

THE LEGAL CONSEQUENCES OF UNDERAGE MARRIAGE IN THE MERARIQ CULTURE OF THE SASAK TRIBE IN MEREMBU VILLAGE, LABUAPI DISTRICT, WEST LOMBOK REGENCY

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Abstract

The culture of marriage varies from region to region, influenced by religion, customs, and community environment. One of them is the Merarik culture of the Sasak tribe in Lombok. This study aims to analyze the settlement of underage marriages and their legal consequences in the Merarik culture of the Sasak tribe in Merembu Village, West Lombok. The research method uses empirical legal methods and qualitative approaches with primary data from the research location and secondary data from reliable sources. Data collection techniques include observation, interviews, and document studies. The results showed that the process of settling underage marriages was carried out through negotiations and mediation involving village heads, religious leaders, and local communities. The legal consequences affect marital status, husband and wife, children, and property. Unregistered marriages are not recognized by the state, so the wife loses her rights if abandoned, divorced, or the husband dies. The child of the marriage only has a legal relationship with the mother and the mother's family, without a legal relationship with the father. Therefore, it is recommended that authorized institutions provide counseling on the importance of state-recognized marriages to prevent adverse effects in the future.

Keywords: *As a result of the law, the culture of the Sasak tribe, underage marriage.*

Abstrak

Budaya perkawinan bervariasi di setiap daerah, dipengaruhi oleh agama, adat, dan lingkungan masyarakat. Salah satunya adalah budaya Merarik suku Sasak di Lombok. Penelitian ini bertujuan menganalisis penyelesaian perkawinan di bawah umur dan akibat hukumnya dalam budaya Merarik suku Sasak di Desa Merembu, Lombok Barat. Metode penelitian menggunakan metode hukum empiris dan pendekatan kualitatif dengan data primer dari lokasi penelitian dan data sekunder dari sumber terpercaya. Teknik pengumpulan data meliputi observasi, wawancara, dan studi dokumen. Hasil penelitian menunjukkan proses penyelesaian perkawinan di bawah umur dilakukan melalui negosiasi dan mediasi yang melibatkan kepala desa, tokoh agama, dan masyarakat setempat. Akibat hukumnya berdampak pada status pernikahan, suami istri, anak, dan harta kekayaan. Perkawinan yang tidak tercatat tidak diakui negara, sehingga istri kehilangan haknya jika ditinggalkan, bercerai, atau suami meninggal. Anak dari perkawinan tersebut hanya memiliki hubungan hukum dengan ibu dan keluarga ibunya, tanpa hubungan hukum dengan ayahnya. Oleh karena itu, disarankan agar lembaga

yang berwenang memberikan penyuluhan tentang pentingnya perkawinan yang diakui negara untuk mencegah dampak buruk di masa depan.

Kata Kunci: Akibat Hukum, Budaya Merariq Suku Sasak, Perkawinan Dibawah Umur.

INTRODUCTION

A welfare state is a country whose inhabitants respect each other and uphold the customs and beliefs of each community.¹ Indonesia's pluralistic society is united within the framework of harmonious social relations called marriage or marriage. Marriage is a very important event for most human lives that aims to foster a prosperous and happy family.²

Normatively, marriage is regulated in Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage (Marriage Law). The Marriage Law states that marriage is an inner birth bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the One True Godhead. Marriage is valid if it is performed according to the laws of each religion and belief.³

The marriage system can be done in various ways, namely some do it by begging but there are also those who do it by running away the bride (turning away or eloping).⁴ Culture is a manifestation of noble values that have been mutually agreed upon as a basis for behavior for society that covers various aspects of life including marriage.⁵ Indonesia is an archipelagic country consisting of various tribes, cultures, and

¹ Diding Sariding and Siti Ngainnur Rohmah, "Konsepsi Negara Sejahtera Menurut al-Farabi," *STAATSRECHT: Indonesian Constitutional Law Journal*, 2020, <https://doi.org/10.15408/siclj.v4i1.16127>; Hamdani Institut and Agama Islam Ngawi, "NEGARA SEJAHTERA DALAM PERSPEKTIF MAQASHID SYARIAH," *Al-Mabsut : Jurnal Studi Islam Dan Sosial*, 2020.

² Rizqi Suprayogi, "REFORMASI HUKUM PERKAWINAN ISLAM DI INDONESIA," *Indonesia Journal of Business Law*, 2023, <https://doi.org/10.47709/ijbl.v2i1.1962>; Haerini Ayatina et al., "PERAN HUKUM KELUARGA SEBAGAI PENGGERAK PEMBANGUNAN BERKELANJUTAN DI INDONESIA," *At-Thullab : Jurnal Mahasiswa Studi Islam*, 2021, <https://doi.org/10.20885/tullab.vol3.iss2.art1>.

³ MA, "Kitab Undang-Undang Hukum Perdata," *JDIH*, 2014; Jogloabang, "UU 16 Tahun 2019 Tentang Perubahan Atas UU 1 Tahun 1974 Tentang Perkawinan," 23 Okt 2019, 2019.

⁴ Kementerian Kesehatan RI, "UNDANG-UNDANG PERKAWINAN," *Journal Presumption of Law*, 2019.

⁵ Khumedi Ja'far, *Hukum Perdata Islam Di Indonesia: Aspek Hukum Keluarga Dan Hukum Bisnis*, *Journal de Jure*, 2019.

customs. The culture of community marriage between one region and another is certainly different, this is inseparable from the influence of religion, customs and the surrounding community, one of which is the *Merariq* culture of the indigenous Sasak tribe in Lombok.⁶

Merarik if interpreted in Indonesian is the bridegroom running away to marry without the knowledge of the parents or family of the bride.⁷ The kinship system of the Sasak community is based on *patrilineal relationships with patrilocal settling patterns*. Kinship relations have an important meaning in the daily life of the Sasak people living in Lombok. Kinship relations on a geneological basis are a great potential in determining the affairs concerned with society.⁸

In its development, the *merariq* custom was also influenced by religious law, namely Islam, which is the majority religion adopted by the Sasak tribe community. In *merariq* custom, there is no known age limit for the bridegroom and bride, both of whom can marry or marry if they have reached puberty.

