

An Islamic Legal Review of Forced Marriage to a 'Boru Tulang' in Mandailing Custom: A Case Study in Simbolon Village, Padang Bolak Subdistrict, North Padang Lawas Regency

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Abstrak

Marriage in Islam is a sacred bond that must be based on the consent of both parties without any element of coercion. However, in the Mandailing customary community, matchmaking practices that involve coercion are still found, particularly in the tradition of *Manyunduti*, which involves the marriage between a man and his *Boru Tulang* (the daughter of the mother's brother). This study aims to describe the practice of forced marriage to a *Boru Tulang* in Simbolon Village, Padang Bolak Subdistrict, North Padang Lawas Regency, and to analyze it from the perspective of Islamic law. The method used is a qualitative approach with an empirical legal method through interviews with traditional leaders, religious figures, and individuals who have experienced arranged marriages. The results of the study show that this practice is driven by the desire to preserve inherited wealth, strengthen kinship ties, and maintain customary traditions. However, in Islamic law, marriage without willingness contradicts the principles of consent (*ridha*) and freedom in choosing a spouse. Although a guardian (*wali*) has the right of *ijbar*, Islam still emphasizes the importance of the bride and groom's consent. Therefore, matchmaking practices such as *Manyunduti* need to be re-evaluated to align with the values of justice, public interest (*maslahah*), and individual rights according to Islamic law.

Keywords	:	<i>Forced marriage, Boru Tulang, Mandailing customary law or Mandailing tradition/custom, Islamic law</i>
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1. Introduction

In Islam, marriage is regarded as a sacred union that must be founded upon the free will and mutual consent of both individuals, without any form of compulsion in

advancing the relationship into a more serious and committed stage.¹ This core principle is affirmed through numerous Islamic legal sources and is equally upheld within the framework of national law. The fundamental goal of marriage in Islam is to establish a family characterized by *sakinah* (tranquility), *mawaddah* (affection), and *rahmah* (compassion), fostering a life of harmony, love, and well-being.²

In the Indonesian legal system, this provision is in line with Article 1 of Law Number 16 of 2019 as an amendment to Law Number 1 of 1974 concerning Marriage, which states that marriage is a physical and spiritual bond between a man and a woman as husband and wife, with the aim of forming a happy and everlasting family. Furthermore, Article 6 paragraph (1) affirms that the implementation of marriage must be based on the consent of both prospective spouses. This reflects that freedom and the absence of coercion are fundamental principles in realizing a legitimate and dignified marriage.³

Furthermore, the right to marry freely and without coercion is also regulated under Article 10 of Law Number 39 of 1999 on Human Rights. This law explicitly states that every person has the right to establish a family and continue their lineage through a legitimate marriage, and that marriage may only be conducted based on the free will of both the prospective husband and wife.⁴ Therefore, the practice of forced marriage conflicts with both Islamic principles and Indonesia's positive law.

From the viewpoint of Islamic law, the agreement of the prospective spouses is a condition for the legitimacy of a marriage. Islam clearly opposes any type of compulsion in marriage, as it may cause harm to one party and take away the sacred essence of the marriage itself. This is reinforced by a hadith narrated in the book *Translation of Sunan Ibn Majah*, where the Prophet Muhammad (peace be upon him) granted a woman the authority to determine the continuation of a marriage arranged by her parents against her will.

حَدَّثَنَا هَنَّادُ بْنُ السَّرِيِّ، حَدَّثَنَا وَكِيعٌ، عَنْ كَهْمَسِ بْنِ الْحَسَنِ، عَنْ ابْنِ بُرَيْدَةَ عَنْ أَبِيهِ قَالَ:
جَاءَتْ فَتَاةٌ إِلَى رَسُولِ اللَّهِ ﷺ فَقَالَتْ: إِنَّ أَبِي زَوَّجَنِي ابْنَ أَخِيهِ لِيَرْفَعَ بِي خَسِيسَتَهُ قَالَ:
فَجَعَلَ الْأَمْرَ إِلَيْهَا فَقَالَتْ: قَدْ أَجَزْتُ مَا صَنَعَ أَبِي، وَلَكِنْ أَرَدْتُ أَنْ تَعْلَمَ النِّسَاءُ أَنَّ لَيْسَ
لِلْأَبَاءِ مِنَ الْأَمْرِ شَيْءٌ ۖ

¹ A. A. Musyafah, "Hukum Perkawinan Islam dalam Tata Hukum di Indonesia," *Law, Development and Justice Review* 3, no. 2 (2020): 275–295.

² Umar Haris Sanjaya dan Aunur Rahim Faqih, *Hukum Perkawinan Islam di Indonesia* (Yogyakarta: Gama Media, 2017), hlm. 16.

³ Republik Indonesia, Undang-Undang Republik Indonesia Nomor 16 Tahun 2019 tentang Perubahan atas Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan, Pasal 1 dan 6 ayat (1).

⁴ Republik Indonesia, Undang-Undang Republik Indonesia Nomor 39 Tahun 1999 tentang Hak Asasi Manusia, Pasal 10.

Narrated meaning: *Hannad al-Sarri narrated to me (Ibn Majah) from Waki', from Kahmas bin al-Hasan, from Ibn Buraydah, from his father (Buraydah), who said: A young woman came to the Messenger of Allah (peace be upon him) and said: "Indeed, my father married me to his nephew in order to elevate his own status." Buraydah said: Then the Prophet (peace be upon him) gave her the authority (to decide). The young woman said: "I have accepted what my father has done, but I wanted women to know that fathers have no right in this matter (they may not force)."*⁵

This perspective aligns with the views held by early Islamic scholars. Imam Abu Hanifah held that a woman who is mature and mentally competent may marry herself off without the approval of her guardian, provided that the prospective groom is deemed compatible (*kufu*) in terms of religious commitment and social standing. This is clarified by Muhammad bin Ibrahim al-Tuwaijiri in his book *Fiqh al-Madhāhib al-Arba'ah*:

