

RELIGIOUS AND CUSTOMARY PERSPECTIVES ON THE TRANSITION PROCESS OF GUARDIANS IN *MALOJONGKON BORU* MARRIAGE PRACTICES



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Abstract

One of the most common issues in marriage is the marriage contract, which might take days to finalize. It happens when a guardian refuses to marry off his daughter because he disapproves of the marriage. Therefore, *Malojongkon Boru* is frequently practiced to get the approval of the woman's guardian or father. The subject of discussion for this study is the transition of the *nasab* guardian to the judge guardian in the practice of *Malojongkon Boru*. The focus of the problem in this study is the perspective of Indonesian Ulema Council (MUI) and Traditional Leaders on the transition of *nasab* guardian to the judge guardian in *Malojongkon Boru* marriage practice. This study is a field research with a qualitative approach. The data sources are classified into field data as primary data, including interviews and documentation, and literature data as secondary data. The findings indicate that MUI and Traditional Leaders view the transition of marriage guardians in the practice of *Malojongkon Boru* marriage as conducted in conformity with Islamic law.

Abstrak

Salah satu masalah yang sering terjadi dalam pernikahan adalah menyangkut akad nikah yang kadang sampai berhari-hari belum terlaksana. Hal ini terjadi disebabkan seorang wali tidak mau menikahkan anak perempunnya karena tidak menyetujui pernikahan tersebut. Sehingga sering terjadi praktik *Malojongkon Boru* sebagai cara untuk mendapatkan restu dari wali atau ayah perempuan tersebut. Pokok pembahasan untuk penelitian ini adalah peralihan wali *nasab* ke wali hakim pada praktik *Malojongkon Boru*. Fokus permasalahan dalam penelitian ini adalah Pandangan Majelis Ulama Indonesia (MUI) dan Tokoh Adat tentang peralihan wali *nasab* ke wali hakim pada praktik pernikahan *Malojongkon Boru*. Penelitian ini berjenis penelitian lapangan, dengan pendekatan kualitatif. Sumber datanya terbagi menjadi dua macam, yakni data lapangan sebagai data primer yaitu wawancara dan dokumentasi, data kepustakaan sebagai data sekunder. Temuan penelitian menunjukkan bahwa MUI dan Tokoh Adat berpandangan peralihan wali nikah dalam praktik pernikahan *Malojongkon Boru* dilakukan dengan cara yang sesuai dengan hukum Islam.

INTRODUCTION

Humans are the most perfect creatures created by Allah SWT on this earth because Allah SWT endowed humans with reason, allowing them to understand what is right and wrong. Allah SWT created humans in pairs with the bonds of love that Allah SWT has given to His creatures, namely the marriage bonds approved and legalized by religion and the state to establish a harmonious life in the household and community. Marriage is a proof that humans were created in pairs, as Allah SWT says in the Qur'an, surah Adz – Dzariyat: 49 (RI, 2010a).



The Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage, Article 6 of the Marriage Law, regulates the prerequisites for a marriage. One of these is that the marriage must be approved by both parties entering into it without any coercion from any party (Abidin, 1992).

According to Sayyid Sabiq, as quoted by Abd Rahman Ghazaly, marriage is a *sunnatullah* that applies to all God's creatures, including people, animals, and plants. Marriage is a way chosen by Allah for humans to continue their descendants, reproduce, and preserve their lives after each partner is ready to play a positive role in realizing the purpose of marriage. Allah did not make humans like other creatures who live freely following their instincts and have relationships without rules (Ghazaly, 2003).

The definitions above indicate that marriage is a lawful bond between a woman and a man who is not her mahram, intending to receive rewards and the pleasure of Allah SWT. As the Word of Allah SWT in the Qur'an, surah Ar – Rum: 21 (RI, 2010b). In Islamic law, a marriage is lawful if it meets the requirements and pillars of marriage. These pillars include the two prospective brides and grooms, a marriage guardian, witnesses, and the *ijab qabul*. Several conditions must be met in each of these pillars, including the marriage guardian. Islam regulates the role of guardian in marriage, and only certain people are eligible to be guardians. The marriage will be void if the predetermined requirements and pillars are not fulfilled (Universitas Islam Indonesia, 2020).