This is contrary to the Marriage Law which stipulates the minimum age limit for prospective brides and grooms is 19 years.⁹ Inside Kitab Undang-Undang Hukum Perdata (KUH Perdata) It is also regulated about the age limit for a person to marry, namely if both prospective brides are adults. The adult size in Civil Law is 21 (twenty-one) years

⁶ Ketut Nuasa, "Implementasi Kawin Lari Antar Suku Bali Di Desa Babakan Gerung Lombok Barat," *Widya Kerta Jurnal Hukum Agama Hindu*, 2020.

⁷ Nuasa; Anjany Anjany and Fadilawati Fadilawati, "Analisis Hukum Terhadap Pelaksanaan Sanksi Adat Seda' Pada Kasus Kawin Lari," *Amsir Law Journal*, 2023, <https://doi.org/10.36746/alj.v4i2.191>; Murni Murni, Asis Muslimin, and Suardi Suardi, "Penerimaan Masyarakat Terhadap Perilaku Kawin Lari (Study Kasus Kelurahan Malakaji Kecamatan Tompobulu Kabupaten Gowa)," *Equilibrium: Jurnal Pendidikan*, 2019, <https://doi.org/10.26618/equilibrium.v7i2.2685>; I Wayan Bayu Suta, I Nyoman Putu Budiarta, and I Ketut Sukadana, "Keabsahan Perkawinan Ngerorod (Kawin Lari) Di Desa Kelusa, Kabupaten Gianyar," *Jurnal Interpretasi Hukum*, 2021, <https://doi.org/10.22225/juinhum.2.1.3099.184-188>; Nilawati Nilawati, Hamuni Hamuni, and Nerlin Nerlin, "KAWIN LARI BERSAMA (POFELEI AO) PADA MASYARAKAT ADAT BUTON (STUDI DI KELURAHAN GU TIMUR KECAMATAN LAKUDO KABUPATEN BUTON TENGAH)," *SELAMI IPS*, 2020, <https://doi.org/10.36709/selami.v12i2.10847>.

⁸ Anjany and Fadilawati, "Analisis Hukum Terhadap Pelaksanaan Sanksi Adat Seda' Pada Kasus Kawin Lari"; Nuasa, "Implementasi Kawin Lari Antar Suku Bali Di Desa Babakan Gerung Lombok Barat"; Murni, Muslimin, and Suardi, "Penerimaan Masyarakat Terhadap Perilaku Kawin Lari (Study Kasus Kelurahan Malakaji Kecamatan Tompobulu Kabupaten Gowa)."

⁹ Fitria Olivia, "Batasan Umur Dalam Perkawinan Berdasarkan Undang-Undang Nomor 1 Tahun 1974," *Lex Jurnalica Volume 12 Nomor 3, Desember*, 2015.

for the bride and groom. If both prospective brides are not adults, there must be a recommendation from the woman's parents with a written statement that the child is allowed to carry out the marriage.¹⁰

In the Sasak tribal community, especially in Merembu Village, Labuapi District, West Lombok Regency, Merarik culture is a hereditary tradition and is a series of processions that must be carried out where the bride-to-be is brought to the family home of the prospective bridegroom with the aim of being known by the surrounding community so as not to cause slander in the future. The Merarik case that occurred in Merembu Village, Labuapi District, West Lombok Regency, became so problematic, because it was carried out by the bride and groom who were underage and problems arose due to the constraints of the process of issuing marriage books by authorized officials, namely officials of the Office of Religious Affairs.

Along with the times, and in this era of modern globalization and increasingly sophisticated technology, many marriages are not in accordance with applicable rules and laws. The marriage bond is a bond without meaning and hope. Many problems that arise in people's lives concern marriage. Although it has a national marriage law that functions to regulate marriage problems, it cannot be denied that in fact there are still many people who still use the rules of customs of each religion and their respective tribes, so that in carrying out marriage there are many who violate the rules of law that have been regulated. One of them is underage marriage.¹¹ The more complex a society is, the greater the diversity found in the interests of community members.

In order to find out in depth about this, researchers are interested in conducting research entitled "Legal Effects of Underage Marriage in

¹⁰ Amiur Nuruddin and Azhari Akmal Tarigan, "Hukum Perdata Islam Di Indonesia: Studi Kritis Perkembangan Hukum Islam Dari Fiqih, UU No. 1/1974 Sampai KHI," *UU No 1/1974 Sampai KHI*, 2004; Mar'atus Sholihah Arkisman, "Polemik Dibalik Perkawinan Usia Dini: Kontradiksi Hukum Perkawinan Yang Pluralisme Di Indonesia," *Jurnal Pro Hukum*, 2022.

¹¹ Rani Dewi Kurniawati, "Efektifitas Perubahan UU No 16 Tahun 2019 Tentang Perubahan Atas UU No 1 Tahun 1974 Tentang Perkawinan Terhadap Penetapan Dispensasi Kawin (Studi Kasus Di Pengadilan Agama Majalengka Kelas IA)," *Journal Presumption of Law*, 2021, <https://doi.org/10.31949/jpl.v3i2.1505>; Sarikun Sarikun and Dina Paramitha Hefni Putri, "PERKAWINAN DIBAWAH UMUR: BAGAIMANA AKIBAT HUKUMNYA?," *Kertha Semaya: Journal Ilmu Hukum*, 2022, <https://doi.org/10.24843/ks.2022.v10.10.p14>; A Riyan Fadhil and Darmadi A.A. Ngurah Yusa, "Tinjauan Yuridis Terhadap Dispensasi Perkawinan Di Bawah Umur Menurut Hukum Islam," *Kertha Semaya*, 2018.

the Merariq Culture of the Sasak Tribe in Merembu Village, Labuapi District, West Lombok Regency" so that researchers can find out the actualization of norms that regulate these problems.