أَمَّا الْبَالِغَةُ سَوَاءٌ كَانَتْ بَكَرًا أَوْ ثَيِّبًا فَلَا جَبْرَ عَلَيْهَا لِأَحَدٍ وَلَا يَتَوَقَّفُ نِكَاحُهَا عَلَى وَلِيِّ بَلٍّ لَهَا أَنْ تَرْوِّجَ نَفْسَهَا لِمَنْ تَشَاءُ بِشَرْطِ أَنْ يَكُونَ كَفًّا وَإِلَّا فَلِلْوَلِيِّ الْإِعْتِرَاضُ وَفَسْخُ الْعَقْدِ إِذَا رَوَّجَتْ نَفْسَهَا مِنْ غَيْرِ كُفٍّ . وَإِلَّا فَلِلْأَقْرَبِ مِنْهُمْ حَقُّ الْفَسْخِ ، فَإِذَا رَوَّجَهَا الْوَلِيُّ فَإِنَّهُ يُسَنُّ لَهُ أَنْ يَسْتَأْذِنَهَا بِأَنْ يَقُولَ لَهَا : فَلَا تَخْطُبُكِ وَنَحْنُ ذَلِكَ فَإِنْ رَوَّجَهَا بِغَيْرِ اسْتِئْذَانٍ خَالَفَ السُّنَّةَ ، وَيَصِحُّ الْعَقْدُ مُؤَفَّقًا عَلَى رِضَاهَا⁶

Narrated meaning: *As for a woman who has reached puberty, whether she is a virgin or a widow, no one has the right to force her, and her marriage does not depend on a guardian. Rather, she may marry herself to whomever she wills, on the condition that the man is compatible (kufu'). If he is not compatible, then the guardian has the right to object and annul the marriage contract if she marries herself to someone unsuitable. If not, then her closest relatives have the right to annul it. If the guardian arranges the marriage, it is recommended that he seek her permission by saying to her, "So-and-so is proposing to you," or something similar. If the guardian marries her off without asking for her consent, then this is contrary to the Sunnah, and the validity of the marriage contract depends on her approval (rida).*

In the meantime, within the Shafi'i school of thought, the presence of a guardian (*wali*) is strictly mandated for marriage, regardless of whether the woman is a virgin or has previously been married. Nevertheless, although the guardian is considered an essential condition for a valid marriage contract, Imam Shafi'i still insists on obtaining

⁵ Abdullah Shonhaji dkk., *Terjemah Sunan Ibnu Majah* (Bandung: Penerbit At-Ta'qwa, 1994), hlm 618.

⁶ Muhammad bin Ibrahim al-Tuwaijiri, *Fiqh al-Madhāhib al-Arba'ah* (Riyadh: Dar al-Salam, 2005), hlm. 68.

the woman's approval before the marriage. This is clarified by Imam Yahya bin Sharaf An-Nawawi in his work *Al-Muhadzdzab fi Fiqh al-Imām al-Shāfi'ī*, Volume II:

وَيَجُوزُ لِلْأَبِ أَوْ الْجَدِّ أَنْ يُزَوِّجَ الْبِكْرَ بِدُونِ رِضَاهَا، سَوَاءً كَانَتْ صَغِيرَةً أَوْ بَالِغَةً، كَمَا
جَاءَ فِي حَدِيثِ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُ: أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: الْأَيِّمُ أَحَقُّ
بِنَفْسِهَا مِنْ وَلِيِّهَا، وَيُزَوِّجُ الْأَبُ الْبِكْرَ، وَيَسْتَأْمِرُهَا أَبُوهَا فِي نَفْسِهَا⁷

Narrated meaning: *"It is permissible for a father or paternal grandfather to marry off a virgin daughter without her consent, whether she is still a minor or has reached puberty, as mentioned in the hadith from Ibn Abbas (may Allah be pleased with him), that the Prophet (peace and blessings be upon him) said: 'A previously married woman has more right over herself than her guardian, and a father may marry off a virgin daughter, but he should seek her permission first.'"*

Even though both Islamic law and national legislation stress the necessity of willingness in marriage, forced marriage practices still exist within certain communities, particularly among those that uphold strong customary values, such as the Mandailing traditional society. One enduring custom is the marriage of a man to his *Boru Tulang* (his mother's brother's daughter), commonly referred to as *Manyunduti*. This cultural practice is observed as an expression of honor toward the *Tulang*, who occupies a prominent role within the *Dalihan Na Tolu* kinship structure.⁸

Within the Mandailing kinship system, founded on the *Dalihan Na Tolu* framework, the *Tulang* (mother's brother) occupies a highly respected and influential role. As a result, marriage to the *Boru Tulang* is frequently considered a social obligation intended to reinforce familial bonds within the broader family network. In Mandailing tradition, marriage is perceived not merely as a union between two individuals, but as a formal connection between two extended families. Thus, marrying a *Boru Tulang* is regarded as a customary duty to uphold family dignity, foster unity, and preserve ongoing social relationships. Nevertheless, in reality, not everyone is willing to engage in this type of marriage due to personal reasons, such as love and differing partner preferences. Family expectations and cultural pressures may lead to forced marriages, which are in direct conflict with the tenets of Islamic law.

As times continue to evolve, this tradition is not always readily embraced by younger generations. Many people argue that marriage should be founded on individual choice and emotional connection, rather than merely fulfilling cultural expectations. Conversely, some families remain committed to this custom, viewing marriage to a *Boru*

⁷ Yahya bin Syaraf An-Nawawi, *al-Muhadzdzab fi Fiqh al-Imām al-Syāfi'ī*, juz II (Beirut: Dār al-Kutub al-'Ilmiyyah, 1995), hlm 429-430

⁸ H. Hayana, "Prosesi Pra Pernikahan dalam Adat Mandailing Perspektif Hukum Islam: Studi Kasus Kabupaten Padang Lawas," *ASA* 4, no. 1 (2022): 15–32.

Tulang as an expression of filial piety and a means to preserve family harmony. In certain situations, familial pressure to proceed with such a marriage can result in an emotional conflict for the individual, particularly when they already have a chosen partner. This custom is still observed in several regions, including Simbolon Village, Padang Bolak Subdistrict, North Padang Lawas Utara Regency.

Based on literature studies regarding the practice of forced marriage in custom and Islamic law, there are several previous studies that discuss marriage without consent from various perspectives.

