



THE PRACTICE OF MERARIQ (RELATED MARRIAGE) IN THE SASAK TRIBE, REVIEWED FROM A HUMAN RIGHTS PERSPECTIVE

Berliana Febia Bahtiar Motulo, Muh. Jufri Ahmad
Fakultas Hukum Universitas 17 Agustus 1945 Surabaya
(Naskah diterima: 1 October 2025, disetujui: 28 October 2025)

Abstract

This study aims to analyze the human rights foundation as a perspective for examining the practice of merariq (elopement) within the Sasak indigenous community. Merariq is a marital tradition where the prospective groom "takes" or "runs away with" the prospective bride, frequently without her explicit consent. The coercive elements and potential infringement upon fundamental individual rights render this practice legally contentious. Employing a normative juridical method through literature study, the research finds that merariq is often conducted under coercion and without the free consent of both parties, thereby constituting a human rights violation. Core human rights principles such as universality, equality, non-discrimination, and the indivisibility and interdependence of rights are also compromised. Furthermore, this practice contravenes several statutory provisions, including Law No. 1 of 1974 on Marriage as amended by Law No. 16 of 2019, and Law No. 39 of 1999 on Human Rights.

Keywords: Merariq, Human Rights, Women's Rights, Customary Law

Abstrak

Studi ini bertujuan mengkaji fondasi hak asasi manusia sebagai lensa analitis untuk menilai tradisi *merariq* (kawin lari) pada komunitas adat Sasak. *Merariq* adalah suatu bentuk perkawinan adat dimana calon mempelai laki-laki membawa atau "melarikan" calon mempelai perempuan, yang kerap kali dilakukan tanpa adanya persetujuan eksplisit dari perempuan yang bersangkutan. Adanya unsur paksaan serta potensi pelanggaran terhadap hak-hak mendasar individu menjadikan praktik ini kontroversial secara yuridis. Penelitian menerapkan metode yuridis normatif melalui teknik studi kepustakaan. Temuan penelitian mengungkap bahwa *merariq* sering kali dilaksanakan dengan melibatkan paksaan dan tanpa kesepakatan sukarela dari kedua belah pihak, sehingga dapat diklasifikasikan sebagai suatu pelanggaran HAM. Prinsip-prinsip inti HAM seperti universalitas, kesetaraan, larangan diskriminasi, serta sifat hak yang tidak terpisahkan dan saling bergantung turut terabaikan. Selain itu, praktik ini juga tidak selaras dengan sejumlah ketentuan peraturan perundang-undangan, di antaranya Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan yang telah direvisi oleh Undang-Undang Nomor 16 Tahun 2019, dan Undang-Undang Nomor 39 Tahun 1999 tentang Hak Asasi Manusia.

Kata Kunci: *Merariq*, Hak Asasi Manusia, Hak Perempuan, Hukum Adat



I. INTRODUCTION

Based on the principle of a state based on the rule of law, Indonesia places Pancasila and the 1945 Constitution of the Republic of Indonesia as its constitutional foundation. To achieve the ideals of a just and prosperous society, all government processes must be carried out in accordance with applicable laws and regulations. Pancasila, which serves as a unifying ideology, plays a crucial role in unifying Indonesia's ethnic and cultural diversity. The national legal system recognizes two primary sources of law: written law and unwritten law. Written law encompasses various regulations such as the 1945 Constitution of the Republic of Indonesia and the Criminal Code (KUHP), while unwritten law stems from customary norms and customs that have developed within society (Nurdiansyah & Damiri, 2023).

Customs are a manifestation of a nation's identity, reflecting the values, outlook on life, and collective consciousness of its people, passed down from generation to generation. Therefore, each community, including indigenous communities in Indonesia, has its own distinctive social practices that distinguish it from other groups. In the realm of marriage, customary law regulates the stages, requirements, and procedures intended to realize the noble purpose of marriage. Marriage serves not only as a means of establishing a family but also as a social institution that safeguards human life and upholds human honor and dignity. However, the diversity of customary practices in marriage often raises issues when their application potentially neglects the protection of individual rights, particularly the rights of women and children. Therefore, harmony between customary norms and positive law is essential to ensure that marriage remains rooted in cultural values without neglecting universal human rights principles. Dialogue and cooperation between indigenous communities and policymakers are necessary to resolve tensions between customary law and national law, thus creating normative integration that can guarantee the protection of human rights and promote sustainable social welfare.