A guardian is a condition and pillar of marriage, while some argue it is optional. Some scholars refer to the position of a guardian in marriage as a pillar and others as a condition. A marriage guardian is an essential element for the bride who marries her. A marriage guardian must be a man who meets the requirements of Islamic law, namely Muslim, sane, and *baligh*. Marriage guardians consist of *nasab* guardian and judge guardian. Marriage guardians are determined as a pillar of marriage to protect the interests of women, maintain their moral integrity, and enable the creation of a legitimate marriage (Santi, 2006).

However, various problems frequently arise in this marriage, both before and after the marriage. These problems sometimes come from society or the family. One of the most common issues in marriage is the marriage contract, which might take days to complete. It happens when a guardian refuses to marry off his daughter because he disapproves of the marriage, so elopement often occurs to get the blessing of a woman's guardian or father. However, in some circumstances, elopement does not guarantee approval from the woman's guardian; there are even guardians who do not want to marry off their children.

The problems faced by teenagers in various regions in terms of marriage, either because their parents do not approve or they are worried about not being able to pay the dowry, have made many traditions in various regions take shortcuts, with an agreement between men and women to achieve their goals by not doing a *khitbah*, either by fleeing with other people's daughters, or in different ways such as surrendering themselves to the Religious Administrators to be married. This matter can be seen in various societal cases, including Barumun Baru District, Padang Lawas Regency, and other regions (Siregar, 2024).

Tradition is a representation of human attitudes and behavior that has existed for a long time and has been passed down from generation to generation, beginning with the ancestors. In simple terms, tradition is anything that has been done for a long time and has been part of the life of a communal group (Commons, 1987). Each region's culture must be maintained and preserved even though generations change. Culture as an

ethnic identity often fades quickly because its heirs abandon it. Therefore, some people try hard to maintain it, hoping the culture will endure. Culture can be interpreted as something humans deliberately create through activities that are often carried out and considered good. Culture is the whole idea and work of humans that must be studied, along with the whole result of their minds and works (Juri & Suseka, 2020). Each region certainly has different traditions and cultures; some traditions conform to Islamic teachings, while others still retain elements of legal issues in society (Pitradi, 2021).

Barumun Baru District is one of the areas in Padang Lawas Regency, encompassing territories populated by the Batak Mandailing tribe, and the majority of the population is Muslim (BPS, 2021). One of the exciting customs in Barumun Baru District is the wedding tradition. Many marriages are formed by fleeing with women who desire to marry without seeking permission or even the approval of their parents. In everyday language, the community calls it "Malojongkon Boru." It is usually performed by a man who is close to and knows a lady well, and they both have feelings for one other and agree to marry. However, they feel that something will hinder and thwart their agreement and intentions, so this couple chooses elopement as a way out (Hidayat Tambunan, 2023).

The practice of *Malojongkon Boru* in Barumun Baru District, Padang Lawas Regency, is triggered by several factors, including one or both of the prospective bride and groom's parents refusing to bless and grant permission for the marriage to take place. This problem usually comes from the woman who disagrees. Another cause is the predecessors' customs or traditions, so this is no longer a taboo for the community in Barumun Baru District, Padang Lawas Regency (Hasibuan, 2024).

In the practice of *Malojongkon Boru*, a guardian often refuses (*adhal*) to marry off his child or someone under his guardianship. This refusal is caused by various reasons, such as disapproval of the prospective bride and groom because they are not his choice or other reasons that make the guardian reluctant to marry them off. Indeed, a marriage guardian is one of the pillars of marriage, as the Prophet SAW stated (Hadeethenc.Com, n.d.).

Due to the refusal or reluctance of the guardian, many couples marry using a judge guardian. In this *Malojongkon Boru* practice, the researcher examined five cases of parents who refused to marry off their daughters or serve as marriage guardians. The researcher discovered the first case of DM with MB in 2022, in which the prospective husband and wife married using a judge guardian because the woman's guardian did not agree to her daughter marrying the man who fled with her. The guardian refused because he disliked the man his daughter had chosen.