Hasibuan's (2019) research in *El-Qanuny* explores the consent principle in Islamic marriage law and points out that forced marriage stands in opposition to that principle. The study centers on the underlying factors and general consequences of forced marriage. The key distinction from the present study lies in the scope: Hasibuan focuses on Islamic legal principles regarding marriage in a broader context, while this study specifically examines the forced marriage practice within Mandailing custom, especially involving *Boru Tulang*.

In addition, the research by Fahik et al. (2024), published in *Perkara: Journal of Legal and Political Studies*, investigates the *Her Tutu* forced marriage tradition within the Kemak community of East Nusa Tenggara, applying a criminal law perspective. The findings reveal that this practice infringes upon human rights and qualifies as sexual violence under Law No. 12 of 2022. The primary distinction from the current study lies in the focus: while Fahik's research explores forced marriage through the lens of criminal justice and victim protection, this study concentrates on the practice of marrying a *Boru Tulang* in Mandailing tradition from the standpoint of Islamic law.

A related study was carried out by Nasution (2023) in the journal *Landraad*, analyzing the marriage to a *Boru Tulang* within the Simalungun Muslim community through the lens of Shafi'i jurisprudence. Even though such a practice is not encouraged in *fiqh*, it continues to be upheld as part of local customary tradition. The key difference from this research is that Nasution's study focuses on the *Boru Tulang* marriage tradition in the context of Simalungun Islamic society and the Shafi'i school, whereas the present study explores the same custom in Mandailing society and examines it through the broader framework of Islamic law.

The novelty of this study lies in its specific focus on the *Boru Tulang* marriage practice as a form of culturally legitimized forced marriage, which has rarely been examined critically from the perspective of Islamic law and human rights. Unlike other studies that analyze forced marriage in general or from a criminal law perspective, this research reveals how the sacred and obligatory nature of *Boru Tulang* marriage within the Batak—particularly Mandailing—custom places immense symbolic and psychological pressure on women, often removing their space for refusal. The uniqueness of this practice lies in its deeply rooted cultural and spiritual dimensions, differing from forced marriages elsewhere that are typically driven by economic or political motivations. This makes refusal not only difficult but socially and morally condemned. As such, this study offers important contributions to Indonesia's marriage law reform discourse,

especially in highlighting the dissonance between customary obligations and the legal requirement of free consent. It underscores the urgent need to harmonize local traditions with the principles enshrined in Law No. 16 of 2019 and human rights legislation, in order to ensure greater protection for women, promote gender equality, and respect individual autonomy in marital decisions.

Based on the background above, the writer is interested in further studying the practice of forced marriage to a *Boru Tulang* in Mandailing custom, particularly in Simbolon Village, Padang Bolak Subdistrict, North Padang Lawas Regency, from the perspective of Islamic law. With the formulation of the problems as follows: How is the tradition of forced marriage to a *Boru Tulang* practiced in Mandailing custom in Simbolon Village, Padang Bolak Subdistrict, North Padang Lawas Regency? What are the factors that underlie the occurrence of the *Manyunduti* practice in the Mandailing customary community? And how is the Islamic legal view regarding the practice of forced marriage to a *Boru Tulang* in Mandailing custom?

Based on the explanation above, this study aims to describe the nature of the coercive marriage tradition involving a *Boru Tulang* within the Mandailing community, to explore and analyze the factors that contribute to it, and to assess the practice from the standpoint of Islamic legal principles. The findings of this research are expected to offer meaningful contributions, particularly to the residents of Simbolon Village, Padang Bolak Subdistrict, North Padang Lawas Regency, by enhancing their awareness and understanding of the *Manyunduti* tradition through the lens of Islamic law.

2. Method

This study is qualitative in nature, employing an empirical (non-doctrinal) legal method along with a socio-legal approach. Its aim is to explore how the *Manyunduti* tradition the coercive marriage to a *Boru Tulang* is practiced in the Mandailing indigenous community, to uncover the contributing factors behind it, and to evaluate its social and legal consequences through the lens of Islamic law.⁹ The research was carried out in Simbolon Village, Padang Bolak Subdistrict, North Padang Lawas Regency, as the local population continues to preserve this custom despite a shifting perspective among younger generations. Participants in this study include customary leaders, religious authorities, and individuals who have undergone forced marriage.

The data sources include both primary and secondary materials. Primary data were gathered through face-to-face interviews with customary figures, religious leaders, and individuals who have undergone forced marriage. Secondary data were drawn from a range of scholarly resources, including Islamic legal texts, jurisprudence (*fiqh*) literature addressing marriage law, academic journals, previous studies on customary and Islamic legal perspectives in forced marriage contexts, and existing legal regulations concerning marriage.

⁹ Nur Solikin, *Pengantar Metodologi Penelitian Hukum* (Pasuruan: CV. Qiara Media, 2021), hlm. 63.

The method of data collection applied is direct in-depth interviews with selected respondents using a purposive sampling technique. These interviews were guided by open-ended questions to obtain comprehensive, extensive, and profound insights relevant to the research context.

The data analysis technique applied in this study follows a systematic process of data reduction, data presentation, and conclusion drawing. Thematic analysis was employed, including initial coding, theme identification, and interpretative synthesis based on Islamic and national legal frameworks. Data validation was conducted through source triangulation by comparing responses from customary leaders, religious scholars, and victims of forced marriage. Informants were selected purposively based on their direct involvement in the Boru Tulang practice, although the article only implicitly refers to three main cases. Future research should explicitly state the number of informants and provide a clear justification of their selection to enhance methodological transparency and academic accountability.

3. Results and Discussion

A. General Description of the Research Location

1. History of Simbolon Village

Simbolon Village was officially formed in the year 1999. Previously, it was a hamlet under the jurisdiction of Purba Tua Village. Due to meeting the necessary criteria for administrative independence, Simbolon separated from Purba Tua in 1999. The name "Simbolon" was chosen because most of the village's inhabitants belong to the Simbolon clan. The village comprises three smaller hamlets: Batu Tambun, Tamosu, and Parpiasan.

2. Geographical Location

Simbolon Village is one of the rural areas located in the Padang Bolak Subdistrict. It is considered a remote and underdeveloped area due to the poor road infrastructure connecting it to the surrounding regions. The distance between Simbolon Village and the Padang Bolak subdistrict office is approximately 20 kilometers. Geographically, Simbolon Village is bordered by:

1. Aek Jakkang Village to the north,
2. Batu Tambun Village to the south,
3. Tamosu Village to the east, and
4. Simaninggir Village to the west.

