamaian Daulay in Tanjung Botung Village, on October 15, 2023, at 13:00 WIB

² Depparbud. (2005). *Nilai-nilai Kepercayaan Masyarakat Tentang Ruang Tempat Tinggal*. Jakarta: Depparbud

³ Dominikus Rato, (2011), *Hukum Pernikahan Adat di Indonesia (Sistem Kekerabatan, Pernikahan dan Pewarisan Hukum Adat)*, Surabaya: Laksbang Pressindo, p. 10.

In Islamic Law, which is always based on the guidance of the Qur'an, it is stated that marriage is a sunnah of Allah to live in pairs, match-making is the instinct of all creatures of Allah swt including humans. Therefore, all creatures created by God, be it animals, plants and humans in their lives, are called marriage bonds. Allah swt, has said in QS. AD-Adzarrিয়াat (51): 49.

﴿وَمِنْ كُلِّ شَيْءٍ خَلَقْنَا زَوْجَيْنِ لَعَلَّكُمْ تَذَكَّرُونَ ٤٩﴾

Meaning: And We have created everything in pairs so that you may remember the greatness of Allah.⁴

Marriage is one of the religious orders for someone who is able to immediately carry it out.⁵ According to Islamic Law, marriage is the mechanism through which a man can find fulfillment in both this life and the next. Allah SWT commands marriage because it can create a pleasant and peaceful household. This is exemplified by the fact that the purpose of marriage is to promote a strong feeling of attachment between husband and wife, in addition to establishing a peaceful household.⁶ This shows that marriage can reduce immorality, both in the form of sight and in the form of adultery. Therefore, a person who wishes to marry, but has not yet prepared, is encouraged to fast in the sense of trying to avoid actions that are not justified by religion and trying to prepare provisions for him.

Islam explains the rules of marriage, but the rules of marriage that apply in society cannot be separated from the influence of culture/tradition (tradition) and the environment where the community is located, and the most dominant is influenced by the customs and traditions where the community is domiciled. traditional values of Mandailing people in Padang Lawas Regency permeate every stage of life, from conception to death, including pregnancy, childbirth, weaning (breastfeeding), names, circumcision, and so on. Each step of the wedding ceremony has great symbolic significance as it acts as a link between the families of the bride and groom, and Dalihan Na Tolu, the bride's parents. One of the bonds of life, marriage has been governed by customary norms that have been lived in flesh and blood from ancient times to the present day.

The customary form of giving called *Manulak Sere* is known to the Padang Lawas community, especially in Tanjung Botung Village, which is characterized by the custom of giving dowry to prospective brides. This is done as a sign that the male party has committed himself to the female party and the female party has

⁴ Depertemen Agama RI., (2002), *Al-Qur'an Dan Terjemahnya*, Jakarta: Yayasan Penyelenggara Penterjemah Al-Qur'an, p. 862.

⁵ M. Thalib, (1986), *Liku-liku Pernikahan*, Yogyakarta: PD. Hidayat, p. 1-2

⁶ Syukri Albani, (2019), *Hukum pernikahan Muslim*, Medan: Kencana, hal. 21.

accepted what the male party gives as a self-binding and has been bound to an agreement. *Manulak Sere* is a gift that was given in the form of gold (Sere), cloth and other items by manulak which means given by pushing slowly with a dance towards the woman. When the *Manulak Sere* process is carried out, this is an expression of a group of individuals living in a shared community, namely the Padang Lawas community, especially in Tanjung Botung Village, so it is interesting to study how and practically the perspective of the Compilation of Islamic Law (KHI).

The Compilation of Islamic Law does not recognize the *Manulak Sere* condition or tradition practiced by the Padang Lawas community, especially in Tanjung Botung village. As a society that is in fact Muslim without any tendency to prioritize customs over Islamic Law.

From the explanation and problems above, the researcher wants to examine how the Compilation of Islamic Law actually views the traditions of the Padang Lawas community, especially in Tanjung Botung Village regarding the *Manulak Sere* tradition. What is the reason for the Padang Lawas community, especially in Tanjung Botung Village, to carry out the *Manulak Sere* tradition even though in Islamic Law it is not recommended. Furthermore, how is the KHI review of the *Manulak Sere* tradition in marriage. Through this research, researchers will analyze KHI's view of the *Manulak Sere* tradition that occurs in the Padang Lawas community, especially in Tanjung Botung Village whose religious notes are Islam. However, they still strongly hold the legal traditions that they apply among the community which can cancel a marriage if the *Manulak Sere* tradition is not held.

A study conducted by Novendri Eka Saputra, in 2009 entitled "Sebambangan in East Lampung Marriage in Review of Islamic Law⁷". This thesis only discusses an overview of sebambangan in terms of Islamic law, while the author discusses the procedures for carrying out the sebambangan custom and is carried out if there is a problem in the relationship between young men and women, one of the factors is not approved by parents, and according to the views of Tanjung Kerta village community leaders about the sebambangan tradition and in terms of Islamic law.