The second case is MF with YL, which occurred in 2022. The man took the woman to his home without her guardian's consent, so the woman's guardian refused to marry them. Moreover, her daughter was still a student, while her future son-in-law did not finish school and was known as a nasty person in the community. Therefore, the woman's guardian considered the man unworthy or not on par with her child.

The third *Malojongkon Boru* case occurred in 2020, involving IM and MD, a prospective husband and wife. At first, they went to play around at a tourist spot, but because they were late coming home, the man decided to take the girl home. In the tradition of some Mandailing people, if a daughter is late returning home, her parents will no longer accept her. Once the man took the woman to his house, a problem arose. The man's parents disagreed with the future daughter-in-law that their son had brought since they believed their family was inferior to their prospective daughter-in-law's. Then, the girl's parents became angry and felt unappreciated after hearing what

their prospective in-laws said. Finally, the relationship between the two families became no longer harmonious. Hence, the woman's father refused to marry his daughter to his prospective son-in-law, and his daughter also did not want to be invited home by her parents, so the guardian in their marriage was the judge.

The following case is the case of RK and AS, which occurred in 2021. They were married by a judge's guardian because their *nasab* guardian refused to marry them. The reason for the guardian's refusal was that her prospective husband lived far from their village. The last case is the case of ER and ZL. Their guardian refused to marry them because the man her daughter chose was a man who always committed sins.

The reality that unfolds in the field is intriguing to study, considering that this is a Muslim-majority area that is still heavily influenced by its customs. Although the transfer of *nasab* guardian to a judge guardian is permitted in Islamic law, based on the several cases of rejection of *nasab* guardian in the practice of *Malojongkon Boru* mentioned above, it is necessary to examine the reasons for the rejection of the guardians that resulted in the transfer of guardians, whether they conform Islamic law or not.

This issue also made the author interested in researching the perspectives of the MUI (*Indonesian Ulama Council*) and Padang Lawas Regency Traditional Leaders on the *Malojongkon Boru* case. It is to see whether the implementation of the marriage conforms to Islamic law, including the transfer of guardians in the implementation of the marriage contract, based on reasons permitted by Islamic law.

This qualitative research uses an ethnographic (cultural) approach, which attempts to reveal and examine a phenomenon in a complex area or environment without going through statistical presentation procedures or calculations in the form of numbers and others (Sugiono, 2013). The primary data sources in this study are the MUI, local traditional leaders, and the head of the Religious Affairs Office. Secondary data in this study are the perpetrators of the marriage practices of *Malojongkon Boru*, *hatobangon*, and the village headman. The data were collected through observations, interviews, and documentation. Data were then analyzed using data reduction, presentation of data, and conclusion drawing or verification.

THE PERSPECTIVES OF MUI AND TRADITIONAL LEADERS

Several MUI figures and traditional leaders in the Barumun Baru District, Padang Lawas Regency, have confirmed the validity of marriage guardians in *Malojongkon Boru* marriage. Views on the validity of marriage guardians in this practice can vary based on the perspective of MUI and local traditional leaders. The Chairperson of MUI Padang Lawas said that the marriage guardians must meet the requirements determined in Islamic law. The guardian must be a Muslim, mature, and sane, and no sharia obstacles prevent him from becoming a guardian. If the *nasab* guardian cannot meet these requirements or carry out his duties fairly and objectively, then the validity of the *nasab* guardian is still questionable (Nasution, 2024).

MUI will not challenge the validity of the *nasab* guardian in the marriage if the marriage practice carried out in the *Malojongkon Boru* conforms to Islamic law principles, including the presence of a legal guardian and the fulfillment of marriage requirements. Then, the head of MUI also emphasized the importance of sincere intentions and procedures in conformity with Islamic teachings in every marriage, including in the practice of the *Malojongkon Boru* marriage tradition (Nasution, 2024).

The head of the Padang Lawas Regency customary leaders said that Mandailing traditional leaders highly value local traditions and customs, including marriage. Malojongkon Boru is one of the marriage traditions in the Mandailing community in Padang Lawas, where several issues arise, especially guardianship problems. In Malojongkon Boru's practice, the validity of the marriage guardian is not a problem if the guardian wishes to marry his daughter and the guardian's criteria comply with Islamic law; the guardian's validity is legitimate according to custom.