3. Social Condition

Simbolon Village is home to 1,698 residents, with 870 males and 828 females. The majority of its inhabitants are Muslims and ethnically Batak Mandailing. The community actively preserves ancestral customs and cultural practices in their everyday life. Religious life is vibrant, with women's groups engaging in spiritual gatherings such as *wirid yasin* (recitations of Yasin verses). There is also a youth group known as *Naposo Nauli Bulung* that contributes to

social and religious activities. Children in the village regularly attend Qur'anic lessons (*pengajian*) every evening as part of their religious education.

4. Religion and Education

The dominant religion in Simbolon Village is Islam. The village, located in Padang Bolak Subdistrict, North Padang Lawas Regency, is equipped with several educational and religious institutions, which include: 1) One kindergarten (TK), 2) One mosque. 3) One state elementary school (SDN). 4) Five Qur'anic study centers (*Tempat Pengajian*)

B. The Tradition of Forced Marriage to a *Boru Tulang* in the Mandailing Custom of Simbolon Village, Padang Bolak Subdistrict, North Padang Lawas Utara

In Simbolon Village, Padang Bolak Subdistrict, North Padang Lawas Regency, the practice of arranging marriages with a *Boru Tulang* (a maternal cousin) has historically evolved into a customary norm. Within the Mandailing cultural system, this practice was long regarded with strong social support and seen as a prestigious accomplishment for families, symbolizing familial unity and respect for tradition. However, in contemporary times, such arrangements are no longer considered compulsory, as the customary law surrounding matchmaking is not absolute. The pressure to marry a *Boru Tulang* has significantly declined, and families increasingly recognize the individual's right to choose a spouse freely.

Within Islamic communities that adhere to Mandailing customs, the ideal form of marriage is one that unites a man with the daughter of his maternal uncle. This practice aligns with the exogamous marriage structure found in Mandailing society, where daughters are married into different clans, while sons are expected to marry women from outside their own clan. This form of marital arrangement is commonly known as asymmetric connubium, reflecting a reciprocal exchange of women between clans that reinforces social ties and lineage continuity.

In the context of a *Boru Tulang* marriage within a single family line, the lineage typically begins with the grandparents (*Oppung*), who have a son and a daughter. Each of these siblings marries separately and has children of their own both male and female. The children of the son will address their mother's brother as *Tulang* (maternal uncle), while the children of the daughter will refer to their father's sister as *Namboru* (paternal aunt). This kinship terminology reflects the traditional structure and relational roles recognized in Mandailing society.¹⁰

Within Mandailing customary tradition, a man whose father has a sister refers to his maternal cousin the daughter of his mother's brother (*Tulang*) as *Boru Tulang*, and this relationship is traditionally acknowledged through the term *Marboru Tulang*

¹⁰ Husin Nasution, "Praktik Menikah dengan Anak Paman (*Boru Tulang*) pada Masyarakat Batak Simalungun Perspektif Madzhab Syafi'i (Studi Kasus Desa Tinokkah, Kec. Sipispis)," *Jurnal Landraad* 2, no. 2 (2023): 101–113.

kandung. Such unions are socially accepted and even encouraged. In contrast, a man is not permitted to marry the daughter of his father's sister, a relationship known as *Mariboto*, which is culturally prohibited. The practice of marrying one's *Boru Tulang* is seen as a respected and recommended custom in Mandailing society, symbolized by the term *Marboru Tulang*, meaning "to take one's uncle's daughter as a wife."

Field research conducted in Simbolon Village, Padang Bolak Subdistrict, North Padang Lawas Regency, identified three individuals who had undergone arranged marriages classified as *Manyunduti* within the Mandailing Batak tradition. Of these cases, two individuals Satia and Ima remained in their marriages as arranged by their families, whereas one individual chose to end the relationship. These cases reflect the continued presence of forced marriage practices in the local community, albeit with differing outcomes for each couple. In the case of Satia and Ima, parental testimony indicated that the couple had known and loved each other prior to the marriage arrangement. Their post-marital life demonstrated compatibility and harmony, resembling that of a consensual marital relationship. It suggests that, while coercive in form, some arranged marriages may evolve into stable and affectionate unions over time.

Conversely, individuals like Patani and Fatimah, who chose not to remain in their arranged marriage, likely faced significant marital discord. Their union lacked mutual affection from the outset and was marked by emotional detachment and a sense of compulsion, as the decision to marry was made by their parents rather than themselves. This lack of consent and emotional connection ultimately led to an unstable household and resulted in divorce. Such outcomes highlight that not every individual can embrace arranged marriage as an acceptable life path, particularly when personal choice and emotional readiness are absent.

According to Ragusta Simbolon, a traditional leader in Simbolon Village, Padang Bolak Subdistrict, North Padang Lawas Regency, he stated that:

The Namanyunduti tradition has existed since long ago and has become an important part of customary practices. However, in the modern era, this practice is no longer as common as before. Nevertheless, the tradition is still carried out in some families. There are several main reasons why Namanyunduti is still maintained by parents. First, to strengthen kinship ties so that they remain harmonious and unbroken. Through such marriage, the bond between the Tulang and Boru Tulang families becomes stronger. Second, to ensure the continuity of inheritance so that it stays within the same lineage. By marrying the Boru Tulang within the family circle, family assets can be preserved and not transferred to other parties. In addition, this tradition is also considered a form of respect for the customs and ancestors that have been passed down from generation to generation.¹¹

¹¹ Ragusta Simbolon, Wawancara pribadi, Selaku Tokot Adat di Desa Simbolon, Kecamatan Padang Bolak, Kabupaten Padang Lawas Utara, 2025.