Marriage is a legal and social bond that unites a man and a woman as husband and wife with the aim of establishing a harmonious, happy, and sustainable family life based on the One Almighty God. Marriage is not intended as a temporary relationship, but rather as a long-term commitment that ideally lasts throughout a person's life, so its implementation requires physical and mental readiness from the parties involved. This goal is normatively emphasized in Article 1 of Law Number 16 of 2019 concerning Amendments to Law

Number 1 of 1974 concerning Marriage, which emphasizes the formation of a lasting and prosperous family as the foundation of community life. The family is seen as the most fundamental social unit formed through marriage, with a core structure consisting of a father and a mother, and ideally followed by the presence of children as part of the continuity of generations. Therefore, the law stipulates certain terms and conditions as prerequisites for the validity of a marriage to ensure the achievement of the goals of marriage in a complete and responsible manner.

The free consent of both prospective bride and groom is an essential element in conducting a marriage in accordance with applicable law. The requirement for this consent affirms that marriage serves the noble purpose of establishing a family, not merely a means of fulfilling biological needs. A marriage is declared valid if it meets all the requirements and procedures stipulated in the laws and regulations governing marriage in Indonesia. Fulfilling these legal requirements serves to provide legal certainty and protect the rights and interests of the parties bound by the marriage bond. Essentially, marriage is a relationship built on love, affection, and the desire to live together responsibly. Therefore, to achieve domestic harmony and realize the purposes of marriage as defined by law, every marriage must be conducted according to established legal procedures and requirements.

The traditional marriage system of the Sasak people of West Nusa Tenggara is generally influenced by a patrilineal kinship structure, a system that places paternal descent as the basis for determining family relationships and social status. In this system, men play a dominant role in the family structure and social life, including the marriage process. One form of traditional marriage widely known in the Sasak community is the practice of *merariq*, which literally means the act of carrying off the prospective bride by the prospective groom, followed by the customary and official stages of marriage. The practice of *merariq* is seen as an ancestral tradition that has been passed down through generations and is still practiced today. Ideally, *merariq* is carried out based on the agreement of the two prospective brides and grooms as a symbol of the man's courage, responsibility, and readiness to build a household. However, in practice, *merariq* does not always reflect the free will of the woman. The act of carrying off the woman is often carried out without explicit consent, and in some cases even without the knowledge of the woman's family. *Merariq* is generally performed in private or public spaces, such as the woman's home, street, or neighborhood. Factors that

encourage the practice of merariq include the strong influence of tradition, the desire to expedite the marriage process, and economic considerations. The relatively lengthy and costly proposal procedure in Sasak customs often serves as a justification for men to choose merariq as a shortcut to marriage. This ultimately raises legal issues, particularly when the practice of merariq is carried out without the woman's consent and ignores the protection of her rights as a legal subject.

Norms in practices like merariq, which hide behind cultural claims, often disregard human rights upheld by religion, ethics, and decency, and are used to avoid legal accountability (Doko et al., 2021). Prioritizing cultural customs over the law can justify arbitrary actions. Violent customary marriage practices can even be categorized as crimes against humanity.

Such violence clearly violates positive laws such as Law No. 35 of 2014 concerning Child Protection, the 1945 Constitution, and Law No. 39 of 1999 concerning Human Rights, which are often not optimally enforced. This gap between customary law and positive law creates serious challenges in enforcing women's rights and protecting children, thus requiring more attention from the authorities.

II. RESEARCH METHODS

This research uses a normative legal research approach. According to Peter Mahmud Marzuki, normative legal research is the process of identifying legal doctrines, norms, and principles to address a legal issue. This research employs both a statute approach and a conceptual approach.

III. RESEARCH RESULTS

Etymologically, "basis" means basic or fundamental. Meanwhile, according to the Big Indonesian Dictionary (KBBI), "right" is the authority or ability to perform an act. Combining these two concepts, Human Rights (HAM) can be defined as the basic rights inherent in every individual from birth as a gift from God. Human rights are ethical, aimed at honoring and maintaining human dignity, and are based on legal norms, not unilateral interests. Human rights are universal, interrelated, and inseparable. In essence, everyone has the right to freedom, security, and a decent life. In Indonesia, these rights are not only recognized philosophically but also protected by various laws and regulations, including the 1945 Constitution of the Republic of Indonesia. Pancasila, as the foundation of the state,

combines communal and individual values by affirming the oneness of God. This principle recognizes that one's freedom is limited by the rights of others, so every individual is responsible for respecting the human rights of others. To guarantee human integrity and dignity, the state, including the government, legal institutions, and all Indonesian people are obligated to respect, protect, and affirm the rights stipulated in Article 1, Number 1, of Law Number 39 of 1999 concerning Human Rights. These rights are inherent in human nature as God's creation and are His gifts. Therefore, the government and state bear a fundamental responsibility to maintain, uphold, and ensure the fulfillment of these rights for all citizens in an inclusive manner (Maheswari et al., 2023).

