

Marriage Actualization of the Malay Indigenous Peoples of Riau Province in the Legal Perspective

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Abstract

This research concerns the analysis and studies related to the normative legal postulates contained in the provisions of Article 18B paragraph (2) and Article 281 paragraph (3) of the 1945 Constitution after the Amendment, which is supported by sectoral laws related to the protection and recognition of the legal community custom. In this case, the problem written is about how the constitutionality position of the existence of customary law and customary law community alliances is. It aims to answer academic questions about the protection of the traditional rights of the Sakai Tribe legal community. The research method used is sociological juridical law research, namely; research that departs from positive legal norms and doctrines enriched with data and facts from the field. The research results are; that legally in the 1945 Constitution with sectoral laws against customary law communities, in general it has been protected. However, the implementation of policies from both the central and local governments has not been able to protect the traditional rights of the indigenous people of the Sakai Tribe. Although the area is the source of life for the Sakai people, it is rich in natural resources that are economically valuable. The absence of a Customary Regional Regulation proves that the Riau provincial government favors the Sakai Tribe customary law community. This research is descriptive analytical, namely research that will describe, examine and explain thoroughly about problems and the legal system and examine them systematically so that they can be more easily understood and concluded.

Keywords: *Actualization, Marriage, Malay Custom.*



A. INTRODUCTION

Indigenous peoples have their own customs, throughout history the weak respect for indigenous peoples in many cases around the world has led to social conflicts (Haneef et al., 2020; Ramadhani, 2019; Salinding, 2019). In Indonesia, although the rights of indigenous peoples are recognized in the 1945 Constitution, there is no specific national regulation that protects the rights of indigenous peoples. Since 2005 the idea of bringing up the Bill on the Protection of Indigenous Peoples is a national political issue for the Regional Representative Council, and President Susilo Bambang Yudhoyono on several occasions has stated the importance of legal regulations regarding the protection of the rights of indigenous and tribal peoples. The threat of globalization for indigenous and tribal peoples can deplete local cultural values (Suroyo et al., 2022; Suhajri, 2021; Sabandiah & Wijaya, 2018). Globalization which is marked by the elimination of regional boundaries, information becomes more instant, the circulation of services, goods and money and information technology is getting faster and has a positive impact on improving the living order of the Indonesian people. The negative impact of globalization is also acknowledged

to have caused conflicts, both vertically (society and government) and horizontally (community fellows) (Kamilah & Rosa, 2021; Ichsan, 2021; Ilyasa, 2020).

The cultural values of society in the era of globalization will be marginalized, the marginalization situation is unavoidable. Customary law communities according to applicable law have not been recognized and protected by the government (Dahlan, 2018; Nugroho et al., 2019; Ndaumanu, 2018). So far, customary law communities have only used the rules determined by each region. The rights of indigenous peoples and traditional rights living in customary law communities have not been recognized and protected by the government (Ho et al., 2022; Atmaja & Kurnano, 2018).

The Sakai tribe who lives in Riau Province are generally estimated to have existed and wandered since the end of 1300 AD. The indigenous peoples of the Sakai Tribe are the forerunners of the indigenous Malay people, who have wandered between 2500-1500 BC, namely the meeting point between the Neolithicum culture, the New Stone Era and the Megalithic culture; the Age of Big Stone Civilization. Archaeologists found several places of flake objects that prove that around 4000 BC on the east coast of central Sumatra has been inhabited by humans.

According to the hypothesis towards the end of the Neolithicum era, new immigrants came from the Asian plains who brought a large stone culture or the Megalithic era. The evidence is found in the Kisten Stenen object studied by Bot around the Bangko area. The first group of ancestors of the indigenous people of the Sakai tribe landed in the Indonesian archipelago, known as the Old Malays or Proto Malays, which had a very simple civilization. The second group, who came from the Dongson area, north of Vietnam, brought more sophisticated technology and skills than the first group. The second group quickly assimilated into the culture of the first group and gave birth to a new race, the Duetron-Malay (Rosyada et al., 2018; Sulaiman et al., 2019).

There are similarities in cultural and linguistic aspects of Malays with indigenous Malays in Taiwan, Easter Island, Hawaii and New Zealand. Called the Old Malays because they were the first group of Malay immigrants to come to the Malay Archipelago. This Old Malay ancestor is estimated by archaeologists and historians to have arrived around 3000-2500 BC (Kalalo, 2019; Kristen, 2020).

Those belonging to the Old Malay descent are the Talang Mamak tribe, the Sakai tribe, and the Laut tribe. The descendants of this Old Malay seem traditional, because they are very firm in holding on to their customs and traditions. Customary control holders, such as Patih, Batin, and Datuk Kaya, play a role in regulating aspects of the lives of their tribal members. The mind is still very simple and life is determined by natural factors, has led to the emergence of traditions such as the Dukun, Bomo, Pawang and Kemantan.