However, in the practice of *Malojongkon Boru* marriage, the guardian frequently refuses to marry off his child for various reasons. In this case, if the transfer of guardians is carried out in a manner determined by custom and accepted by all parties, the marriage is considered valid and has customary legitimacy. Traditional leaders usually try to maintain harmony between customs and religious teachings. They believe that the transfer of guardians must adhere to Islamic religious provisions to ensure the marriage is valid according to sharia. Mandailing community values Islamic law and any customs that contradict it must be abandoned. Traditional leaders also provide a place for deliberation and consensus in decision-making, including in the case of the transfer of guardians in the practice of *Malojongkon Boru*. This process reflects the values of local wisdom and respect for religious norms in deciding a societal problem (Hasibuan, 2024).

From the statements of the two individuals mentioned above—the head of MUI and the chairperson of the Padang Lawas Regency Traditional Institution—the legitimacy of the marriage guardians in the Malojongkon Boru marriage customs practiced by the Mandailing community in Padang Lawas, particularly in Barumon Baru District, conforms with both Islamic law and local customary law. As a result, this tradition can become a permanent law in society because it does not violate Islamic law.

THE TRANSITION OF MARRIAGE GUARDIANS IN THE MALOJONGKON BORU PRACTICE

The process of changing marriage guardians in the practice of Malojongkon Boru in the Mandailing community tradition is an interesting phenomenon from the perspective of MUI and local traditional leaders. Both have differing but complementary perspectives on the validity and implementation of marriage guardianship changes. Regarding changing marriage guardians in Malojongkon Boru marriage, the perspectives of figures from MUI are critical to consider. In an interview with the Head of the MUI Fatwa Council in Padang Lawas, he explained that the change from a nasab guardian to a judge guardian has certain factors recognized in Islamic law.

The factors that cause the transfer of marriage guardians in Islamic Law include the following (Zaiyad Zubaid, 2018): 1) No Guardian: If the nasab guardian has died or is absent; 2) Guardian in Ihram: If the guardian is in a condition of ihram (performing the Hajj or Umrah) so that he cannot carry out his duties; 3) Fasiq Guardian: If the guardian is considered fasiq, that is, not practicing Islamic law properly or behaving in a manner that does not conform with Islamic teachings; 4) 'Adhol Guardian: If the guardian refuses to marry off the bride without a valid reason according to Islamic law;

5) Ghoib Guardian: If the guardian cannot be present at the place for specific reasons, such as being in a distant location and cannot be contacted; 6) Guardian in a Condition of Inability: If the guardian is seriously ill or has other obstacles that make him unable to carry out his duties as a guardian; 7) Guardian is not a Muslim: If the nasab guardian is not a Muslim; 8) Guardian in an Unfit Condition: If the guardian is in circumstances that make him unfit to be a guardian, such as being

imprisoned or facing other legal problems; 9) Legal or Customary Decisions: If a legal or customary decision causes the *nasab* guardian to lose his rights as a guardian; 10) A married woman is insane, but she is an adult, and the *mujbr* guardian is unavailable; 11) Family Conflict: There is conflict in the family which causes the *nasab* guardian to be unwilling or unable to carry out his duties objectively and fairly (Pori, 2024).

The judge guardian may take over as the guardian if the *nasab* guardian declines to marry off the bride for any reason or for grounds that are against religious principles. This mechanism is regulated in Islamic law to protect the rights of the bride and ensure that the marriage can take place legally. If there is a transfer of guardians in *Malojongkon Boru* marriage, it is necessary to consider whether the factors conform to Islamic law (Abdullah, 2023).

In the case of transferring the *nasab* guardian in *Malojongkon Boru* marriage, traditional leaders cannot force the guardian because doing so will result in another problem that he will marry off under duress. One of the conditions in the marriage contract is *ikhtiyar* (own will), not under duress, so there is already an Islamic legal corridor to regulate the transfer of guardians, meaning that if there is *kafaah* between a man and a woman and the guardian does not want to marry them off, then customary law no longer needs to intervene (Pori, 2024).