The research conducted by Toty Citra Warsita entitled *The Fiancée Procession According to Bima Custom in the Perspective of Islamic Law (Case Study in Donggo District, Bima Regency, West Nusa Tenggara)* in 2010. This research focuses on Bima's engagement custom which is considered to be a little deviant

⁷ Novendri Eka Saputra, (2009), *Sebambangan dalam Pernikahan Lampung Timur Ditinjau Hukum Islam, skripsi*

from the teachings of Islam, because the community is still influenced by the traditions of their ancestors.⁸

Research conducted by Nurkhairiyati Hernia entitled *Peminangan in the Perspective of Fikih and KHI (Compilation of Islamic Law) Jakarta in 2008*. This thesis focuses on the concept of engagement in Fikih and KHI, and compares the similarities and differences between the two.⁹

2. Research Methods

This research was conducted in Tanjung Botung Village, Barumon District. This village was chosen as the research location because the *Manulak Sere* tradition still dominates in the community of Tanjung Botung Village, Padang Lawas Regency. Meanwhile, the people of Tanjung Botung Village are known to be very religious, marked by the many people of Tanjung Botung Village who study at various well-known Islamic boarding schools in the Padang Lawas area and its surroundings which are very religious. In fact, many alumni of boarding schools from the people of Tanjung Botung Village have continued their studies to Egypt and Mecca.

This research is Descriptive Analytical, where this research not only describes the characteristics but also analyzes the relationship between variables. Researchers developed from previous study articles then collected materials and data from articles and books and made field observations through interviews.¹⁰ Data were extracted through interviews. The interview questions were made in a semi-structured manner, that is, the questions asked still had the opportunity for further questions either in the form of deepening the material or comments.

In terms of the disciplines needed to see legal actions as social phenomena, this research uses a social science approach, namely how the community in reality implements Islamic law, especially in examining the implementation of the marriage law of the Muslim community in Padang Lawas Regency. The preliminary step in this research is observation (field observation), namely seeing and observing the behavior and implementation of marriages of the Padang Lawas Muslim community, especially in Tanjung Botung village. According to the object of this research, collecting and documenting various models and patterns of marital life in the households of the Padang Lawas Muslim community, the

⁸ Toti Citra Warsita, (2010), *Prosesi Peminangan Menurut Hukum Adat Bima Nusa Tenggara Bara* Jakarta: UIN Syarif Hidayatullah.

⁹ Nurkhairiyati Hernia, (2008), *Peminangan dalam Perspektif dan Kompilasi Hukum Islam (KHI)*, Program Studi Akhwal Al-Syakhsiyah Fakultas Syariah dan Hukum (UIN Syarif Hidayatullah Jakarta).

¹⁰ Suharsimi Arikunto, (2017), *Penelitian: Suatu Pendekatan Praktik*, Jakarta: Rineka Cipta, p. 272.

data begins with a form of observation and examining documents related to the implementation of marriage.

The data analysis used is qualitative descriptive data analysis. Researchers tried to explain how the Padang Lawas community, especially Tanjung Botung Village, views the *Manulak Sere* tradition in marriage. Data from the community will be interpreted based on the meaning they mean. Furthermore, researchers will conduct a review according to the KHI perspective by taking the opinion of scholars and existing arguments.

3. Results and Discussion

3.1 Marriage Law and *Manulak Sere* Tradition

In Islam, the valid conditions of marriage are:

- a. The husband-to-be and wife-to-be are Muslim.
- b. Not married to a mahram, marriage guardian must be male.
- c. Attended by witnesses
- d. Not in the state of Hajj or pilgrimage.
- e. Not under duress.

In addition, there is what is called an obligatory condition, namely the dowry that must be given by the groom to the bride.¹¹ Meanwhile, the pillars of marriage in Islam can be seen in the Compilation of Islamic Law Paragraph 4:

- a. Husband-to-be;
- b. The prospective wife;
- c. Marriage Partner
- d. Two witnesses and;
- e. Ijab and Kabul.¹²

Of course, the pillars and conditions of marriage in Islam also apply to Muslim communities in Padang Lawas, especially in Tanjung Botung village. However, in reality, the conditions of traditional marriage, in this case one of which is *Manulak Sere*, are important conditions for the validity of traditional marriage among the Padang Lawas community, especially in Tanjung Botung village. In addition to the legal requirements of marriage according to Islam which are fulfilled by the Padang Lawas community, especially in Tanjung Botung village, the legal requirements of marriage according to custom are as follows:

¹¹ Zainuddin 'Abdul 'Aziz Al-Malibariy, (1980), *Terjemah Fathul Mu'in: Fathul Mu'in Bi Syarhil Qurrotil Aini*, Kudus: Menara Kudus, p. 14-88.

¹² Ditjen Pembinaan Kelembagaan Islam Departemen Agama, (2001), *Kompilasi Hukum Islam Di Indonesia*, Jakarta: Direktorat Pembinaan Peradilan Agama Islam.