The Sasak indigenous people of West Nusa Tenggara still recognize and practice a marriage tradition called *merariq*. Terminologically, *merariq* refers to the act of the prospective groom bringing the prospective bride as the first step towards a traditional marriage. In practice, this act involves bringing the woman from her family environment and placing her in the home of relatives or the groom's family before the traditional ceremony and marriage take place. The *merariq* ritual often takes place in various social settings, including homes, public streets, and the areas surrounding the woman's residence. The *merariq* process often involves the assistance of others, such as relatives or friends of the prospective groom, leaving the woman in a difficult position to refuse or ask for help. Because this practice has long been legitimized as a tradition, the surrounding social environment often views the event as normal, resulting in the woman undergoing the *merariq* receiving no protection or assistance during the process. Under certain circumstances, the practice of *merariq* carried out without the woman's consent involves elements of deprivation of liberty and coercion, ultimately limiting the woman's right to make her own life choices, including choosing a partner. Therefore, the implementation of *merariq* that deviates from the principle of free and informed consent can be classified as a violation of human rights and contradicts legal provisions governing the protection of individual dignity and freedom.

Marriage is a legal event with broad legal implications. In the Indonesian legal system, marriage is defined as a physical and spiritual bond between a man and a woman as husband and wife to form a happy and lasting household based on the One Almighty God. Therefore, marriages must be conducted in accordance with each person's religion and registered according to statutory regulations to ensure legal certainty. In the context of *merariq*, legal

issues arise when this practice is carried out under duress and without the woman's free consent. This has the potential to result in physical and psychological violence and violates women's constitutional rights as legal subjects. This condition demonstrates the inconsistency between the deviant practice of merariq and positive law, particularly the provisions protecting women's rights in the 1945 Constitution, the Human Rights Law, the Child Protection Law, and other related regulations. Furthermore, merariq without the woman's consent contradicts the legal principles of marriage as stipulated in Law No. 1 of 1974, as amended by Law No. 16 of 2019, which places consent and the formation of a happy family as fundamental principles. A happy family cannot be achieved through coercion. Forced marriage can cause psychological and mental health problems for women (Haris et al., 2023).

Law No. 1 of 1974 concerning Marriage and Law No. 7 of 1984 concerning the Ratification of the Convention on the Elimination of Discrimination against Women, along with the Human Rights Law, emphasize that a valid marriage can only be entered into with the free consent of both parties. This reflects the recognition of the right of every individual, both men and women, to make their own choices regarding marriage. The freedom to choose a life partner is a fundamental right that should not be ignored. However, the continued persistence of merariq demonstrates that human rights, particularly women's rights, remain vulnerable. Therefore, serious efforts are urgently needed to address this issue. Although categorized as a traditional heritage, most communities reject this tradition because they believe it violates women's rights by restricting their freedom to choose a partner. The fundamental problem with the continued persistence of merariq is the strong belief that this hereditary tradition must be preserved, despite the fact that its practices often deviate from its original meaning. Perpetrators often use customary law as a pretext to avoid legal accountability. Furthermore, the primary driving factors are socio-economic commitments, kinship ties, and customary ties established by previous generations. In the context of inter-family relations, women are often in a difficult position to refuse, thus facilitating merariq. Many cases show families agreeing to merariq due to reluctance to reject it based on kinship, which is the primary reason why this practice persists (Femilia et al., 2023).

The practice of merariq, which continues to this day, clearly violates human rights principles. This violation occurs due to the perpetrator's unilateral actions, which limit or eliminate the victim's basic rights, which should be guaranteed by the state. The essence of

this violation is the loss of a woman's right to make her own choices, particularly in deciding on a life partner. The victim, in this case a woman, no longer has the freedom and autonomy to consent to or reject a marriage bond, because the merariq process is often carried out without considering her consent as the party most directly affected. Thus, this practice not only ignores individual rights but also contradicts the legal and constitutional guarantees of protection for the rights of every citizen. Furthermore, the practice of merariq results in the deprivation of the guaranteed protection that women should have from violence and discrimination. This situation directly contradicts the fundamental principles of human rights.

- a. **Universality:** Human rights are rights that all people possess simply because they are human, and therefore apply equally to every individual regardless of their beliefs, race, ethnicity, nationality, political orientation, or socioeconomic status.
- b. **Equality and Non-Discrimination:** The principle of equality demands equal treatment in equal situations, and differential treatment in unequal situations. Discrimination is contrary to human rights and occurs when individuals are treated unfairly based on differences such as religion, race, or gender, either by giving different treatment in the same situation or similar treatment in different situations.
- c. **Indivisibility and Interconnectedness of Rights:** Human rights are indivisible and interdependent. No right can be ignored or subordinated, as all human rights are equally important and form a unified whole. The fulfillment of one right often depends on the guarantee of other rights.