C. Factors Underlying the Practice of Forced Marriage to a Boru Tulang in the Mandailing Customary Tradition in Simbolon Village, Padang Bolak Subdistrict, North Padang Lawas Regency

Forced marriage remains a widespread phenomenon occurring across different regions of the world, shaped by diverse cultural, social, and economic contexts. Numerous studies have confirmed the continued existence of this practice not only in local communities but also on a broader international scale. These marriages typically take place without the full consent and voluntary agreement of both individuals involved, raising serious concerns about autonomy, human rights, and personal freedom.¹²

Traditions hold a significant influence over many aspects of societal life, including the institution of marriage. In numerous communities, marriages are conducted in accordance with customary norms either voluntarily or due to cultural obligations. Within Batak traditions, for instance, a man may be expected to marry his *Boru Tulang* (maternal cousin), while a woman may be expected to accept a marriage proposal from her *Namboru*'s son (paternal aunt's son). Though these arrangements may involve a degree of coercion, their primary aim is to uphold familial bonds, ensure lineage continuity, and reinforce kinship structures. Islamic law does not prohibit marriage between a man and the daughter of his maternal uncle, and thus, while such unions may not fully reflect individual consent, they are often viewed within these communities as culturally and socially beneficial.

Within the Islamic Mandailing cultural tradition, marriage between *Pariban* known in Batak custom as *Boru Tulang* is often regarded as a social expectation aimed at reinforcing familial bonds. This practice reflects the broader belief within Batak society that such unions serve to preserve and solidify kinship networks. Given the close familial familiarity between the individuals involved, including shared heritage and family ties, the typical courtship process is often deemed unnecessary. Furthermore, mutual acquaintance between both sets of parents reinforces confidence in the character and compatibility of the intended spouse, reducing uncertainty in the marriage arrangement.

Based on the researcher's findings, the factors that cause forced (arranged) marriages to *Boru Tulang* in the Mandailing customary tradition in Simbolon Village, Padang Bolak Subdistrict, North Padang Lawas Regency, include several main factors that contribute to the practice of forced marriage to *Boru Tulang* in the Mandailing tradition.

These factors include, among others:

1. Parents' Desire to Protect Family Property and Inheritance

¹² Z. E. Hasibuan, "Asas Persetujuan dalam Perkawinan Menurut Hukum Islam: Menelaah Penyebab Terjadinya Kawin Paksa," *Jurnal el-Qanuniy: Jurnal Ilmu-Ilmu Kesyariahan dan Pranata Sosial* 5, no. 2 (2019): 198–211.

A significant motivating factor behind arranged marriages in the Mandailing tradition is the desire of parents to maintain control over familial wealth and inheritance. By encouraging marriage between a son and his maternal cousin (*Boru Tulang*), families aim to secure the continuity of property ownership within the immediate lineage, minimizing the risk of inheritance dispersion to unrelated parties. This strategic marriage practice reflects broader concerns about preserving economic assets and lineage-based ownership as upheld in customary norms.

2. Preservation of Kinship Structure

Mandailing customary marriage practices serve as a mechanism to preserve traditional kinship frameworks, particularly those rooted in the *Dalihan Na Tohu* system. Marriages between close relatives, such as *Boru Tulang*, are culturally reinforced to uphold familial bonds and ensure ongoing social cohesion. These arrangements not only maintain relational closeness between extended kin groups but also facilitate collective participation in ritual and community affairs, sustaining intergenerational solidarity and mutual assistance.

3. Negative Impact of Arranged Marriage: A Case Example of Patani and Fatimah

Despite its cultural rationale, arranged marriage within the Mandailing tradition can generate adverse consequences, particularly when individual consent is absent. The case of Patani and Fatimah exemplifies how forced unions may culminate in emotional distress and marital breakdown. Matched through the *manyunduti* tradition, their marriage faced persistent conflict due to a lack of mutual affection, incompatible life values, and differing expectations. Ultimately, the absence of personal choice led to their separation, highlighting the limitations of customary matchmaking in contemporary settings.¹³

The practice of forced marriage within the *Manyunduti* custom must be critically examined through the lens of universal Islamic values, particularly the principles of justice and the freedom to choose a spouse. In Islam, justice (*'adl*) is a core value that must be upheld in all aspects of life, including marriage. Likewise, the freedom to choose a life partner is an individual right protected by Islamic teachings, as emphasized in various Qur'anic verses and Hadith. Therefore, customary practices that compel individuals to marry without their consent stand in contradiction to these Islamic principles. While custom holds important social and cultural significance, reconciliation between tradition and positive law should aim to protect fundamental human rights. In the context of national law, Indonesia's Marriage Law requires mutual consent from both parties as a prerequisite for a valid marriage. This aligns with the objectives of Islamic law (*maqāṣid al-sharī'ah*), particularly *ḥifẓ al-nafs* (protection of life) and *ḥifẓ al-naṣl* (protection of progeny), which stress the importance of emotionally, socially, and spiritually healthy marriages. Thus, the integration of customary norms with

¹³ Rosmaini, Wawancara pribadi, Selaku keluarga kawin paksa di Desa Simbolon, Kecamatan Padang Bolak, Kabupaten Padang Lawas Utara, 2025.

Islamic and national legal frameworks must be pursued through cultural dialogue and progressive legal approaches.

Meanwhile, arranged marriages can also bring positive impacts to household harmony. Based on interviews with informants who married through matchmaking, it was found that marriages based on arranged unions do not always end in difficulty. On the contrary, many couples are still able to experience happiness in their households, even though the marriage was initially the decision of their parents.

Satia and Ima are an example of a couple who found happiness in their marriage, which began through an arranged union. Satia's mother said:

"My son Satia, when the time comes for you to marry, marry your *boru tulang*," she said. Satia then asked, "Why must I marry my *boru tulang*, Mom?" His mother explained, "If you marry your *boru tulang*, our kinship ties will remain strong. But if you marry someone else, our bond with your *tulang* may weaken and not be as close as it used to be. Also, if you marry your *boru tulang*, she will take care of me in my old age and always be concerned about our family." Satia responded, "Yes, Mom." However, deep in his heart, he still felt confused and uneasy, afraid of being considered disobedient if he refused his mother's request.¹⁴

Parental approval is considered a major factor that can pave the way to happiness in marriage. As experienced by Satia, until now, their marriage has endured and they have been blessed with two children, even though it was not entirely his own wish at first. The blessing of his parents played a significant role in forming a harmonious household. This proves that parental support and approval in choosing a life partner have a significant influence on the success of a marriage.