- a. The existence of a prospective husband and prospective wife.
- b. Witnesses and guardians.
- c. Maskawin (sere hasatan).
- d. Partinggal.
- e. The existence of wedding ceremonies in the form of: Manyapa Boru, Mangaririt Boru, Padomos Hata, Patobang Hata, *Manulak Sere*, Mangalehen Mangan Pamunan, Akad Nikah, Pasahat, Mangalo-Alo Boru and Manjagit Boru, Marpokat Haroan Boru, Pataon Raja-Raja Adat, Panaek Gondang, Mata Ni Horja, Bringing the Bride and Groom to Tapian Raya, Mangalehen Gorar, Mangupa, Ajar Poda, Mangaloi Na Loja, Marulak Ari.¹³

3.2 The Islamic Concept of Tradition

Many views state that religion is part of tradition, but many others state that tradition is the result of religion. This is often confusing when we have to put religion in the context of everyday life. Tradition is defined as the whole of human ideas and works that must be familiarized by learning, as well as the whole of the results of culture and work. In tradition there are universal elements, namely religious systems. This view states that religion is part of tradition.¹⁴

In contrast to the above view, Amer Al-Roubai states that Islam is not a product of culture/tradition, but Islam actually builds a culture/tradition and civilization. Civilization based on the Qur'an and Sunnah of the Prophet is called Islamic civilization. Islam is a religion of law revealed by Allah swt. through revelation delivered to the Prophet Muhammad saw. to be implemented by Muslims without exception. Thus the basic watakan of Islam is a normative view and its orientation is all legal formalism. Islam must be accepted as a whole, in the sense that all its laws are implemented in social life in all groups.¹⁵

In general, the Islamic concept sets out two patterns of relationships: vertical relationships and horizontal relationships. The first relationship takes the form of religious norms while the second relationship forms the social. Social forms a society that becomes a place of tradition. This concept in its application is inseparable from the purpose of the formation of Islamic law in general, namely maintaining human welfare.¹⁶ In terms of percentage, the number of texts that

¹³ Interview with Muhammad Ismail Daulay in Tanjung Botung Village, on October 19, 2023, at 20:53 WIB.

¹⁴ <http://komunitas-nuun.blogspot.com>

¹⁵ Abdurrahman Wahid, (2001), *Pengaruh Negara, Agama dan Kebudayaan*, Depok: Desantara, p. 101

¹⁶ Abu Ishaq al-Syatibi, (1224 H), *al-Muwafaqat*, Beirut: Dar al-Kutub al-'Ilmiyah, j. 2, p. 3

are ta'abbudi is far less than the texts that are ta'aqquli (related to mu'amalah) which are the basis of Islamic law to regulate social life.¹⁷

Thus, Islam has two aspects: the religious aspect and the traditional aspect. Scientifically the two can be distinguished, but in the view of Islam they cannot be separated. They have such a close relationship that it is difficult to distinguish between them. Among the examples of community activities that often combine religion and tradition are marriage, division of inheritance and death. At the same time, religious and cultural/traditional events or customs are carried out.¹⁸

The concept of Islam in general is contained in the Qur'an and Hadith of the Prophet. The first verse revealed is the command to read. Reading means, understanding the meaning of what is read by using the mind. So it can be understood that the Qur'an encourages the maximum use of reason. Therefore, Islam is a rational religion that is needed by society to realize a tradition.¹⁹

Tradition is inseparable from the principles of humanity. Humanity is the same yesterday, today and in the future. But the realization of humanity grows and develops. Change after change continues to occur, but the basis remains based on the guidance of the Qur'an and the Sunnah of the Prophet.²⁰

3.3 Manulak Sere Process

Changes in cultural values/traditions tend to occur along with social changes in society. The changes in question are such as the changes that occur in the marriage customs of the Padang Lawas community, especially in Tanjung Botung Village when giving wedding gold to the woman which is done by the male party called "*Manulak Sere*". In the marriage customs of the Padang Lawas community, especially in Tanjung Botung village, there are three processions of marriage procedures, namely dipabuat (arranged marriage), marlojong (elopement), and takko binoto (marriage where some families approve and some do not approve). *Manulak Sere* is only performed during the dipabuat (arranged marriage) procession. Before the *Manulak Sere* ceremony is performed, the parents of the male party first manise (visit) to the home of the female party. It is during this visit that the sere (goods and money) are discussed.

The *Manulak Sere* process at the Padang Lawas Community marriage ceremony, especially Tanjung Botung Village, has stages that must be carried out. After going through these stages, the families of both parties gather at the woman's

¹⁷ Abdul Azis Dahlan, (1996), *Ensikloprdi Hukum Islam*, Jakarta: PT Ichtiar Baru Vanhoeve, j. 5, p. 1723

¹⁸ Sidi Gazalba, Op. Cit., p. 110

¹⁹ Muhaimin, Op. Cit., p. 59

²⁰ Idi Gazalba, Op. Cit., p. 113

house to carry out martahi (deliberation). Furthermore, after gathering at the woman's house, the parents of the prospective wife arrange the seats, namely facing each other between the male and female parties. After the *dalihan na tolu* from the male side finished *mandokkon hata* (speaking) in *Manulak Sere*, it was the turn of the *dalihan na tolu* of the female side to answer. After returning from the woman's house, the man will tell his extended family and his *dalihan na tolu* about the results of *Manulak Sere* and when the *mangalap boru* party will be held (picking up the bride-to-be). After the date has been set for *mangalap boru* (picking up the bride-to-be), the male party returns to the female party's house with the extended family, *hatobangon* and *dalihan na tolu*. The male party will try to reach the female party's house in the afternoon. Once at the woman's house, the woman will welcome the extended family from the man's side. After welcoming the guests, in the evening the *makkobar boru* is held and in the morning the marriage ceremony is held. After the marriage ceremony, *mangupa* will be held and good advice given to the bride and groom. After *mangupa* and giving good advice to the bride and groom, then the girl can be brought by the boy.