RESEARCH METHODS

Researchers use empirical legal research methods with a qualitative approach,¹² This type of research was chosen to determine and explain the process of settling underage marriages that occurred in Merembu Village, Labuapi District, West Lombok Regency. This research is descriptive because it wants to see the situation objectively and is carried out by taking the steps of data collection, classification, data processing/analysis, and making conclusions.

Primary data sources are obtained by interviews, observations or observations by recording data in the form of answers or informant statements. Secondary data sources that will be used in this study are obtained from textbooks written by legal experts, legal journals, articles, previous research, news reports, and other sources that have related legal issues to be examined in this study.¹³

The observation method is carried out to find out the cause of the problems that occur in the object of research and efforts to overcome these problems.¹⁴ The interview guidelines used in this study are non-structural guidelines,¹⁵ While the documentary method, researchers investigate written objects such as books, magazines, documents, regulations, meeting minutes, and so on. The sampling technique used is Non Probability Sampling by choosing purposive sampling as the sampling technique. After all the data is collected, it is then analyzed by descriptive analysis, which describes the applicable regulations, then related to the reality that occurs in the community, and finally a conclusion is drawn.

¹² Rukin, *Metodologi Penelitian Kualitatif*, Rake Sarasin, 2022; Sugiyono, *Metodologi Penelitian Kualitatif*. In *Metodologi Penelitian Kualitatif*, Rake Sarasin, 2020.

¹³ Nina Siti, "Metode Dan Teknik Wawancara," *Journal of Direktorat Pengembangan Mahasiswa*, 2002.

¹⁴ Yusuf Abdhul, "Metode Observasi: Pengertian, Macam Dan Contoh," *Deepublish Store*, 2022.

¹⁵ Nina Siti, "Metode Dan Teknik Wawancara."

RESULTS AND DISCUSSION

The Process of Settling Underage Marriage in the Merariq Culture of the Sasak Tribe in Merembu Village, Labuapi District, West Lombok Regency

Geographically, Merembu Village is located to the east of the District Capital City is an integral part of the West Lombok Regency area, the distance from the District Capital is 7 Km and from the District Capital is 12 Km, while from the Provincial Capital City is about 9 Km with the following boundaries:

- a. North Side: Sembung Village
- b. South: Montong Are Village
- c. West Side: Workshop Village
- d. East: Badrain Village

Orbitation (Distance from village / village government center)

- a. Distance from District Government center: 7 Km
- b. Distance from district capital: 12 Km
- c. Distance from Provincial Capital: 9 Km
- d. Distance from National Capital: 1300 Km

Merembu Village has an area of 753 Ha which is divided into 8 hamlets. Based on its use, the area of desamerembu is divided into several parts, namely: rice fields for agriculture covering an area of 550 Ha (75.51%), while the remaining area of 203 Ha (24.09%) is land used for residential needs, offices, school buildings, shops, gardens and others. With the conditions of Merembu Village are:

- 1) Land height from the surface of sea water: 400 m.
- 2) Rainfall 2000 to 3000mm/ year.
- 3) Topography: Lowlands.
- 4) Average air temperature: 30 degrees c.

Merembu Village has 8 Hamlets, namely Tangkeban, East Merembu, West Merembu, Central Merembu, Merembu Mekar, Rungkang, Karang Sembung, and Baginda. The population is 11,693. According to the latest data in 2018, the population of Merembu Village consists of 5,545 men and 6,148 women consisting of 2996 households. Each family consists of an average of 3-5 family members.

Meanwhile, judging from its fairly large area, the average population density is moderate. According to the Head of Merembu Village, this is because many people are already aware of the importance of managing the distance and number of births. This is a positive result of sharing programs held by the government such as: family planning

counseling, counseling on setting the age of underage marriage or young marriage and other counseling related to population issues.

The natural resources owned by Merembu Village are rice fields which are still mostly irrigated by river water so that in one year the community is only able to plant rice twice. Even then, with medium production and most of them are used as shops. As with the economic life of rural communities in general, at first the life of the people of Merembu Village started from the traditional economy by relying on agriculture as the main livelihood but now began to develop sources of income outside the agricultural sector such as trade, workshop industry, fisheries and so on.

Judging from the location of the village not far from the sub-district center, it seems that the existing education is enough to give hope to local residents. However, according to the Head of Merembu Village, even so, there are still many members who did not finish elementary school, in general, they are elderly groups and underprivileged children.¹⁶ So these are members of the community who could not afford to go to school in their time and those who could not afford to pay for school.

Human resources in Merembu Village are low-education (on average they do not pass elementary school) and most are still traditional farmers even though the land managed is still under their dependents or pawn land. But now, in general, the level of education in Merembu Village is quite good, and some even complete it to college.