D. An Islamic Legal Review of Forced Marriage to a Boru Tulang in Mandailing Customary Tradition

Islam does not specifically mandate or prohibit the practice of arranged marriages. However, Islamic teachings emphasize the importance of choosing a spouse, as recommended by the Prophet Muhammad (peace be upon him). Marriage is governed by the Qur'an and the Sunnah of the Prophet. The Qur'an states that every creature, including humans, was naturally created in pairs. This is affirmed in the words of Allah SWT in Surah Yasin, verse 36:

سُبْحَانَ الَّذِي خَلَقَ الْأَزْوَاجَ كُلَّهَا مِمَّا تُنْبِتُ الْأَرْضُ وَمِنْ أَنْفُسِهِمْ وَمِمَّا لَا يَعْلَمُونَ ﴿٣٦﴾

¹⁴ Satia, Wawancara pribadi, Selaku pelaku kawin paksa di Desa Simbolon, Kecamatan Padang Bolak, Kabupaten Padang Lawas Utara, 2025.

Meaning: *Glory be to Him who created all things in pairs—of what the earth grows, of themselves, and of what they do not know.* (Surah Yasin, verse 36)

In the context of choosing a spouse, there is the concept of kafa'ah (compatibility or equality) in Islam, which emphasizes the importance of balance between the prospective husband and wife in aspects such as religion, lineage, beauty, and wealth. The female's family often considers kafa'ah as a primary factor in selecting a prospective groom.

Imam Al-Ghazālī advised parents to be cautious when choosing a husband for their daughters, because after marriage, a wife falls under the responsibility of her husband, who has the right to divorce her at any time.¹⁵

Although scholars differ in their opinions regarding the application of the concept of kafa'ah (equality or compatibility in marriage), the fundamental purpose of this concept is to maintain balance within the household, prevent conflict, and avoid issues that may disrupt marital harmony. In this regard, the Prophet Muhammad (peace be upon him) provided guidance on the criteria for choosing a spouse. As explained by Imam Muhammad bin Ismail al-Bukhari, it is mentioned in the book *al-Jāmi' al-Ṣaḥīḥ*, Volume 7:

حَدَّثَنَا مُسَدَّدٌ حَدَّثَنَا يَحْيَى عَنْ عُبَيْدِ اللَّهِ قَالَ حَدَّثَنِي سَعِيدُ بْنُ أَبِي سَعِيدٍ عَنْ أَبِيهِ عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ عَنْ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ تُنْكَحُ الْمَرْأَةُ لِأَرْبَعٍ لِمَالِهَا وَلِحَسَبِهَا وَجَمَالِهَا وَلِدِينِهَا فَاظْفَرْ بِذَاتِ الدِّينِ تَرِبْتُ يَدَاكَ¹⁶

Meaning: *Narrated by Musaddad, narrated by Yahya from Ubaidullah, he said: Sa'id bin Abu Sa'id narrated to me from his father, from Abu Hurairah (may Allah be pleased with him), from the Prophet Muhammad (peace be upon him), who said: "A woman is married for four things: for her wealth, for her lineage, for her beauty, and for her religion. So choose the one with religion, and you will prosper."* (Reported by Al-Bukhari)

The practice of arranged marriage has existed since ancient times, even during the time of the Prophet Muhammad (peace be upon him). One notable example is the marriage of Aisha (may Allah be pleased with her), who was arranged and married by her father to the Prophet while she was still a child. However, their marital life began only after Aisha had reached puberty.¹⁷ Despite

¹⁵ A. Maulana dan U. Saepullah, "Telaah Prinsip Kafa'ah dalam Hadis tentang Kriteria Memilih Calon Pasangan (Pendekatan Kaidah al-'Adatu Muhakkamah)," *Jurnal Penelitian Ilmu Ushuluddin* 4, no. 1 (2024): 33–46.

¹⁶ Muhammad bin Ismail al-Bukhari, *al-Jāmi' al-Ṣaḥīḥ*, tahqīq Muḥammad Zuhair bin Nāṣir al-Nāṣir, cet. 1, Dār Ṭawq al-Najāh, 1442 H, jilid 7, hlm. 7–8.

¹⁷ I. Hafas, "Dampak Kawin Paksa terhadap Keharmonisan Rumah Tangga dalam Perspektif Hukum Islam (Analisis Desa Panaan Kecamatan Palengaan Kabupaten Pamekasan)," *Mitsaqan Ghalizan* 1, no. 1 (2021): 21–40

this, Islam establishes a clear principle in marriage: the importance of mutual consent (*ridha*) from both prospective spouses. This principle is emphasized by Imam Ahmad bin Hanbal in *Musnad Imam Ahmad*:

حَدَّثَنَا حُسَيْنٌ حَدَّثَنَا جَرِيرٌ عَنْ أَيُّوبَ عَنْ عِكْرَمَةَ عَنِ ابْنِ عَبَّاسٍ: أَنَّ ابْنَةَ خِدَامٍ أَتَتْ
النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَذَكَرَتْ أَنَّ أَبَاهَا زَوَّجَهَا وَهِيَ كَارِهَةٌ، فَخَيَّرَهَا النَّبِيُّ
صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ¹⁸

Meaning : "Husain narrated to us, Jarir narrated to us, from Ayyub, from Ikrimah, from Ibn Abbas: That the slave girl of Abu Bakr came to the Prophet (peace be upon him) and complained that her father had married her off while she did not approve, so the Prophet (peace be upon him) gave her the choice (of accepting or rejecting the marriage)." (Narrated by Ahmad No. 2469)

The aforementioned hadith emphasizes that an arranged marriage conducted without the consent of the individual involved is not sanctioned in Islam. Every individual possesses the inherent right to accept or reject a proposed marriage and to make decisions about their own future and life partner. Nevertheless, cultural practices often witness guardians proceeding with marriage arrangements without securing the clear approval of the person concerned. While parents may act with the intention of ensuring what they perceive to be the best outcome, such choices may not necessarily align with the wishes or emotional readiness of their children. As a result, despite holding the authority to propose a marital union, guardians are religiously and ethically obligated to obtain the informed consent of the prospective bride or groom. This principle upholds the Islamic requirement that marriage must be based on mutual willingness and free from compulsion.