The *Manulak Sere* ceremony is held at the woman's house, and is carried out by both sides of the nuclear family. The *Manulak Sere* ceremony means as a binding promise that there are no more obstacles to carry out the wedding ceremony on the date set by both parties. The goal is that if there is a denial, *sere* (gold) must be paid. If the male party regrets and makes a mistake, the *sere* that has been given to the female party is not returned. Meanwhile, if it is the woman who regrets and makes a mistake, then the woman is obliged to give twice the *sere* that has been determined previously.²¹

As explained by one of the customary leaders, especially in Tanjung Botung Village, Barumun Sub-district, *Manulak Sere* has existed since ancient times, which until now is still being carried out and will not even be abandoned because of the inheritance from the ancestors. For those who do not understand the *Manulak Sere* tradition, they say that it is a waste of time, even considered troublesome. Those who hold the customs will feel hurt if this custom is not carried out because it is considered to have a deep meaning for the people who support it. This custom is a sense of respect to the ancestors and to God Almighty, to strengthen the culture/tradition carried out at the wedding ceremony.²² Over time, this *Manulak Sere* tradition in practice has several variations in the implementation of the *Manulak Sere* Tradition which is a traditional heritage that is considered a culture / tradition of one of the sacred

²¹ Interview with Muhammad Ismail Daulay in Tanjung Botung Village, on October 19, 2023, at 20:53 WIB

²² Agus Gunawan, (2019), Tradisi Upacara Pernikahan adsa Sunda (Tinjauan Sejarah dan Budaya di Kabupaten Kuningan), *Jurnal Artepak*, p. 72.

ones. This *Manulak Sere* tradition is used as a sign that their marriage will be held, which will be considered valid by the customary leaders if the process has been passed according to customary rules.²³

If there is no *Manulak Sere* tradition then their marriage is considered invalid by the customary leaders in the area. The customary leaders do not want to interfere and be involved in their wedding ceremony, if there is a need for help related to customary traditions, the customary leaders will not want to participate and refuse to help. It may even happen that the bride is not accepted into the groom's family.²⁴

Goode Nough, Wilken defines the concept of dowry (*Manulak Sere*) as a price of money or objects given by a party as a sign of a bond that the party who has been given the handover has been bound to the party who has handed over a sum of money or valuable objects.

The concept of *Manulak Sere* in the Padang Lawas community, especially Tanjung Botung Village, is a price that must be paid by a man, including taking a woman as a wife, whether the candidate is Boru Tulang or not, is a self-esteem attached to a man in the Padang Lawas community, especially Tanjung Botung Village. Because this is closely related to the meaning of all activities in life as a member of the community, as is clearly illustrated in the gathering activity which has a very broad meaning that all parties who are in a position in dalihan natolu are clearly seen as their position.

The Padang Lawas community, especially Tanjung Botung Village, has special rules regarding marriage. Although Islamic law allows marriages to take place that have fulfilled the conditions and pillars, for the people of Padang Lawas, especially Tanjung Botung Village, marriage is not necessarily possible. In their custom there are certain rules that must be followed, one example is *Manulak Sere*. If these rules are ignored, there will be legal consequences. This rule has been adhered to by the Padang Lawas community, especially Tanjung Botung Village, from the past until now. The form of punishment is that the marriage is not considered and if there is a need in the future related to customs and events in the neighborhood, it will not be able to be carried out and the customary party does not want to interfere in the event.²⁵

²³ Interview with Ismail Husein Hasibuan in Tanjung Botung Village, on October 21, 2023, at 22:53 WIB

²⁴ Interview with Muhammad Ismail Daulay in Tanjung Botung Village, on October 19, 2023, at 20:53 WIB

²⁵ Interview with Daman Huri harahap in Tanjung Botung Village, on October 19, 2023, at 21: 09 Wib

At the time of *Manulak Sere*, everything that has been agreed upon is brought, both *sere nagodang* and *sere namenek*. *Sere nagodang*, which is a burden placed on the family that must be borne by the man's family. *Sere namenek* is the amount of money (*Sere*) given by the man's family to the girl's family as agreed (*Batang Boban*).

At this *Manulak Sere* time, all relatives are included. Before leaving for the girl's house, the male *suhut* holds a meeting among close relatives consisting of *kahanggi*, *anak boru*, *mora* and *hatobangon*. This event discusses the preparation of everything that must be handed over to the woman in accordance with the agreement at the time of *patobang hata* (decision-making), as well as determining who will be members of the delegation. The delegation usually consists of between 10 and 15 people, consisting of a line of mothers and fathers representing the *Dalihan Na Tolu* and *hatobangon* elements. The items carried by the men to the women's house are as follows:

1. *Indahan tungkus* (rice complete with side dishes/ customary rice), and *indahan sipulut* (sticky rice) and its core. The food brought is used for conversation starters and word binding.
2. All expenses incurred by the male party must be given to the female family, including those mentioned earlier.
3. *Parkayaan* (items to be handed over) in the form of seven sarongs and other *na muhut*.