Related to this study, it is focused on examining the process of settling underage marriages in the Merarik culture of the Sasak Tribe in Merembu Village, Labuapi District, West Lombok Regency. One of the cultural results in Sasak society is the mercurial culture. The case that occurred in Merembu Village, Labuapi District, West Lombok Regency became so problematic, starting from a prospective groom named M. Ripai aged 25 years, a bride-to-be named Miftahul Jannah aged 15 years. The wedding took place at the local hamlet mosque and was attended by the bride and groom's parents, witnesses as well as local religious and community leaders without KUA officials attending. This is because employees or officials do not want or dare to attend because the bride-to-be is underage. The marriage was not registered in the local KUA so it did not get a marriage certificate. And to get the marriage certificate, these two couples have to wait about 2 (two) years by means of isbat

¹⁶ Wawancara dengan Kepala Desa Merambu

nikah, which is remarried at the local KUA office. The reason for the marriage is to further strengthen family relationships.¹⁷

There is also the case of the groom named Husen aged 17 years and the bride named Aini aged 15 years. When the two of them were about to get married, there was a refusal from the bride's family who did not approve or approve of the marriage because at that time the bride and groom were still students. However, because of the overwhelming desire to marry, they both agreed to Merariq. Husen as the bridegroom took Aini to a relative's house, after which Husen told his family that he had taken Aini away to marry. The Husen family did not approve, but after negotiations, the family finally resigned to agree and agreed to it. Rejection also occurred from the school of the bride and groom because they both the bride and groom had not finished school. The school suggested that he finish his education first and then get married. But finally after a long negotiation between the bridegroom, the bride and the marriage school were approved and praised with several conditions. The marriage was performed without the presence of local KUA officials so that the marriage was not registered and did not get a marriage certificate.

Listening to the example of the case that occurred in Merembu Village, it is implied that in people's lives there are still many underage marriages. Underage marriage is something that is legally allowed to be done with various considerations and existing rules, because the law itself regulates the age limit for marriage, which is at least 19 years, in accordance with the principles of Law no. 16 of 2019 concerning Amendments to Law no. 1 of 1974 concerning Marriage affirms that prospective husbands and wives must be mature body and soul in order to realize the goal of a happy marriage, Avoid divorce.¹⁸ Underage marriage can legally be carried out if it meets the conditions listed by law, one of which is requesting marriage dispensation in the Court, then if the conditions are met they can marry legally according to religion.

Underage marriages that occur in Merembu Village are caused by several factors, namely:

- 1) low level of education so that it encourages quick marriage, because it does not understand how marriage really is not

¹⁷ Hasil wawancara dengan warga setempat yang menyaksikan acara pernikahan tersebut.

¹⁸ Arso Sosroatmodjo dan A. Wait Aulawi, "Hukum Perkawinan Di Indonesia," *Bulan Bintang*, 1975; Jogloabang, "UU 16 Tahun 2019 Tentang Perubahan Atas UU 1 Tahun 1974 Tentang Perkawinan."

solely because of sex but many responsibilities that must be carried after marriage;

- 2) the habit of descent, that society considers underage marriage to be common because it has been carried out for generations, so that parents understand when their children who are young or underage even in high school or junior high school get married;
- 3) The influence of mass media and social media, this is very vulnerable because adolescents are groups or groups that are easily influenced so that they quickly imitate or imitate what is seen, such as films or news that contain content about violence, porn, and viral about child marriage can be accessed by anyone.

In Merembu Village, if the marriage does not go through a procedure that has been arranged by the government, the couple will marry in the presence of a Kyai or local religious figure.¹⁹ Basically, the mindset of the community assumes that registering a marriage with KUA is considered to complicate and slow down the marriage process because there are several conditions that must be met first, which makes married couples reluctant to register their marriage.

Indonesia is known for its diverse culture, customs that have been embedded from ancestors and different religions and beliefs. Of course, each has different rules. It's the same with marriage. The diverse culture of marriage and the rules in it cannot be separated from the influence of religion, beliefs and knowledge from the community and religious leaders in the environment in which the community is located.²⁰

Communication between different legal cultures (country/local law, written/unwritten law) in plural conditions becomes very important, because communication will ultimately avoid the various absolutism claims that exist in each law.

Everyone certainly does not want to dispute with others and wants to live peacefully and respect each other. But in a very complex society, whether ethnically, economically, socially, culturally and the variety of different desires of each person, conflicts or disputes are difficult to

¹⁹ Hasil wawancara dengan warga setempat.

²⁰ Nilawati, Hamuni, and Nerlin, "KAWIN LARI BERSAMA (POFELEI AO) PADA MASYARAKAT ADAT BUTON (STUDI DI KELURAHAN GU TIMUR KECAMATAN LAKUDO KABUPATEN BUTON TENGAH)"; I Wayan Bayu Suta, I Nyoman Putu Budiarta, and I Ketut Sukadana, "Keabsahan Perkawinan Ngerorod (Kawin Lari) Di Desa Kelusa, Kabupaten Gianyar."

avoid. Conflicts can occur between two parties individually, can also be communal, can even involve many parties and states, from simple conflicts to the most crucial.

Various disputes can be grouped:

- 1) Family disputes;
- 2) Business disputes;
- 3) Land disputes;
- 4) Disputes between society and the state;
- 5) Customary disputes;
- 6) Press disputes;
- 7) Environmental disputes.

Alternative Dispute Resolution (ADR) is an option for dispute resolution in the midst of the current crisis of trust in the judiciary. The community hopes that by resolving disputes outside the court, they will get justice and legal certainty in the true sense effectively and efficiently. Juridical dispute resolution can be divided into 2 (two), namely: Settlement Through Court and Settlement not through court (ADR) which can take the form of: Arbitration, Mediation, and Conciliation. While non-juridical settlements consist of several forms, namely negotiation, unilateral settlement, and violent settlement.²¹

Regarding the process of settling underage marriages in the *Merariq Culture* of the Sasak Tribe in Merembu Village, Labuapi District, West Lombok Regency, it is carried out by negotiation. Negotiation here is a negotiation process between the two families so that the issue of underage marriage can be resolved in a way that is acceptable to each party.²²

If the negotiation process goes hard and does not get a meeting point, the problem of underage marriage will be resolved by mediation, namely by involving the village head, religious leaders and local community leaders as mediators. And from the results of the mediation, it will be the basis for the decision by the Village Head that the marriage can be carried out or not.²³

In Sasak culture, the case of *merariqini* has become a culture in customary law itself, not contradictory. Merik culture is one of the traditional cultural entities for the Sasak people from the results of cultural assimilation and dialectics. The anticipation of Sasak families

²¹ R.F. Saragih, "Lembaga Alternatif Penyelesaian Sengketa," *Jurnal Hukum & Pembangunan*, 2017, <https://doi.org/10.21143/jhp.vol29.no4.564>.