Forced or arranged marriages generally occur due to two main factors:

1. The child accepts the partner chosen by the parents or family without significant debate or conflict. Although the child may initially feel unhappy or disagree, through warm communication, proper dialogue, and family consultation, the child eventually agrees to the decision and marries the chosen partner.
2. The child accepts the partner chosen by the parents or relatives after experiencing debates or arguments. In such cases, a guardian with the right of *ijbar* (authority to compel marriage) may exercise their power to force the

¹⁸ Ahmad bin Hanbal, *Musnad Imam Ahmad*, jilid 3, (Beirut: Darul Fikr), hlm. 226.

decision, leaving the child with no choice but to comply with the parents' wishes.¹⁹

In reality, the tradition of forced or arranged marriage within the Mandailing custom is still practiced, particularly in Simbolon Village, although the level of acceptance varies among individuals and families. Some families continue to uphold the custom of marrying their children to a *Boru Tulang* (daughter of maternal uncle) as a way to preserve kinship ties and cultural heritage. However, with the progression of time, many members of the younger generation prefer to choose their own life partners, leading to a shift in this tradition. If this practice is carried out by force, it may lead to several negative impacts, including: 1) Lack of affection between the couple. 2) Weak sense of responsibility in the household due to lack of voluntary consent. 3) A prolonged adjustment period. 4) Emergence of conflict and disharmony in the marriage. 5) Excessive family involvement with potential negative consequences. 6) Divorce if conflicts remain unresolved.²⁰

Forced marriage practices within the Manyunduti tradition can lead to various serious consequences. Psychologically, individuals who marry without free will are at risk of experiencing stress, depression, emotional distress, and a loss of personal autonomy. Socially, such practices may result in disharmony within the household, conflicts between families, and the weakening of the family institution as a space for nurturing love and mutual understanding. From a legal perspective, forced marriage contradicts national legal principles that uphold the necessity of mutual consent in marriage, and it also conflicts with the objectives of Islamic law (*maqasid al-shariah*), particularly the protection of life (*hifz al-nafs*) and the protection of lineage (*hifz al-nasl*). Therefore, a thorough analysis of these three aspects is essential to strengthen the critique against the continuation of customary practices that violate fundamental individual rights.

Ustadz Pimpinan Abaik, a respected Islamic cleric in Simbolon Village, emphasized that marriage in Islam must be founded on the voluntary consent of both individuals involved, with any form of coercion being strictly prohibited. He acknowledged that while unions between close relatives such as *Boru Tulang* are religiously permissible, they are only valid when entered into with the free will of both parties. Though parents may play a role in facilitating marital arrangements, he underscored the importance of seeking the child's approval to ensure the union

¹⁹ A. M. Toriqudin, "Kawin Paksa dan Implikasinya; Studi Kasus di Desa Bugo Kabupaten Jepara," *Istidal: Jurnal Studi Hukum Islam* 9, no. 1 (2022): 1–14.

²⁰ Nasoha, dkk., "Analisis Kawin Paksa dalam Perspektif Hukum Islam", *El-Faqih: Jurnal Pemikiran dan Hukum Islam* 9, no. 2 (2023): 142–152.

is based on mutual understanding and willingness. A marriage built on compulsion risks undermining its harmony and stability.²¹

From the perspective of *maqāṣid al-sharī'ah*, the Mandailing tradition of forcing marriage upon a Boru Tulang presents significant ethical challenges. Two core principles of *maqāṣid ḥifẓ al-nafs* (protection of life/dignity) and *ḥifẓ al-nasl* (protection of lineage) are potentially compromised when marriages are conducted without consent. While preserving lineage through intra-family marriage may align with *ḥifẓ al-nasl*, coercion undermines *ḥifẓ al-nafs* by negating individual autonomy and emotional well-being. A marriage lacking mutual consent risks damaging familial ties, increasing the potential for conflict, and even threatening the sanctity of the family unit that Islamic law seeks to protect. Hence, the custom, though rooted in tradition, must be critically re-evaluated in light of Islamic legal objectives that prioritize dignity, consent, and long-term harmony.

This view aligns with Islamic legal texts, particularly a hadith recorded by Imam Ahmad bin Shu'aib An-Nasā'i in *Sunan An-Nasā'i*, which underscores the necessity of consent in marital contracts.

عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: لَا تُنْكَحُ الْأَيِّمُ حَتَّى
تُسْتَأْمَرَ، وَلَا تُنْكَحُ الْبِكْرُ حَتَّى تُسْتَأْذَنَ، قَالُوا: يَا رَسُولَ اللَّهِ كَيْفَ إِذْنُهَا؟ قَالَ: أَنْ
تَسْكُتَ²²

From Abu Hurairah (may Allah be pleased with him), the Messenger of Allah (peace be upon him) said: "A widow is not to be married without her consultation, and a virgin is not to be married without her permission." The companions asked, "O Messenger of Allah, how do we know her permission?" He replied, "Her silence."

Forced or arranged marriage is, in principle, legally acceptable within Islamic jurisprudence provided specific criteria are met. However, such arrangements frequently invoke the authority of a *wali mujbir*, a legal guardian empowered to contract the marriage of a female under his care without her direct approval. As societal norms and legal awareness evolve, the legitimacy and ethical implications of this authority have been increasingly examined by modern Islamic scholars. Among those offering a balanced critique is Yusuf al-Qaradawi, who advocates a moderate stance—recognizing the traditional role of guardians while emphasizing the necessity of personal consent and mutual agreement in marital contracts.

21 Pimpinan Abaik, Wawancara pribadi, Selaku Tokoh Agama di Desa Simbolon, Kecamatan Padang Bolak, Kabupaten Padang Lawas Utara, 2025.

22 Ahmad bin Shu'aib An-Nasā'i, *Sunan An-Nasā'i*, vol. 4, hadits no. 3267, ed. Hāfīz Abu Tāhir Zubair 'Ali Za'i, trans. Nāṣiruddīn al-Khaṭṭāb (Riyadh: Darussalam, 2007.), hlm 122.