On the appointed day the man's family leaves with around 10-15 people, the number is intended so that later there is no burden (burdensome to the girl's family). The group that comes usually brings *Silua* (souvenirs) *indahan tungkus* (wrapped rice) with side dishes and *sipulut* (*pulut*) with the core. The *indahan tungkus* brought by the *boru* child has a deep meaning, namely in addition to the greatness of the heart towards the girl's family (as a prospective *mora*), it also means that there is something that is highly expected from the party being fed.

At this meeting, everything that has been said before is expressed again, namely to report their arrival to fulfill the *padan dohot* promise (agreement and agreement). After the conversation is over, the obligations (*Garda*) can be handed over. The *Manulak Sere* procedure is the same as the *patobang hata* procedure, namely the male family conveys the purpose and purpose of coming to the woman's house. The speakers in this meeting are the elements of *kahanggi*, *anak boru*, and *hatobangon*. While from the woman's family are *kahanggi*, *anak boru*, *mora*, *hatobangon* and *harajaon*.

The objects to be handed over are placed on the *pahar*, which has been covered with *Patani Tonun* cloth, a banana leaf with a tip (*Bulung Ujung*) sprinkled with turmeric rice, two *puntu* (women's bracelets worn above the elbow) and a *kris*

with the handle facing the mora and the tip facing the anak boru. The turmeric rice placed on the pahar symbolizes gold. The kris symbolizes that the man's family is ready to take all the risks if they do not keep the agreement that has been decided before. Puntu symbolizes that there is already a bond between the two parties. Next, the man's boru child hands over the goods and sere na menek (dowry) to the mora wrapped in a cloth and passed on by the woman's mother to the girl (daughter). Likewise, the parkayaan in the form of cloth and other na muhut are immediately distributed to those who have been determined to receive them. After the handover ceremony is completed and accepted by the mora, the Sere Na Menek is handed over directly by Anak Boru to the girl's mother, who is received with a cloth and then carried and then handed over to the girl.²⁶

3.4 *Manulak Sere* Customary Tradition in the Perspective of Islamic Law Compilation

In the perspective of the Compilation of Islamic Law (KHI), the *Manulak Sere* tradition does not contradict the nash in the Qur'an and Hadith. However, the *Manulak Sere* tradition carried out in the Padang Lawas community, especially Tanjung Botung Village, is the Compilation of Islamic Law (KHI) Shahih. This tradition has no conflict with Islamic law. The people of Padang Lawas, especially Tanjung Botung Village, carry out marriage ceremonies in accordance with Islamic law. However, they also cannot abandon customary law, which their ancestors have practiced since ancient times. So it is clear that: Islamic law and customary law both get their respective portions. The implementation of this tradition is not considered by the community as a valid condition for marriage according to Islam.

Manulak Sere in the Perspective of the Compilation of Islamic Law means *Khitbah* means proposal, which is a preliminary step to a marriage. Fiqh scholars define it as "expressing the desire of the male party to a certain female party to marry her and the female party spreads the news of this proposal".²⁷ Meanwhile, according to the term, an engagement is a statement or request from a man to a woman to marry him, either done by the man directly or by mediating other parties he trusts in accordance with his religion. In accordance with the principle of marriage in Islam, marriage is not determined for a certain time but for life, *Khitbah* is a matter that is very important for the permanence of marriage. Therefore, Islam provides guidelines on the *khitbah* very carefully.²⁸ In Islam, it is recommended that a person who is going to get married should first propose to

²⁶ Interview with Muhammad Ismail Daulay in Tanjung Botung Village, on October 19, 2023, at 20:53 WIB

²⁷ Ahmad Azhar Basyir, (2006), *Hukum Pernikahan Islam*, Jakarta: Kencana, 2006, p.18.

²⁸ *Ibid.*, p. 19.

the woman who will be his wife, to find out the condition of her beauty and goodness of character that can make him interested in marrying her and to find out all the shortcomings that can encourage him to choose another woman. As stated in the hadith:

"According to As-Sayyid Sabiq, according to the principles of marriage in Islam, which include, among other things, that marriage is not fixed for a certain time, but is for life."

Therefore, Islam provides guidelines on khitbah very carefully. In Indonesian society, khitbah is known as "peminangan" or "proposal". So doing khitbah means proposing an engagement or proposing.²⁹

For the engagement to be valid, the woman being proposed to must be a woman who is permitted by Shara' to enter into a marriage contract with the man who proposes to her. The women who may be proposed to are as follows:

- a. The woman to be proposed to is not one of the women whom the man who is proposing marriage is prohibited from marrying.
- b. The woman to be proposed to is not being proposed to by someone else.

If there are legal impediments, such as the woman being a woman whom the suitor is prohibited from marrying, or the woman being sued by someone else, then the woman cannot be sued.³⁰ In Islam, the conditions in which a woman should be proposed to are as follows:

- a. The woman to be proposed to has been researched about her family, morals and religion.
- b. The woman to be proposed to is a woman who has offspring and has a loving nature.
- c. The woman to be proposed to has a distant blood relationship from the man who proposes. This is in accordance with the soul contained in the Qur'an:

﴿وَلَا تَنْكِحُوا مَا نَكَحَ آبَاؤُكُمْ مِنَ النِّسَاءِ إِلَّا مَا قَدْ سَلَفَ إِنَّهُ كَانَ فَحِشًا وَمَقْنَا وَنَسَاءً سَبِيلاً ۚ﴾^{۲۲}

If the khitbah has been accepted, this does not mean that a marriage has taken place, but only that there will be a marriage. An engagement ceremony that is accompanied by the giving of a token of remembrance, accompanied by the exchange of rings, accompanied by the delivery of the dowry in whole or in part or accompanied by the giving of gifts received by the makhtubah or her guardian, all of which are still in the status of another person, meaning that according to Islamic law it is not yet allowed to mix between the khatib (the man who

²⁹ Khoiruddin Nasution, (2009), *Islam tentang Relasi Suami & Istri. (Hukum Pernikahan 1) dilengkapi Perbandingan UU Negara Muslim*, Yogyakarta: ACAdemia & TAZZAFA, p. 1.