Siak Malay marriage customs regulate the processional customs before marriage, the procession of preparation for marriage and the procession after the marriage. The customary procession before marriage explains the ideal marriage and mate restrictions, forms of marriage, conditions for marriage and how to choose a mate (Salimah, 2022; Kurniawan & Miftah, 2021; Ndaumanu, 2018). Meanwhile, the

marriage ceremony explained in the research of the Riau Malay customary law community which will be studied from a legal perspective, it is about the customary law of marriage. The problem to be discussed is how is the pattern of actualization of the marriage customs of the Malay customary law community in Siak?

B. METHOD

This research was conducted in the Siak area. The method used is a critical historical research method and qualitative research with Snowball sampling. According to Louis Gottscholk, the historical method is the process of approaching and critically analyzing records and relics of the past.

Population is all objects or all individuals or all symptoms or all events or all units to be studied. Population or Universe is all objects or all individuals or all symptoms or all events or all units to be studied. Populations are usually very large and very broad, so it is often not possible to study the entire population. In a study, it is actually not necessary to examine all objects or all individuals or all events or all of these units to be able to provide a precise and correct picture of the state of the population, so it is enough to take only part of it to be studied as a sample (Ramadhan, 2018).

The reason for choosing these 3 villages as samples is because most of the Sakai people in the village are predominantly Muslim. Then from each village five heads of families were taken as respondents. The considerations in selecting the respondents were, Sakai people who are long-standing residents, who have embraced Islam for a long time, and have used Islamic inheritance in completing their inheritance. The sampling technique used in this research is purposive sampling. Mardalis in his book suggests that the use of the purposive sampling technique has a purpose or is done intentionally, how to use this sample among the population so that the sample can represent the characteristics of the population that have been known previously. The use of this technique is always based on knowledge of certain characteristics that have been obtained from the previous population.

The data used in this study is primary data. In addition, secondary data consisting of legal materials is also used, namely: a) Primary Legal Materials Primary legal materials are legal materials that have authority (authoritative). The primary legal materials in this study consist of: Al-Qur'an and Hadith ; b) Secondary Legal Materials Secondary legal materials are materials that are closely related to primary legal materials such as doctrines (opinions of experts), books, legal journals, papers, print and electronic media; and c) Tertiary Legal Materials, legal materials that provide instructions and explanations of primary legal materials and relevant secondary legal materials to complement the data in this study, such as general dictionaries, magazines and the internet as well as materials outside the legal field related to complete data.

C. RESULT AND DISCUSSION

1. The Actualization of Marriage Customs of the Malay Customary Law Community in Riau Province

Marriage between bachelors and maidens can only go through the process of traditional ceremonies after an agreement has been reached between the two parties. Deliberations from the male family are held after the bachelor child conveys his intention to his mother and father that he wants to attract the girl who is his dream (Fachrurrazi, 2019; Hariyanto, 2022). The male family holds a meeting with relatives to send someone who is wise and clever to conduct a peek at the daughter who has become the choice.

The procession before marriage is as follows:

a. Merisik

Merisik is the first step in the marriage process which aims to investigate the whereabouts of a prospective bride. Merisik is a method that is carried out secretly by a man to a girl or virgin who is his dream.

In practice, the parents of the man or represented by his close family to find out about himself and the family condition of the woman, comes to the question of whether the woman in question already belongs to someone or not, if it has not been proposed by someone else, it will continue with the process of proposing where the man brings a ring as a sign that the woman has been proposed to by someone.

Merisik can be done based on the wishes of the parents or at the request of the son concerned. As for those who are sent to visit and seek information, they should communicate in polite and gentle language, such as by asking whether the flower is already guarding it? If you don't have one, I have beetles. Or by stating that the purpose of his visit is to look for flower plants, and if the owner of the house answers that there are no flowers in our house or if asked what flowers he wants, then he replies that what he is looking for is not flowers around the house, but flowers near the kitchen (homeowner's daughter).

b. Meminang

Meminang means asking a woman to be a wife or it can also be called proposing to someone. If there has been an agreement from the man, then it is conveyed to the woman that the man will come for a proposal on the agreed date. Because there has been a notification, the woman's family prepares a traditional instrument in the form of a betel leaf, as well as the men who have to prepare an upheld traditional equipment, namely a betel leaf complete with its contents. The marriage ceremony is carried out after the men receive confirmation information from the virgin and her family that the virgin does not yet have a bond with the boy.