Yusuf al-Qaradawi, in his influential work *The Lawful and the Prohibited in Islam*, takes a clear position against the practice of forced marriage, particularly the authority of the *wali mujbir* a guardian who marries off a daughter without her consent. In the chapter titled “*A Virgin Must Be Asked for Her Consent and Must Not Be Forced*”, al-Qaradawi argues that such coercive practices are inconsistent with Islamic principles. He insists that guardians have no legitimate authority to contract a marriage on behalf of their daughters without securing their voluntary approval. Highlighting the autonomy of women in marital decisions, he stresses that their consent is a fundamental right that must be acknowledged and upheld within any lawful marriage framework.²³

This aligns with Article 6(1) of Indonesian Law No. 16 of 2019, which amended Law No. 1 of 1974 on Marriage, stipulating that a marriage is considered legally valid only when it is founded upon the mutual consent of both parties intending to marry.²⁴ Yusuf Qaradhawi maintains that a marriage conducted without the woman’s explicit consent is not valid under Islamic law. He critiques Imam al-Shafi’i’s position, which allows a father to arrange his daughter’s marriage without her approval, arguing that such a stance arose within a specific historical context. In earlier times, women had limited autonomy and were often excluded from decisions regarding their future spouses. Consequently, paternal authority was regarded as essential and trusted, given the assumption that a father would act in his daughter’s best interests with compassion, discernment, and the intent to secure a compatible match. However, Qaradhawi emphasizes that such justifications are not universally applicable in modern contexts and should not override a woman’s fundamental right to consent.²⁵

Yusuf Qaradhawi contends that the evolution of modern society has fundamentally altered the conditions under which traditional jurisprudential rulings were formed. In contemporary contexts, women possess greater autonomy, access to education, and intellectual agency, enabling them to make informed decisions regarding their personal lives, including marriage. As such, Qaradhawi argues that Imam al-Shafi’i’s permissive stance on unilateral guardianship in marriage is no longer suitable when rigidly applied to the current era. He further posits that if Imam al-Shafi’i were alive today and observed the sociocultural advancements concerning gender equality and individual rights, he would likely reassess and amend his legal opinion to reflect the lived realities of the modern age.

Yusuf Qaradhawi firmly rejects forced marriage, specifically the practice of marrying someone particularly a woman without her consent and willingness. This is consistent with what Imam An-Nawawi explains in *Sharh Sahih Muslim*, Volume 6.

حَدَّثَنِي عَبْدُ اللَّهِ بْنُ عُمَرَ بْنِ مَيْسَرَةَ الْقَوَارِيرِيُّ حَدَّثَنَا خَالِدُ بْنُ الْحَارِثِ حَدَّثَنَا
هَشَامٌ عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ حَدَّثَنَا أَبُو سَلَمَةَ حَدَّثَنَا أَبُو هُرَيْرَةَ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ

²³ Yusuf al-Qaradawi, *Halal dan Haram dalam Islam*, hlm. 211.

²⁴ Undang-Undang Nomor 16 Tahun 2019, Pasal 6 ayat (1).

²⁵ Yusuf Qaradhawi, *Fatwa-fatwa Kontemporer* Jilid 2 (Jakarta: Gema Insani), hlm. 468.

عَلَيْهِ وَسَلَّمَ قَالَ لَا تُنْكَحُ الْأَيِّمُ حَتَّى تُسْتَأْمَرَ وَلَا تُنْكَحُ الْبِكْرُ حَتَّى تُسْتَأْذَنَ قَالُوا يَا رَسُولَ
اللَّهِ وَكَيْفَ إِذْنُهَا قَالَ أَنْ تَسْكُتَ²⁶

Ubaidullah bin Umar bin Maisarah Al-Qawariry reported to me, Khalid bin Al-Harith narrated to us, Hisham narrated to us from Yahya bin Abu Kathir, Abu Salamah narrated to us, and Abu Hurairah reported that the Messenger of Allah (peace be upon him) said: "A previously married woman must not be married without her consultation, and a virgin must not be married without her consent." The Companions asked, "O Messenger of Allah, how can we know her consent?" He replied, "Her silence."

According to a narration reported by Abu Hurairah, the Prophet Muhammad (peace be upon him) stated that a woman who has been previously married cannot be married again without being consulted, and a virgin cannot be married without her explicit consent. When the companions inquired about how to ascertain a virgin's consent, the Prophet clarified that her silence stemming from modesty is considered a sign of approval. This hadith underscores the Islamic legal principle that a woman's free will is essential in validating a marriage. It prohibits forced marriages by emphasizing the necessity of the bride's consent, making it a foundational condition in Islamic marital jurisprudence.

4. Conclusion

Based on the findings of this study, it can be concluded that the practice of marrying one's *Boru Tulang* (known as *Manyunduti*) within the Mandailing customary society of Simbolon Village continues to be observed, albeit with shifts in its meaning and implementation. Traditionally, this marriage custom is intended to preserve kinship ties, maintain social harmony, and safeguard family inheritance within the extended lineage. However, in practice, these marriages often involve elements of coercion, particularly from parents toward their children. From the perspective of Islamic law, marriage that occurs without the voluntary consent of both parties contradicts the fundamental principles of *ridha* (mutual approval) and individual freedom in choosing a spouse. Islam clearly stipulates that a valid marriage must be based on the full consent of both prospective spouses. Thus, forced marriages although culturally accepted in some traditional practices are not in accordance with Islamic teachings and may lead to disharmony in married life. This is consistent with Article 6 Paragraph (1) of Law No. 16 of 2019 (amending Law No. 1 of 1974 on Marriage), which affirms that a marriage is legally valid only when both parties give their mutual consent. Similarly, Yusuf Qaradhawi in his book *The Lawful and the Prohibited in Islam* firmly opposes forced marriage, stressing that a guardian (*wali*) has no right to impose a spouse on a woman, as she retains full autonomy in choosing her life partner. Therefore, while the practice of

²⁶ Imam An-Nawawi, *Syarah Shahih Muslim*, Jilid 6, Kitab Haji (Lanjutan), cet. ke-3 (Beirut: Darus Sunnah), hlm. 885.

marrying a *Boru Tulang* remains an important cultural tradition that deserves respect, its implementation must be reconciled with the values of Islamic law, particularly regarding consent, justice, and individual rights in marital decisions. To support this reconciliation, practical policy recommendations include community-based legal education programs to raise awareness about marriage rights and consent, especially in rural and customary areas. Additionally, efforts to harmonize customary practices with Islamic principles can be realized through a *maslahah*-based policy framework one that emphasizes preserving cultural identity while upholding fundamental human rights. Empowering local religious and customary leaders with training on Islamic family law and legal rights could further bridge the gap between tradition and justice, ensuring that cultural preservation does not come at the expense of individual well-being.

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