³⁰ Ibid., p. 48.

proposes) and the makhtubah (the woman who is proposed to) as husband and wife.

Likewise, the acceptance of khitbah does not have legal consequences in the form of rights and obligations such as rights and obligations due to the marriage contract. Therefore, it is not justified according to Islamic law if a man and a woman who are engaged mingle freely, go everywhere together, khalwat and others that are related to the freedom of association between husband and wife. Because the two are not yet husband and wife, if there is a relationship that violates decency and honor, it is still considered as adultery.³¹

An engagement can be conducted by the person who wishes to find a mate, but it can also be conducted by a trusted intermediary.

- a. An engagement may be conducted for a woman who is a virgin or for a widow whose 'iddah has expired.
- b. A woman divorced by her husband who is still in the raj'i iddah period is forbidden to be proposed to.
- c. It is also prohibited to propose to a woman who is being proposed to by another man, as long as the proposal has not been broken or there has been no rejection by the woman.
- d. It is forbidden to propose to a woman who is being proposed to by another man, so long as the proposal has not been broken off or the woman has not rejected the proposal.
- e. The proposal has no legal effect and the parties are free to break the engagement relationship.
- f. The freedom to break off the engagement relationship is done in a good manner in accordance with the demands of religion and local customs, so that harmony and mutual respect are maintained.³²

According to my analysis in the compilation of Islamic law there is no regulation on *Manulak Sere*, in the compilation of Islamic law *Manulak Sere* means khitbah' or proposal, according to my analysis *Manulak Sere* is permissible because *Manulak Sere* is a custom related to community ceremonies that does not conflict with Islamic law, because the urf is still hasan, which is carried out from generation to generation from the time of the ancestors to the present, and does not damage the soul, property, mind, religion, and lineage.

3.5 Legal Basis of *Manulak Sere*

³¹ Khoiruddin Nasution, (2005), *Hukum Pernikahan 1*, Yogyakarta: ACAdeMIA & TAZZAFa, p. 23-25.

³² Moh Idris Ramulyo, (1996), *Hukum Pernikahan Islam, cet.ke-1*, Jakarta: Bumi Aksara, p. 72.

Manulak Sere is a preliminary step before the marriage contract takes place. It is often followed by the payment of a full or partial bride price and the giving of gifts and other gifts to strengthen the new relationship.³³ Indeed, there are in the Qur'an and in many Prophetic traditions that discuss the matter of *Manulak Sere* (engagement). However, there is no clear and direct command or prohibition to conduct *Manulak Sere* (engagement), just like the command to enter into marriage with clear sentences, either in the Qur'an or in the Prophetic traditions. Therefore, in determining the law, there is no scholarly opinion that obliges it, in the sense that the law is permissible. However, Ibn Rushd in *Bidayat al-Mujtahid* quoted the opinion of Daud al-Zhahiry who said the law is obligatory. This scholar bases his opinion on the actions and traditions carried out by the Prophet in the engagement.³⁴

Islamic law views *khitbah* as a promise to enter into a marriage contract in the future, so *khitbah* is not an act that establishes marriage. For each party there is still a way to move on from the promise, especially if there are things that require it. A promise to marry is not a marriage contract, so there are no juridical consequences to *khitbah* as there are to a marriage contract. However, keeping promises, including keeping marriage promises, is a moral religious obligation, as mentioned in the word of Allah in the Qur'an and the Prophet's hadith. In Surah al-Isra' verse 34 it is mentioned:

﴿وَلَا تَقْرَبُوا مَالَ الْيَتِيمِ إِلَّا بِالْحَيِّهِنِ أَحْسَنُ حَتَّىٰ يَبْلُغَ أَشُدَّهُ وَأَوْفُوا بِالْعَهْدِ إِنَّ الْعَهْدَ كَانَ مَسْئُولًا ۝٣٤﴾
٣٥

The suitor who cancels his proposal without an acceptable reason is sinning in the sight of Allah, but if the cancellation is for a reason that can be justified by Shara' and accepted rationally, then he is not sinning, and what is the relationship between the cancellation of the *khitbah* and the dowry or other gifts or gifts that have already been given. The principles of justice and social change require a distinction to be made between the annulment of an engagement arising from the will of the suitor and the annulment of an engagement at the will of the suitor. If the annulment of an engagement is at the will of the suitor, it is an injustice if the innocent suitor is obliged to return the money or goods or a substitute for the value received because it is possible that the money or goods have been used to prepare for the wedding, to buy clothes, and so on, so that if he is obliged to return the money or value that has been spent it means giving a burdensome burden. However, if the annulment of the engagement is on the part of the woman who is being courted, it is fair that she bears the risk because she is the one who wanted it, so she should return what she received. In order to maintain justice in the annulment of an engagement in relation to the giving of a

³³ Djamaan Nur, (1993), *Fikih Munakahat, cet.ke-3*, Semarang: Dina Utama, p. 13.