The word Meminang is generally referred to as applying. The procedure for its implementation is different even though it is already known by many people. For the Malay procedure itself, how to propose is done in a simple form. There were only a few male delegates who came, but there were also male parents who were present directly at the virgin's residence to talk with their parents (Liani, 2021; Dewi et al., 2020). Before applying, the woman must be notified in advance, and the proposal is

carried out at night after the Isha prayer, in this proposal there is a discussion of the timing of the delivery of shopping and the amount

Men's envoys who are sent to visit the women's house are usually chosen and intelligent parents, wise, clever, straighten the crooked, resolve the tangled, good at speaking in Malay customs, can be a mouthpiece, wise in negotiating and know the customs.

When the male envoy arrives at the female side's house, they are invited to enter the house and sit in the living room of the house. After sitting facing each other between the two parties, the first step from the host is to slap the reception of guests with a sincere heart.

The host invites the guest to take the betel with his equipment, then the guest does the same thing, namely the male shoves his palm to the host. After the ceremonial ceremony, the handover of the betel nut from both parties, it begins with the word welcome which takes precedence with the Malay rhyme which is started by the host, for example as follows:

Women's Party:

*Kelapa pandan airnya wangi
Bersama diminum tuan putri
Ketibaan tuan kami junjung tinggi
Apa hajat dating ke rumah kami.*

Male Party:

*Kelapa puan pohonnya tinggi
Daunnya ramai sangatlah rindang
Dari jauh kami datang kemari
Menyampaikan pesan amanat orang.*

Women's Party:

*Kalau belayar mengarungi laut,
Bintang di langit harus dipahami
Sebelum, menyampai pesan amanat
Silahkan jamah sirih dan pinang kami.*

Male Party:

*Jauh berjalan ke negeri kelakap
Menyeberang sungai membawa setanggi
Sirih dan pinang sudah disantap
Jamah pulalah sirih pinang kami.*

c. **Menggantung-Gantung**

The Menggantung-Gantung event is held a few days before the marriage or pairing is done. This activity is to make tents and decorations, hang stage equipment, decorate the bedroom of the bride and groom, and decorate the place where the bride and groom sit together. This activity reflects that the Riau Malay community still has a gotong royong culture. In addition to this activity, it must be carried out carefully and listened to by elders so that there is no wrong installation, wrong location, wrong use and so on.

This work is done in groups from relatives and friends. This Menggantung-Gantung procession was led by Mak Adam. Assisted by young men and young women and assisted by middle-aged women. This Menggantung-Gantung work is done 5 days or 7 days before the wedding ceremony and the direct ceremony or the event where the bride and groom are side by side.

Making a altar is called a large outlet and consists of several levels, usually in the past the number of levels of large outlets depended on the social level of the substitutes. For example, if the sultan's family class has 9 levels, the Tengku-tengku descendants have 7 levels, for the progenitor's son and the son of a royal person it has 5 levels while the common people only have 3 levels. This outlet serves as a place for the bride and groom as well as a place for the traditional patting of fresh flour ceremony.

d. Berina Curi

The process of Berinai Curi is a ceremony that gives signs by giving henna on the palms of the hands, nails, fingers and toes of the bride and groom. Henna itself is made from henna leaves that have been finely ground and then mixed with tamarind water until the color turns reddish. This procession is a symbol that the bride has just officially become a newlywed.

This procession is also carried out in accordance with previous customs, so there are many conditions or rules, such as how to deliver the henna from the bride's house to the groom's house by bringing slap and plain flour is carried out. However, in practice it is rarely done, it's just that it is only attended by the family and the procession is accompanied by the singing of tambourines by women.

e. Barandam

Berandam is an activity that is carried out for the two prospective brides the day before marriage. This bathing activity can also be called "cutting small hair," i.e. shaving or trimming the hair on the forehead, temples, eyebrows, nape, hair and legs. The activity was carried out at ba'da Asr led by Mak Andam accompanied by the parents or closest family of the bride. Before bathing, the two brides-to-be must take a bath in lime. The bride-to-be gets the first opportunity in this activity which is accompanied by tambourine music. Only then did it take place at the residence of the male candidate. The bathing ceremony means cleaning the bride's physical (outward) with the hope that her mind is also clean and ready to face and lead a new life. The most important thing is to shave the hair because this part of the body is the location of the beauty of the crown of women. In addition, shaving and cleaning the thin hair around the face, neck, nape, beautifying the forehead, raising the face series by using betel nut and cursed spells.