²² Hasil wawancara dengan warga setempat.

²³ Hasil wawancara dengan warga setempat.

often encourages their daughters to run together (run) with the Sasak men they love. Because there is an expression that is commonly spoken in Sasak language: *Sarian kicks a manuk bae child* (like asking for a chick only). So in this context, *merariq* is understood as a way to perform the wedding procession, as well as a way to get out of conflict. The result of an interview with the Head of Merembu Village, Mr. Muhazzab, stated that when there is *merariq*, the Head of the Hamlet must know because the male family must notify the Kadus for the purpose of completing the process rather than *merariq* as usual.²⁴

For the Sasak Tribe community on the island of Lombok to resolve conflicts or disputes, customary institutions in carrying out their duties do not depend on the presence or absence of cases reported to them, meaning that "*rembuq Subak*" or Kerama Desa or "*Krame Gubuq*" in completing their duties must be proactive to anticipate disputes, therefore before disputes occur this institution carries out its duties actively.

If there is a conflict or dispute that is known to occur and is complained to him, then *the lover* or head of the village kerama or *krame gubuq* conducts an examination of the initiative (case) by inviting all members of all members of the village kerama and interested parties in a meeting called "*Sangkep* or *Begundem*" or deliberation. *Sangkep* or *Begundem* is performed at night in a neutral place which is usually in "*sekenem*" (six-legged stilt houses or mosques).

In the sangkep process is passed through at least three phases, namely:

- 1) The disputing parties raise their respective problems in the presence of mitigating or incriminating witnesses;
- 2) Then each member of the kerame gives fatwas based on customary law and religious law to the disputants in order to be willing to reconcile;
- 3) After the examination process (deliberation) is complete, it will end with the granting of a decision, namely a decision in the form of peace (*soloh*) or punishment.

²⁴ Fathul Hamdani and Ana Fauzia, "Tradisi Merariq Dalam Kacamata Hukum Adat Dan Hukum Islam," *Jurnal Hukum Lex Generalis*, 2022, <https://doi.org/10.56370/jhlg.v3i6.245>; Baiq Desy Anggraeny, "Keabsahan Perkawinan Hukum Adat Lombok (Merarik) Ditinjau Dari Perspektif Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan Dan Hukum Islam (Studi Di Kabupaten Lombok Tengah)," *De Jure: Jurnal Hukum Dan Syar'iah*, 2017, <https://doi.org/10.18860/j-fsh.v9i1.4375>.

The peace agreement (*soloh*) is very binding for the individuals in dispute and the community, therefore often *soloh* decisions have a very strong legal force. Another decision that may be given by the *kerama* is to impose penalties in the form of fines using standard hollow money (*kepeng*) and animals or *dedosan* as well as other violations that disturb the community such as adultery and other serious offenses in the form of exile from society.²⁵

In terms of customary law of the Sasak Tribe of Lombok, if there is a deviation from the customary provisions applicable in the Sasak Tribe community, legal action will be taken as appropriate by the oldest customary or indigenous people in accordance with the type of customary violation committed.²⁶

The oldest influence of Sasak Tribe customs is very large and respected by the community and recognized for its existence to carry out and maintain customs. The efforts made by the indigenous people of the Sasak Tribe to maintain and maintain the indigenous cultural values inherited by their ancestors or ancestors can be seen in the implementation of ceremonies carried out in an orderly and systematic manner in solving customary problems. If any community member violates the customary rules that have been agreed in advance, it will be resolved through "*Gundern*" (customary deliberation).

The existence of customary sanctions in Indonesia is clearly protected by the state, where the State of Indonesia recognizes the existence of customary law communities in Indonesia in the Constitution of the Republic of Indonesia Year 1945. The Second Preamble to Article 18 B paragraph (2) states "The State recognizes and respects the unity of indigenous peoples and traditional rights as long as they are alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia". Then what is stipulated in Article 281 paragraph (3) of the Second Amendment states: "cultural identity and rights of traditional communities are respected in accordance with the development of times and civilization".

The existence of customary sanctions in the reality of customary law communities in certain regions in Indonesia, such as: Aceh, Gayo-

²⁵ Bustami Saladin, "TRADISI MERARI' SUKU SASAK DI LOMBOK DALAM PERSPEKTIF HUKUM ISLAM," *AL-IHKAM: Jurnal Hukum & Pranata Sosial*, 2014, <https://doi.org/10.19105/al-lhkam.v8i1.338>.

²⁶ Febri Triwahyudi and Achmad Mujab M., "MAKNA MERARIK DAN NYONGKOLAN BAGI PASANGAN PENGANTIN DI NUSA TENGGARA BARAT," *Journal of Chemical Information and Modeling*, 2017.

Alas and Batak, Minangkabau, Bali, Lombok, and others is a manifestation of social control mechanisms that grow and develop within the traditions of the community concerned.

Similarly, in the life of the people of Merembu Village, if there is a case of customary violation, especially in the field of marriage, customary sanctions will be imposed in the form of payment *of a Kerame Gubuk* fine of Rp. 1,500,000-Rp. 3,000,000 rupiah depending on each hamlet.