³⁴ Amir Syarifuddin, (2006), *Hukum Pernikahan di Indonesia, cet. ke-1*, Jakarta: Kencana, p. 50.

dowry or gift, it is necessary to specify the motivation or reason for the annulment of the engagement, as follows:

- a. If the annulment of the marriage proposal arises from the will of the suitor and is without a valid reason, then it is fair to say that he does not have the right to take back what has been given to the suitor and the suitor does not have to return the goods that he has received.
- b. If the annulment of the engagement arises from the will of the suitor for a valid reason, such as if he sees a defect in the suitor that he did not know about beforehand, or because of the suitor's displeasing behavior, or a future event happens to the suitor after the engagement that makes it appropriate for the suitor to annul the engagement, then it is just to return the dowry, the gift or its value, because in this case he is the one who caused the annulment of the engagement and he should bear the risk.
- c. If the annulment of the engagement arises from the will of the suitor without a valid reason, then it is just that he should return what he received from the suitor, because the suitor was not at fault and in this case it is the suitor who is at fault.
- d. If the annulment of the engagement arises from the will of the bride and groom for a legitimate reason, such as if he sees a fault in the bride and groom or a disposition in the bride and groom that he does not like, or a change in the bride and groom's attitude to life or a sign of hatred towards the bride, In such a case the suitor has a reason to cancel the engagement, so it is only fair that the suitor does not have to return what he has received, in which case the suitor is not at fault and it is the suitor who is the cause of the suitor canceling the engagement, so it is the suitor who should bear the risk of canceling the engagement.³⁵

From the results of the explanation above that the Compilation of Islamic Law (KHI) and customary traditions are taking laws and arguments. Because the Compilation of Islamic Law (KHI) has a backing in making laws for the sake of benefit. Ulama who do not use customary traditions mean that they do not take into account the benefits to society. Because the Padang Lawas community, especially Tanjung Botung Village, has agreed to use something of Maslahat value even though there is no Nash argument that directly supports it.

The Compilation of Islamic Law (KHI) has emerged since ancient times, namely the result of habits, traditions in actions, namely *Manulak Sere*, which has been carried out for generations and has been very well maintained. So that traditional leaders always uphold the nobleness of this custom. However, modern society thinks that carrying out this tradition is a futile thing. However,

³⁵ Khoirudin Nasution, (2005), *Hukum Pernikahan*, Yogyakarta: ACAdEMIA & TAZZAFA, p. 29.

people who uphold the custom will feel hurt if this tradition is not carried out and even those who do not carry out the custom are considered by traditional leaders to have an invalid marriage (out of line).

The *Manulak Sere* tradition is very much maintained and also preserved to this day by the people of Padang Lawas Society, especially the village of Tanjung Botung. In the implementation of *Manulak Sere*. The community is very happy if the *Manulak Sere* tradition is still being carried out because they also think that by carrying out the tradition, peace will always accompany the community. The community will always help in any activity while it is still for good because they believe that good will be rewarded with good.

3.6 The Intersection of *Manulak Sere* and Islamic Law in the context of Indonesian Law

From the implementation of *Manulak Sere* among the Padang Lawas community, especially in Tanjung Botung village, it appears that although they implement Islamic law in the pillars and conditions of marriage, in practice they cannot abandon their customary law. Several things can be stated here. Firstly, that customary law and Islamic law both receive a portion of implementation in the wedding ceremony of the Padang Lawas Community, especially Tanjung Botung Village. The implementation of Islamic and customary law is placed according to its position. Secondly, that the *Manulak Sere* tradition is understood by the community not as a valid requirement for Islamic law marriage but as a valid requirement for customary ceremonies only.

If *Manulak Sere* is not carried out according to Islamic law they still carry out the marriage and still consider the marriage valid under Islamic law. However, in terms of customary law they are not appreciated by traditional leaders, in other words, the marriage ceremony is less perfect. However, of course the community still wants to maintain traditional family harmony in order to create harmonious social interactions. Third, it is clear that there is a clash between customary law and Islamic law in the implementation of marriage among the Padang Lawas community, especially in Tanjung Botung village. Fourth, when viewed from the theory of the enactment of Islamic law in Indonesia, it can be said that the practice of *Manulak Sere* in the Padang Lawas Community, especially Tanjung Botung Village, is in accordance with two theories, namely the *Receptio In Complexu* Theory, namely for the population to apply their respective religious laws. This means that for every resident who has a religion, the provisions that exist in the religion adhered to by each adherent apply.³⁶

³⁶ Sukiati, Hazairin's, (2019), Legal Thought and Hiscontribution Towards The Indonesian Legal Sistem, *Jurnal Of Indonesian Islam*, Vol. 6, No. 1, p. 95