The fulfillment of civil-political and economic-socio-cultural rights is a complete and interconnected whole. The fulfillment of one right is highly dependent on the guarantee of the fulfillment of other rights, reflecting the interdependence of human rights. Based on the principle of universality, Sasak women have the right to a life free from all forms of coercion and violence. The fact that merariq frequently affects women constitutes a violation of this fundamental right. In line with the principles of equality and the prohibition of discrimination, every individual has the right to be treated fairly regardless of gender, ethnicity, or faith. The practice of merariq actually reflects discrimination based on gender, where women are forced into marriage without their consent, while men are not subjected to similar conditions. In the process, victims often experience physical and psychological violence, such as beatings or strangulation. Such treatment is a clear form of gender

discrimination, as it is based on differential treatment that ultimately disregards women's freedom, happiness, and participation in determining their own lives, while simultaneously violating the principle of gender equality. Any act that results in physical or mental suffering can be classified as a human rights violation. The principle of inseparability and interconnectedness emphasizes that economic, social, and cultural rights cannot be separated from civil and political rights; both must be fulfilled simultaneously. The practice of *merariq* demonstrates a violation of women's civil and political rights, such as the right to freedom and consent within marriage, which subsequently hinders the fulfillment of their social and economic rights. Women who are forced into marriage are highly vulnerable to losing opportunities to pursue education, obtain employment, and enjoy a decent standard of living. Therefore, it can be asserted that the practice of *merariq* is clearly inconsistent with the fundamental principles of human rights.

IV. CONCLUSION

Berdasarkan kajian terhadap praktik *merariq* dalam masyarakat adat Sasak, dapat ditegaskan bahwa pelaksanaannya mengandung pertentangan mendasar dengan ketentuan hukum yang berlaku, terutama prinsip-prinsip hak asasi manusia. Hal ini disebabkan karena praktik tersebut kerap meniadakan kebebasan individu, khususnya perempuan, dalam menentukan pilihan atas perkawinannya sendiri. Selain itu, *merariq* yang dilakukan dengan unsur pemaksaan tidak sejalan dengan ketentuan Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan sebagaimana telah diubah dengan Undang-Undang Nomor 16 Tahun 2019, mengingat tujuan pembentukan keluarga yang harmonis dan sejahtera tidak mungkin tercapai melalui tindakan yang melanggar hak dan kebebasan personal.

REFERENCES

- Fathurrahman, A., & Mulyati, S. (2022). *Merariq dalam Masyarakat Sasak: Antara Tradisi dan Transformasi*. Mataram: Penerbit Universitas Mataram.
- Femilia, N., Putri, S., Nasution, Z., Theodor, M., Samosir, H., Padmavati, A., Moha, N., Syahputra, D. H., & Selly, J. N. (2023). Analisis Pengaruh Tradisi Kawin Tangkap Terhadap Hak Asasi Perempuan. *Jurnal Hukum dan Keadilan Sosial*, 6(1), 45-60.
- Haris, K. O., Hidayat, S., & Muntalib, D. N. (2023). Adat Kawin Tangkap (Perkawinan Paksa) Sebagai Tindak Pidana Kekerasan Seksual. *Halu Oleo Legal Research*, 5(2), 123-135.

- Maheswari, D. C., Rahayu, A. L., Anwarudin, A. Z., Putri, E. Z., Rusdianawati, F. F., Reviyana, I., Sholikhah, I., & tim penulis lainnya. (2023). Perlindungan Pelanggaran Hak Asasi Manusia Terhadap Tradisi Kawin Culik. *Jurnal Hukum Dan HAM Wara Sains*, 2(6), 441–451.
- Nurdiansyah, R., & Damiri, M. A. (2023). Hukum Tentang Orang (Perbandingan Antara KUH Perdata Indonesia, Inggris Dan Amerika). *Eksekusi : Jurnal Ilmu Hukum Dan Administrasi Negara*, 1(4), 26–43.
- Subekti, Trusto. “SAHNYA PERKAWINAN MENURUT UNDANG-UNDANG NOMOR 1 TAHUN 1974 TENTANG PERKAWINAN DITINJAU DARI HUKUM PERJANJIAN,” n.d.
- Syarifuddin, A. (2018). Merariq dan Dampaknya terhadap Kehidupan Perempuan Sasak. *Jurnal Antropologi Indonesia*, 39(1), 78–92.