Legal Effects of Underage Marriage in the Culture of Merarik Sasak Tribe in Merembu Village, Labuapi District, West Lombok Regency

According to local customary law, marriage is not only a social, cultural, religious-magical act but also a legal act that gives rise to rights and obligations between the parties. Marriage is referred to as a social act because it is a social product, meaning that sociologically marriage binds all elements in social life, both individuals and society and even society itself.²⁷

Marriage is also called *a religious-magical act* because it is carried out through religious processes with traditions carried out for generations involving ancestral spirits and based on religion.

The definition of marriage according to customary law is a bond between a man and a woman to form a new household or family that will later produce offspring, which is related to problems of position, property and inheritance problems. Marriages that are carried out customarily involving the extended families of both parties.²⁸

Marriage in the sense of adat is a marriage that has legal consequences on customary law in force in the community concerned. This legal effect has existed since before the marriage took place, what is meant by this legal effect is that it will give rise to a parental right and obligation, namely in carrying out traditional ceremonies, fostering and maintaining harmony in the integrity and permanence of the lives of their children who are bound in marriage.

An action that is done not according to the rule of law, then it cannot be said to be a legal act so that the act has no legal consequences that can be protected by law. Child marriage carried out by the people of

²⁷ Saladin, "TRADISI MERARI' SUKU SASAK DI LOMBOK DALAM PERSPEKTIF HUKUM ISLAM"; Triwahyudi and Mujab M., "MAKNA MERARIK DAN NYONGKOLAN BAGI PASANGAN PENGANTIN DI NUSA TENGGARA BARAT."

²⁸ Triwahyudi and Mujab M., "MAKNA MERARIK DAN NYONGKOLAN BAGI PASANGAN PENGANTIN DI NUSA TENGGARA BARAT."

Merembu Village is a marriage that is carried out not in accordance with the provisions of the applicable laws and regulations. The legal provisions governing marriage procedures that are justified by law are Article 2 paragraph (1) of Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974, namely marriage is valid if it is carried out according to the laws of each religion and belief, and in Article 2 paragraph (2) which states that each marriage is recorded according to applicable laws and regulations. So a marriage must be performed legally according to religious law, it must also be recorded by an authorized official.²⁹

For Indonesian Muslims, there are two main requirements that must be conditioned as cumulative conditions that make marriage valid according to positive law, namely: first, marriage must be performed according to Islamic law, and second, every marriage must be recorded. The marriage registration is carried out by VAT in accordance with Law No. 16 of 2019 concerning Amendments to Law No. 1 of 1974. Thus, non-fulfillment of any of the provisions in Article 2 causes the marriage to be null or void and can be annulled.³⁰

Marriage registration is important. Although administrative, the registration has a major juridical influence on the legal recognition of the existence of the marriage. With the registration of the existence of marriage carried out by the marriage registrar employee and then the issuance of a Marriage Certificate Quotation Book, there has been authentic evidence of the existence of a valid marriage, which is religiously recognized and juridically recognized.³¹

Although according to Islamic law, underage marriages carried out by the Merembu community are valid, but according to the state do not recognize it because they do not have a marriage certificate, so that in the event of divorce, it can only be resolved outside the state legal channels or carried out by deliberation and consensus according to

²⁹ Arso Sosroatmodjo dan A. Wait Aulawi, "Hukum Perkawinan Di Indonesia"; Anggraeny, "Keabsahan Perkawinan Hukum Adat Lombok (Merarik) Ditinjau Dari Perspektif Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan Dan Hukum Islam (Studi Di Kabupaten Lombok Tengah)."

³⁰ Arso Sosroatmodjo dan A. Wait Aulawi, "Hukum Perkawinan Di Indonesia"; Anggraeny, "Keabsahan Perkawinan Hukum Adat Lombok (Merarik) Ditinjau Dari Perspektif Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan Dan Hukum Islam (Studi Di Kabupaten Lombok Tengah)."

³¹ Arso Sosroatmodjo dan A. Wait Aulawi, "Hukum Perkawinan Di Indonesia"; Kementrian Kesehatan RI, "UNDANG-UNDANG PERKAWINAN."

Islamic law. The settlement of marriage lawsuit cases in cases like this can only be resolved through customary law.

As a result of marriage without a marriage certificate against the husband and wife, the wife cannot sue the husband if the husband leaves, the wife does not get alimony if the husband is an employee and dies, the wife does not get marital benefits and husband pension benefits because her name is not recorded in her husband's office, and the wife is not entitled to the husband's income and estate if she dies. The wife is not entitled to joint property in case of divorce. The legal consequences of serial marriage on the husband are nothing to worry about but are beneficial for the husband, namely the husband is free to remarry, because the previous marriage is considered invalid in the eyes of the law and the husband can avoid his obligation to provide for his wife and children.³²

Legally, wives of marriages that do not have a marriage certificate are considered invalid because the marriage carried out is invalid according to Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974. Underage marriage that does not have a marriage certificate is tantamount to betel marriage and according to Article 45 PP No.9 of 1975 is considered an offense and also has no legal force stipulated in Article 6 KHI.³³ For people who perform serial marriages to get legal certainty and protection, they must do itsbat nikah.

Underage marriages in Merembu village, although religiously or religiously considered valid, but marriages performed outside the knowledge and supervision of marriage registration officials do not have permanent legal force and are considered invalid in the eyes of state law.³⁴ The legal consequences of marriage have a very detrimental impact on wives and women in general, both legally and socially, as well as for the children born. Women are not legally considered legal wives.

³² Kementrian Kesehatan RI, "UNDANG-UNDANG PERKAWINAN"; Kabinet Bidang Kesejahteraan Rakyat, "Undang-Undang Republik Indonesia Nomor 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan," *Journal Presumption of Law*, 2021.

³³ Jogloabang, "UU 16 Tahun 2019 Tentang Perubahan Atas UU 1 Tahun 1974 Tentang Perkawinan."