In this case, Islamic law is still accepted and implemented by the Padang Lawas Community, especially Tanjung Botung Village, and still also implements customary law because customary law does not conflict with Islamic law. This is in accordance with the Receptio A Contrario theory, namely that customary law only applies if it does not conflict with Islamic law. This means that if there is a problem that arises from custom or tradition, a decision that is higher than Islamic law should not be taken. This means first looking at the benefits of Islamic law and then referring to customary law.³⁷

The existence of Islamic law and customary law has coexisted in Indonesian society for a long time. Customary law has existed since the ancestors of the Indonesian people existed. The history of the growth of customary law dates back to ancient times. The first applicable customary law in Indonesia was Polynesian customs before the entry of Pre-Hindu customs.³⁸ Then after Islam entered Indonesia³⁹ and accepted by the Indonesian people does not make customary law dead or displaced. This is what then gave rise to the theory of the enactment of Islamic law and its contact with customary law in Indonesia.⁴⁰

As a Muslim society that has strong cultural customs, the validity of Islamic law in the community is very high. This means that the law in Indonesia still considers Islam as a very good law making and makes Islamic law increasingly seen by the people in Indonesia.⁴¹

But before that, Indonesian society had adopted customary law first, which stated that Indonesia was not a country without law and legal system. Customary law communities are the occurrence of individual social interactions where customs will not be able to surface if there is no social interaction and also community communication.⁴²

In line with the development of Modernization in life, of course, it results in the sequence of customary law. Because the community has begun to the age of globalization, which does not pay much attention to the traditions and customs

³⁷ A. Suriyaman Mustari pide, (2017), *Hukum Adat Dahulu, Kini, dan Akan Datang*, Jakarta: Kencana Devisi dari Prenadamedia Group, p. 83.

³⁸ Ratno Lukita, (2008), *Tradisi Hukum Indonesia*, Yogyakarta: Teras, p. 24.

³⁹ Ibnu Radwan Siddiq Turnip, (2021), *hukum perdata islam di indonesia studi tentang hukum pernikahan, kewarisan, wasiat, hibah, dan perwakafan*, Depok: PT. RajaGrafindo Persada, p. 6.

⁴⁰ Sahid HM, (2016), *Legislasi Hukum Islam di Indonesia Studi Formalisasi Syariat Islam*, Jawa Timur: Putaka Idea, p. 19-28.

⁴¹ Ahmad Irwan Hamzani, (2020), *Hukum Islam Dalam Sistem Hukum Di Indonesia*, Jakarta: Kencana A, p. 118.

⁴² Hilman Syahril Haq, (2020), *Pengantar Hukum Adat Indonesia*, Jateng: Penerbit Lakeisha, hlm, 65.

that have long been implemented.⁴³ However, the Padang Lawas Community, especially Tanjung Botung Village, still preserves and carries out the *Manulak Sere* tradition when a marriage occurs between a woman and a man.

The community always maintains the preservation and customs that are in the Padang Lawas Community, especially Tanjung Botung Village, by making a traditional learning which is carried out at the place of the traditional leader's house in order to learn customs and learn Markobar which is carried out at the Traditional Leader's house.⁴⁴

4. Conclusion

The meaning of *Manulak Sere* at the wedding ceremony is that there is a bond between the prospective bride and groom. The bond is a bond that should not be considered playful because there are certain things that must be obeyed, namely it is no longer allowed for the prospective bride to accept the proposal of another person as well as the prospective groom can no longer apply for another girl. In addition, after *Manulak Sere* has been completed, if one of the two parties makes a mistake, the sere must be replaced, if it is the man who mangulah (makes a mistake) the sere that has been handed over is not returned, while if it is the woman who mangulah (makes a mistake) the sere must be replaced twice the amount of sere that has been determined previously. In the perspective of the Compilation of Islamic Law (KHI), the *Manulak Sere* tradition does not contradict the nash in the Qur'an and Hadith. However, the *Manulak Sere* tradition carried out in the Padang Lawas community, especially Tanjung Botung Village, is the Compilation of Islamic Law (KHI) Shahih. This tradition has no conflict with Islamic law. The people of Padang Lawas, especially Tanjung Botung Village, carry out marriage ceremonies in accordance with Islamic law. However, they also cannot abandon customary law, which their ancestors have practiced since ancient times. So it is clear that: Islamic law and customary law both get their respective portions. The implementation of this tradition is not considered by the community as a valid condition for marriage according to Islam. In my analysis, *Manulak Sere* in Mandailing traditional marriage in KHI perspective is permissible, because *Manulak Sere* is a custom related to community ceremonies that does not conflict with Islamic law. KHI has never prohibited *Manulak Sere* because the *urf* is still *hasan*, which is done from generation to generation by ancestors from the past until now and does not damage the soul, mind, property, religion, and lineage. The *Manulak Sere* custom needs to be simplified so as not to burden / trouble people, for example: there is a man who wants to propose to a woman who is a medical graduate where the

⁴³ Ahmad Tahali, (2018), Hukum Adat di Nusantara Indonesia, *Jurnal Syariah Hukum Islam*, p. 73.

⁴⁴ Interview with Mr. Harun Sohar Batubara, October 19, 2023 at 20:10 WIB

dowry / sere is expensive, there are several cases that occur in various regions in padang lawas that the size of the sere that is handed over depends on the position and status of the woman who should not burden the applicant, it should be through consensus without burdening and the cost of *Manulak Sere* should be lightened so that it does not burden the applicant.

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