The perspectives of traditional leaders on the transition of guardians in *Malojongkon Boru* marriage in the Mandailing community reflect efforts to balance customs and religious provisions. The process of guardian transfer in *Malojongkon Boru* marriage emphasizes the importance of respecting customary and family values and compliance with Islamic law. Transferring guardians is done through deliberation and consensus and by appointing a respected and trusted replacement guardian. In this case, traditional leaders usually only act as mediators, trying to harmonize customs with Islamic teachings and ensuring that every step in the marriage conforms to applicable provisions.

If there is a refusal from the guardian to marry off his daughter, then in the tradition of the Mandailing Padang Lawas community, the traditional leaders play a role in advising the guardian. In contrast, for the process of transferring the *nasab* guardian in the *Malojongko Boru* marriage, the traditional leaders only bridge the process. It means they play a role in resolving community problems in their customary area for as long as they choose to, transferring the marriage guardian in this matter, which remains Islamic law. Still, as community leaders, they will consult with *hatobangon* (village elders) and *haguruon* (Islamic scholars) to resolve the problem (Lubis, 2024).

From some of the statements above, the perspectives of MUI and Padang Lawas traditional leaders show that the transfer of marriage guardians in the practice of *Malojongkon Boru* is carried out in a manner that conforms to Islamic law. The transfer process must meet the requirements stipulated in Islamic law, carried out through deliberation involving all related parties, and determined by authorized religious officials. Thus, marriage in the practice of *Malojongkon Boru* is valid and accepted by both custom and Islamic teachings, which proves that the balance between custom and Islamic law is firmly held by the Mandailing community, especially those in Barumon Baru District, Padang Lawas Regency.

CUSTOMARY VALUES IN MALOJONGKON BORU MARRIAGE PRACTICES

Customs play an essential role in various aspects of life for Mandailing society, including marriage. *Malojongkon Boru* marriage is one of the traditions of the

Mandailing community. Mandailing traditional leaders have deep views on the importance of maintaining customary values in marriage, including in *Malojongkon Boru* marriage (Hidayat Tambunan, 2023).

The following are several views of traditional leaders on the importance of maintaining traditional values in the Malojongkon Boru wedding tradition:

1. Cultural Identity

Traditional leaders emphasize the importance of maintaining and preserving customs as part of the Mandailing cultural identity. They see traditional marriage as a way to transmit cultural values to the next generation. In addition, customs should be maintained as a form of respect for the ancestors who have inherited the tradition.

2. The Importance of Customary Consistency

Consistency in carrying out customs in marriage ensures that traditions remain alive and are not eroded by the changing times. Traditional leaders see the importance of maintaining customary values in every wedding and other event as long as the customs do not conflict with religious law. In facing modernization, traditional leaders try to adjust customs without losing their essence, keeping traditional values relevant to the times.

The Mandailing community's customs, such as marriage customs, have strengthened the community's cohesiveness and vitality. Traditional leaders view tradition as strengthening bonds between families and community groups. Traditions in marriage also function as a social support mechanism, where families and communities celebrate and help each other together in the event (Lubis, 2024).

PROBLEM SOLVING IN MALOJONGKON BORU PRACTICE

Like other wedding rituals, Malojongkon Boru has issues that might develop before and after the wedding. Solving problems in this practice requires a holistic approach, combining customary values, Islamic law, and deliberation and consensus between families, traditional leaders, religious scholars, and *hatobangon* (village elders).

If the nasab guardian is naturally prevented, such as living far away, requiring a lot of money to attend the wedding, or refusing to attend, which in fiqh is known as 'adhol, meaning he disagrees with his future son-in-law, then in that case, the author views that the guardianship should be transferred to the judge guardian. However, the judge guardian may prefer not to take the risk; he also considers his future duties if the nasab guardian sues him. As a result, the guardian issue in Malojongkon Boru marriage is that if the judge guardian also rejects, it is transferred to the muhakkam guardian or tahkim guardian since it is acceptable in classical fiqh if it complies with its provisions. For instance, if a Malojongkon Boru man and a woman have been living together for a long time without a marriage contract, it is preferable to marry her off promptly by the muhakkam guardian rather than risking adultery. It means the prospective bride's party appoints someone and gives permission to marry her off, but that is the second solution if the judge refuses to be the marriage guardian (Jumain, 2021).