f. Marriage contract

The marriage ceremony is a sacred religious ceremony and is prepared on a large scale at the bride's house. In general, this ceremony is held at night after the Isha prayer. Before the groom comes down from his parents' house to go to the bride's house, first at the groom's house a ceremony is held to release the departure of the groom with a plain flour event which is carried out by the relatives of the groom. After

the fresh flour ceremony is finished, the groom first sits cross-legged to his parents and closest relatives to get prayers and blessings so that they are safe in facing a new life later. The mother draped a long gold chain around her son's neck, a sign that the love between the child and his father and mother will not be interrupted, for life. His father and mother did not accompany their son to the place of this marriage ceremony, he only prayed from afar that his son would be safe and carry out the marriage contract smoothly at the house of his prospective in-laws. Usually, this event is quite touching because with this event he will move from his parents' house.

g. Khatam Qur'an

A sakinah, mawaddah and warahmah household is a household built on a religious foundation as determined by Allah SWT. Therefore, every virgin who wants a strong household ark, she should learn and understand the science of religion itself. The Khatam Al-Qur'an procession is intended as a symbol that the child has completed his recitation / learning of his holy book, namely the Qur'an so that if there are problems in the future he is able to overcome it in ways that have been guided by his religion.

This event usually takes place from 8 to 10 am after the marriage ceremony which is held at the bride's house and is attended by only women led by the Koran teacher. This process is carried out because it is limited between boys and girls which is continued again with barzanji and marhaban which is carried out by women only.

This activity of khatam Al-Qur'an becomes a very important symbol for the prospective bride because it shows that the prospective bride can recite the Koran properly and correctly, because women will become mothers for their husband's children and a mother who will teach their children. their children to be pious and pious children, therefore a mother must be able to read the Qur'an as a guide and support for human life (Matuankotta, 2019).

The Qur'an khatam event was attended by scholars and women only, held at the bride's house, precisely in front of the aisle. During this event, turmeric rice and eggs were provided as a blessing to take home for those who attended the khataman event. For the khatam Qur'an itself the bride reads juz'amma from surah ad-dhuha to an-nas, alternately with relatives who accompany her, such as her cousin, sister and others.

2. Analysis of the Marriage Customs of the Malay Customary Law Community in Riau Province

The success of the implementation of marriage is very dependent on the participation of family and society. In Malay weddings before the wedding, there are many processions or traditions that must be carried out, including merisik, proposing, between engagement signs, between shopping, enforcing wards, hanging, night rituals, bathing ceremonies, ornate baths, khatam Al-Qur'an, pats, plain flour, side by side ceremony, worshiping in-laws, peaceful bathing ceremony, sleeping and sharpening teeth, then worshiping both parents and family, eating peaceful rice and visiting in-laws at night, each of which has educational values (Chandra, 2020).

Based on the results of the researcher's interview with the chairman of the Malay Traditional Institute (Lembaga Adat Melayu) of Bengkalis Regency, the educational values in the Malay wedding tradition are: Educational values in the Malay wedding tradition through symbols and a series of processions in it. The meaning of these educational values is only obtained after going through a process of reasoning and deep appreciation or feeling. In another sense, the educational values are implied in a series of symbols and processions of the marriage customs. Take, for example, the *merisik* custom, which is a procession of finding out information about a potential life partner secretly by sending someone, usually a middle-aged woman called *Mak Telangkai* (Sulut Achiever), to investigate matters relating to the prospective wife, especially regarding morals and character. This procession when examined further instills the importance of the value of honesty. Likewise in a series of other customs. Based on observational studies and documentation, that educational values in Malay marriages include the value of faith, the value of honesty, the value of responsibility, moral values and social values.

h. CONCLUSION

The implementation of traditional Malay ceremonies, especially in Bengkalis district, consists of several stages of traditional ceremonies. The stages of the ceremony are divided into three parts, namely before marriage, during marriage, and after the marriage contract. Of the various processions of traditional Bengkalis Malay wedding ceremonies, not all of them are based on Islamic religious orders, but only follow the customs that have been carried out for generations by the Malay community from ancient times. Among the traditional ceremonies that apply based on Islamic orders are *merisik*, *meminang*, *between shopping*, *consent to consent*, *khatam kaji*, *parade*. Of the various traditional ceremonies above contain elements of advice in Islam to be carried out in a marriage for Muslims, it's just that the names are different. On the other hand, marriage ceremonies that are not based on Islamic religious rules are *hanging*, *stealing*, *bathing*, *plain flour*, *side by side*, *eating face to face*, *bathing in garden kumbo*. The various ceremonies above only follow traditional customs that have long been exemplified by Malay traditional elders from the past until now, but overall of all Bengkalis Malay traditional wedding processions have their own meanings and values so that they are still a guideline for the Malay community to be carried out in marriage.

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