³⁴ A Z Nirmala, *Pelaksanaan Akibat Hukum Perkawinan Menak Dengan Jajar Karang Pada Masyarakat Suku Sasak (Studi Di Desa Rarang, Kecamatan Terara, Lombok Timur)*, *Kumpulan Jurnal Mahasiswa Fakultas ...*, 2015; Yayuk Kusumawati, "CELAH HUKUM TERJADINYA PRAKTIK PERKAWINAN DI BAWAH UMUR DAN TINDAKAN KONDUSIF PERLINDUNGAN HAM," *SANGAJI: Jurnal Pemikiran Syariah Dan Hukum*, 2019, <https://doi.org/10.52266/sangaji.v2i1.262>.

Children born in marriages that are not registered, the certificate they have only includes the name of their mother so that the child's legal relationship is only with the mother and her mother's family, while the civil relationship with her father does not exist.³⁵ Therefore, a further consequence of unregistered marriages is that neither the wife nor the children born of the marriage, are entitled to claim any support or inheritance from the father. Property acquired in marriage under the hands belongs only to each one who produces it, because there is no property.³⁶

The status of children born from serial marriages is invalid, this is in accordance with the provisions of Article 42 of Law No. 16 of 2019 concerning Amendments to Law No. 1 of 1974 concerning Marriage which states "A legitimate child is a child born in or as a result of a valid marriage".³⁷ Information in the form of status as an out-of-wedlock child and the absence of the father's name will have a very deep social and psychological impact on the child and his mother. The unclear status of the child according to the law, resulting in the child's relationship with the father is not strong, so that one time the father can deny that the child is his biological child. The child can get his rights, in the form of property or property from his father but not inheritance only in the form of gifts or grants.³⁸ In civil terms, a father does not have a civil relationship with his child, because he was born out of wedlock in accordance with the law. However, after the Constitutional Court decision No. 46/PUU-VIII/2010 dated February 17, 2012, a legal breakthrough has been made by ruling that Article 43 paragraph (1) of Law No. 16 of 2019 concerning

³⁵ Nilawati, Hamuni, and Nerlin, "KAWIN LARI BERSAMA (POFELEI AO) PADA MASYARAKAT ADAT BUTON (STUDI DI KELURAHAN GU TIMUR KECAMATAN LAKUDO KABUPATEN BUTON TENGAH)."

³⁶ Wahidin, Jenal, Diana Farid, Muhammad Husni Abdulah Pakarti, Iffah Fathiah, dan Kemal Al Kautsar Maburri. 2024. "THE INHERITANCE RIGHTS OF CHILDREN FROM MARRIAGE ARE NOT RECORDED ACCORDING TO THE MARRIAGE LAW AND THE COMPILATION OF ISLAMIC LAW". Mawaddah: Jurnal Hukum Keluarga Islam 2 (1):65-85. <https://doi.org/10.52496/mjhki.v1i2.15>.

³⁷ Wahidin, Jenal, Diana Farid, Muhammad Husni Abdulah Pakarti, Iffah Fathiah, dan Kemal Al Kautsar Maburri. 2024. "THE INHERITANCE RIGHTS OF CHILDREN FROM MARRIAGE ARE NOT RECORDED ACCORDING TO THE MARRIAGE LAW AND THE COMPILATION OF ISLAMIC LAW". Mawaddah: Jurnal Hukum Keluarga Islam 2 (1):65-85. <https://doi.org/10.52496/mjhki.v1i2.15>.

³⁸ Burhan Latip, Ahmad Muhajir, Elly Lestari, dan Muhammad Farid Hasan. 2024. "PENYELESAIAN SENGKETA KEWARISAN MELALUI MEDIASI: JALAN TERBAIK MENYELESAIKAN MASALAH". Mawaddah: Jurnal Hukum Keluarga Islam 1 (1):58-67. <https://doi.org/10.52496/mjhki.v1i1.4>.

Amendments to Law No. 1 of 1974 concerning Marriage is contrary to the 1945 Constitution. Because the extramarital child has no relationship with his father. The provisions of the Marriage Law should read "A child born out of wedlock only has a civil relationship with his mother and his mother's family and with a man as his father who can be proven based on science and technology and/or other evidence according to law to have a blood relationship, including a civil relationship with his father's family."

The implications relate to legal status and proving the origin of extramarital children. The relationship with birth certificates is because proving a child's origin can only be done with an authentic birth certificate issued by an authorized official. Problems that arise in the household arising from the consequences of serial marriage, clearly cannot be resolved before the Court because from the results of the marriage they do not have permanent legal force with the existence of a marriage certificate so that the marriage carried out is considered to have never existed.³⁹

Marriages performed outside the provisions of the law will not receive recognition and are not protected by law. Acts that do not register a marriage even though the marriage has been carried out according to Islam, are considered not to carry out the marriage in accordance with the conditions of marriage as stipulated in Law No. 16 of 2019 concerning Amendments to Law No. 1 of 1974 concerning Marriage.⁴⁰

Although the territorial culture in the Sasak Lombok customary law community is justified, it is not entirely an excuse because in marriage also must pay attention to norms both moral norms, polite norms and religious norms as mentioned by Hans Kelsen in Abdul Gafur Al Anshari that the law consists of norms about how a person should behave, because violation of a norm will have a negative impact on the

³⁹ Sakirman Sakirman, "Akibat Hukum Dalam Praktik Nikah Sirri Menurut Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan," *Muslim Heritage*, 2017, <https://doi.org/10.21154/muslimheritage.v2i1.1046>; Khoirul Hidayah, "PERSOALAN HUKUM PEREMPUAN REMBANG AKIBAT PRAKTEK NIKAH SIRRI," *De Jure: Jurnal Hukum Dan Syar'iah*, 2011, <https://doi.org/10.18860/j-fsh.v3i1.1322>; Asripa Asripa, "NIKAH SIRRI DALAM PERSPEKTIF ISLAM," *Imtiyaz: Jurnal Ilmu Keislaman*, 2020, <https://doi.org/10.46773/imtiyaz.v4i1.64>.