Essentially, the Ulama Council believes that Islamic law always provides a resolution if the two prospective brides and grooms are genuinely unable to remain apart, as doing so makes marriage more complex and invites adultery. If the nasab guardian is unable or unwilling to act, the solution is to contact the judge guardian. If the judge's guardian also refuses because the administration may hinder him and does not want to take the risk, or if the judge's guardian has problems, including asking for payment, then it is permissible from a fiqh standpoint with a muhakkam guardian or

tahkim guardian, and we have accompanied this case. However, since this Ulama Council is an organization, if the judge guardian declines to serve as the guardian of marriage, we generally avoid getting involved in this case on the organization's behalf. Instead, Islamic law dictates that the local village malim (Alim Ulama) is the one who regulates the muhakkam guardian (Nasution, 2024).

It is necessary to carefully weigh the benefits and dangers of the proposed son – in – law, even if the *nasab* guardian declines because he is not on par with his daughter. This way, even in the event of a rejection, they won't go on to undertake actions that subsequently violate the law of sharia. This definition of a problem of *not-on-par* may refer to financial problems or because there is an element of a nobler *nasab* with an unclear *nasab*. That is unethical as a reason for the guardian's rejection because all *nasab* are the same in the eyes of Allah SWT, and wealth can also be sought together. If the guardian's rejection is due to moral or ethical issues, we can accept it as long as the benefits and drawbacks are considered. In this case, we frequently provide a remedy to the guardian by reaching an arrangement with the potential son – in – law outside of the *ta'liq talak*.

In Islamic law, the subject of marriage is more meticulous than the issue of buying and selling. As in the book of fiqh, the points that discuss the issue of munakat are much more intensive than the issue of muamalah (Republika, 2022). In the case of munakat, if an issue arises that renders the marriage void; it affects the perpetrator and his descendants in an ongoing manner. In contrast, if a problem renders the muamalah invalid, it will only affect the culprit. In Maqhasid Syari'ah, it is also more essential to maintain descendants (*Hifz al-Nasal*) than to maintain the property (*Hifzul Mal*); therefore, in every process, we must be more careful in the matter of munakahat than muamalah, because the side effects are more severe in munakahat (Pori, 2024).

The resolution of problems in the practice of *Malojongkon Boru* marriage in customary law is if the parties concerned are willing to be taken care of by the traditional leaders; if not, then they will let go of this problem, and usually, they will also expel the prospective husband and wife from their customary territory because they want to maintain disgrace in the village. The problem that often occurs in this *Malojongkon Boru* marriage is the rejection of the guardian. In this case, the traditional leader can only advise the guardian to marry off his daughter to avoid slander and flawed assumptions in the eyes of the community. If the guardian still refuses and hands over his daughter's problem to the traditional leader, then in this case, the customary leader consults with the *hatobangon* (Village Elders) and the local *Haguruon* (Ulama) to find a solution. The traditional leader urges the guardian to declare that he has turned over his daughter's affairs to the judge if moving the guardian to the judge is the only viable choice. Then, the village head makes a letter of request for the transfer of the guardian to the local KUA (Religious Affairs Office); for the decision, he has to wait for a call from the KUA because they will also see whether the reasons submitted conform to the applicable provisions or not (Riyadi S, 2017).

Another problem in *Malojongkon Boru's* marriage is the retraction or pick – up of the girl by her guardian from the man's place. If such a situation arises, the traditional leader's position is critical because he must be involved in the solution. The guardian may not force his daughter to return if she does not want to, so in this case, the traditional leaders from both parties deliberate to find a solution. The first solution is to continue attempting to persuade the guardian to accept his son – in – law (Purnama Sari, 2024). However, the guardian accepts with conditions such as increasing the dowry so

that the man gives in. If the guardian makes unreasonable conditions, the traditional leaders advise not to complicate the marriage because they are worried they will violate religious norms. If the guardian still does not want to, the traditional leaders will let go of this problem. Nonetheless, they will force the prospective husband and wife to leave the village, which is their customary area, because they are also responsible for the applicable customary norms (Lubis, 2024).

CONCLUSION

The majority of ulama from the Maliki, Syafi'i, and Hanbali madhhab (schools of thought) believe that the position of a guardian in a marriage is included in the pillars of marriage, meaning that marriage is not legitimate if there is no guardian. According to the Hanafiyah school of thought, the existence of a guardian is not a mandatory pillar in a marriage contract. It means marriage is considered lawful even without a nasab guardian. It differs from the views of other schools of thought, which think a guardian is one of the pillars that must be present for a marriage to be valid. Although not a pillar, a guardian is still considered an essential complement in a marriage. Regarding the order of the guardians' rights in marriage, there are differences of opinion among the Imam schools of thought. In the Hanafiyah school of thought, guardianship is based on aspects of kinship and 'aṣābah, and the closest to the woman who will be married off. They prioritize sons and grandsons of sons to become guardians of marriage, while other schools of thought equally prioritize the mujbir guardian as a guardian of marriage.

In the practice of *Malojongkon Boru* marriage, the role of the nasab guardian is transferred directly to the judge guardian if the nasab guardian refuses to marry the bride off without reason justified by sharia. Before the guardian transfer occurs, the traditional leaders, Hatobangon, and the Alim Ulama, usually advise the girl's father to be willing to become his daughter's marriage guardian. The traditional leaders have the right to banish the girl and the future son-in-law from the village within their customary region if the guardian refuses. However, in his custom, the girl's father hands over all matters of his daughter's marriage contract to the traditional leaders. Following a guardian statement or handover to the traditional leaders, they will play a role in bridging the guardian transfer process. They ask the village head to make a request to the local KUA regarding the transfer of the nasab guardian to the judge guardian due to the marriage guardian's reluctance. Next, the KUA verifies the request, including checking the requirements the nasab guardian does not fulfill and the reasons for the requested change of guardian. The KUA can also conduct interviews or request additional documents to ensure the information provided is correct. After the verification is complete and the reason for the change of guardian is deemed valid, the head of the KUA appoints a judge guardian to carry out the marriage (Aris Sasmito, 2023). This determination is made in writing and recorded in the official marriage document. The appointed judge guardian carries out duties as guardian (Hasmalina dan Nurjannah, 2021).

The perspectives of MUI and Padang Lawas traditional leaders indicate that the transfer of marriage guardians in the practice of *Malojongkon Boru* is carried out in a manner that conforms to Islamic law. The transfer process must meet the requirements stipulated in Islamic law, carried out through deliberation involving all related parties, and determined by authorized religious officials. Thus, marriage in the practice of *Malojongkon Boru* is legitimate according to Islamic law and is accepted by both

customs and Islamic teachings, which proves that the balance between customs and Islamic law is strongly upheld by the Mandailing community, especially those in Barumun Baru District, Padang Lawas Regency.

The following are used as considerations in developing laws with Islamic values and the needs of society: First, the increasing number of studies conducted by many groups on family law works written by scholars has become an opportunity for Muslims and parties related to the science of family law to develop the study of Islamic family law further. Second, to minimize cases of *Malojongkon Boru* marriages, traditional leaders and community leaders in Padang Lawas Regency explain to the perpetrators that the practice of *Malojongkon Boru* marriages is not only following tradition but is supported by broad Islamic knowledge and insight. Hence, its provisions conform to sharia. MUI needs to issue a *fatwa* or clear guidelines regarding the practice of *Malojongkon Boru* marriage, explaining what is permitted and what is prohibited in Islam and providing solutions for traditional practices that can still be maintained without violating sharia. Not all community leaders and traditional leaders in the villages understand Islamic laws in detail. Third, parents who act as marriage guardians do not complicate the marriage process, as a complicated marriage creates a potential for adultery, and it is feared that they would perform activities that contravene Islamic law.

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