⁴⁰ Sakirman, "Akibat Hukum Dalam Praktik Nikah Sirri Menurut Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan"; Jogloabang, "UU 16 Tahun 2019 Tentang Perubahan Atas UU 1 Tahun 1974 Tentang Perkawinan"; Rakyat, "Undang-Undang Republik Indonesia Nomor 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan."

violator at any given time and must also observe the conditions of marriage, otherwise the consequences of such a marriage can be prevented.⁴¹

Underage marriages carried out in Merembu Village, Labuapi District, West Lombok Regency do not have authentic evidence, namely in the form of marriage certificates officially issued by Marriage Registration Employees (PPN) around their area, so that these marriages have no legal force. Therefore, serial marriage will bring legal consequences for married couples, children born, and property in marriage. Legally wives of marriages that do not have a marriage certificate are considered invalid because the marriage performed is invalid according to the Marriage Law, the husband / wife is also not entitled to inheritance from the husband / wife if he dies and is not entitled to joint property, gono gini property in the event of divorce, because legally their marriage is considered never to have occurred and vice versa.

The provisions of Article 2 paragraph (1) of Law No. 16 of 2019 concerning Amendments to Law No. 1 of 1974 concerning Marriage explain that "Marriage is valid if it is carried out according to the laws of each religion and belief". The provision describes the principle of Indonesian marriage based on Pancasila, which can be seen from the explanation of Article 2 paragraph (1) of Law No. 16 of 2019 concerning Amendments to Law No. 1 of 1974 concerning Marriage that a marriage carried out according to their respective religions is the main principle of a valid marriage. Article 2 paragraph (2) of Law No. 16 of 2019 concerning Amendments to Law No. 1 of 1974 concerning Marriage states "every marriage shall be recorded according to applicable laws and regulations". The validity of a marriage according to Law No. 16 of 2019 concerning Amendments to Law No. 1 of 1974 concerning Marriage is based on the laws of their respective religions and beliefs, so that since the enactment of Law No. 16 of 2019 concerning Amendments to Law No. 1 of 1974 concerning Marriage, the marriage ceremony according to religious law is decisive about the validity or not of the marriage. Based on the general explanation of Law No. 16 of 2019 concerning

⁴¹ Abdul Gafur, Siti Mutholingah, and Misbahul Munir, "MEMBANGUN SIKAP TOLERAN DAN DEMOKRATIS MELALUI PENDIDIKAN AGAMA ISLAM," *Journal TA'LIMUNA*, 2021, <https://doi.org/10.32478/talimuna.v10i2.798>; Jamaluddin Jamaluddin, "ABDUL GAFUR: KETERLIBATAN ULAMA SASAK DALAM JARINGAN ULAMA (1754-1904)," *Al-Qalam*, 2016, <https://doi.org/10.31969/alq.v22i1.307>.

Amendments to Law No. 1 of 1974 concerning Marriage, regarding marriage registration, birth registration, death registration is an important event not a legal event. Marriage registration in a certificate is a marriage certificate. A marriage certificate is proof of marriage and is a perfect proof of marriage.

In the explanation of Article 2 paragraphs (1) and (2) of Law No. 16 of 2019 concerning Amendments to Law No. 1 of 1974 concerning Marriage, it has clearly stated the requirements for the validity of a marriage. In practice, in society there are also people who only perform marriages in their religious way and are not registered. In addition, there are also those who only register their marriages without performing religious ceremonies. This action is clearly contrary to the laws and regulations and principles or principles of Law No. 16 of 2019 concerning Amendments to Law No. 1 of 1974 concerning Marriage, namely:

- 1) Marriage aims to create a happy and lasting family.
- 2) Marriage is valid when it is performed according to the laws of his religion and beliefs.
- 3) Marriage should be recorded according to the law.
- 4) Marriage is based on open monogamy.
- 5) The prospective husband and wife must unite between their bodies and souls to carry out the marriage
- 6) The age limit for marriage is 19 years.
- 7) Divorce is complicated and must be done before a court hearing
- 8) The rights and position of the husband and wife are balanced

The problem of marriage is a sacred act that has a close relationship with religion/spirituality. Marriage has not only an outward/jasmani element but also a spiritual element that has an important role. This is in accordance with Law No. 16 of 2019 on Changes to Law No 1 of 1974 on Marriage "Not only as a data bond but also a religious alliance".

CONCLUSION

Based on the results of the study, researchers concluded that the process of settling underage marriages in the Merariq culture of the Sasak Tribe in Merembu Village, Labuapi District, West Lombok Regency by negotiation or negotiation process between the bride and groom's two families. If in the Mediation process there is no meeting point or an agreement is reached, it will proceed to the second settlement process, namely Mediation involving Village Heads, Religious Leaders

and Local Community Leaders as third parties or Mediators. The next one will be decided by the Village Head. Meanwhile, the legal consequences of Underage Marriage in the Merariq Culture of the Sasak Tribe in Merembu Village, Labuapi District, West Lombok Regency, have an impact on the status of marriage, husband and wife, children and property, namely marriages that are not registered do not receive state recognition. The wife does not get her rights if the husband abandons, divorces or the husband dies. The legal impact on the child from the marriage is that the child's legal relationship is only with the mother and the mother's family, while the civil relationship with the father does not exist. Therefore, a further consequence of unregistered marriages is that neither the wife nor the children born of the marriage, are entitled to claim any subsistence or inheritance from the father. Property acquired in marriage under the hands belongs only to each one who produces it, because there is no joint property.

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