The Law of Passorong Ownership in Mandar Community Marriage, Majene Regency: A Comparison Study of Islamic Law and Positive Law

Supriadi
Sekolah Tinggi Agama Islam Negeri Majene
Email: supriadi@stainmajene.ac.id

Muh. Ridwan P
Sekolah Tinggi Agama Islam Negeri Majene
Email: mdrwawan05@gmail.com

Abstract

The presence of Passorong in the Mandar ethnicity of Majene Regency is a gift of wealth from the prospective husband to his prospective wife to enter into a marriage. Passorong in terms is similar to dowry in Islamic law, which is a gift from the groom to the bride. This study is a field study with a qualitative descriptive research type. The source of data in this research is the Office of Religious Affairs in Majene Regency. The approach used consists of normative theological, juridical, sociological, anthropological, and philosophical approaches. Methods of data collection obtained directly from the field using observation techniques, interviews, and documentation. Data processing using deductive techniques with qualitative descriptive analysis. The results of the study show that the mechanism for giving passorong in the marriage of the Mandar community in Majene Regency is usually in the form of objects that have value or benefits. The mechanism for giving Passorong goes through several stages before the marriage contract, namely an agreement is made after the proposal process takes place, such as matandajari and maccanring. Passorong objects given by prospective husbands to prospective wives vary, but are usually in the form of gold and land and coconut trees accompanied by land, real or converted in rupiah. The practice of giving a passorong is in line with Islamic law, giving a passorong is classified as a musamma dowry, because it determines the amount and type of item that is used as a dowry at the time the marriage contract takes place. While in positive law, legally speaking a certificate has not been issued in the name of the wife, in the Law on Basic Agrarian Regulations and Government Regulation Number 24 of 1997 concerning land registration...
that a passorong is in the form of land if to obtain eigendom rights over land must be certified in the name of the wife.


Key words: Passorong; marriage; Islamic law; positive law.

Introduction

Fiqh scholars agree that dowry in marriage is a must that must be paid by a husband to his wife, giving dowry must be in accordance with the agreement in the marriage contract. In addition to the dowry, which is a must that must be fulfilled by the husband, it is also the right of a wife.¹

The Messenger of Allah once said to someone who wanted to marry: "give the dowry, even if it is an iron ring". So the most important thing is giving to the

wife and not in terms of value. As long as both parties agree and are willing. Another hadith narrated by al-Bukhari "The Prophet (pbuh) also asked: Have you memorized the Qur'an? People replied: I memorized this surah and that surah. 'He then mentioned the names of several letters in the Quran. The Prophet (pbuh) asked again: Can you read it by rote?’ "Yes," replied the man. Go, I will marry you to that woman with the Quran that you memorized." Another example is that when the Prophet himself married Sofiyah at that time he was still a servant with a dowry that freed Sofiyah. From this example, the object of dowry in the view of Islamic law can be a service.

Seeing that the practice of giving dowry has the potential for disputes to occur in the future, as a research conducted by Nur Annisa Asjaksan et al. With Dowry Disputes After Divorce (Study of Decision of the Sungguminasa Religious Court No.14 6/Pdt.G/2017/PA.Sgm.) published in Qawanin Journal of Legal Sciences, Law Study Program, Faculty of Law, Indonesian Muslim University Makassar Vol. 1, No. 1 (August 2020) explains in conclusion that the legal considerations of judges in dowry disputes filed by the exwife to the ex-husband who has not submitted the dowry that is the right of the wife depending on the evidence submitted by the plaintiff in accordance with Article 1365 of the Civil Code and Article 1366 of the Civil Code. Judges remain bound by the provisions of civil procedural law that apply within the scope of the Religious Courts.\(^2\) From this case, it is clear that giving a dowry has the potential to cause disputes, so there is a need for legal certainty to provide legal guarantees for the wife.

Dowry, especially in the Mandar Society of Majene Regency, is referred to as Passorong, which is a gift made by the prospective husband to his prospective wife to enter into a marriage contract. Besides, there is also known the term erang-erang as a supplement or dowry supporter. This erang-erang is usually in the form of a cupboard containing women's equipment, for example a set of prayer tools, clothing, beauty equipment, shoes and others. This is a distinct characteristic of Mandar marriages in Majene Regency. In addition, the Mandar Society of Majene Regency has an understanding that the object of the passorong is a very valuable treasure so that the passorong is considered a marriage token.\(^3\)

A dispute over granting a passorong occurred in Majene Regency, a woman from Banggae District, Majene Regency sued for a passorong in the form of land that


\(^3\) Abdul Gaffar Haris, Tamiroddo Village Community Figures, Tammiroddo Sendana District, Majene Regency. Interview; on Tuesday 9 March 2021 at 11.00 WITA

https://jurnal.iain-bone.ac.id/index.php/albayyinah
had been given by her husband. Based on the description above, the writer is interested in conducting an in-depth study of the law of passorong ownership. The aim is to get factual answers about the position of passorong within the framework of Islamic law and positive law.

**Methodology**

Research methodology as a method used to find, record, analyze to formulate to achieve a goal. This research is classified as field research, namely a type of research whose data sources come from field studies and this research also includes a type of qualitative descriptive research, namely research that produces data in a descriptive way.

This research will be carried out at the Offices of Religious Affairs in Majene Regency, which consists of the Offices of Religious Affairs in the Districts of Banggae, Banggae Timur, Pamboang, Sendana, Tammerodo Sendana and Sendana. The approaches used are the normative theological approach, the juridical approach, the sociological approach, the anthropological approach and the philosophical approach.

Methods of data collection obtained directly from the field using observation techniques, interviews, and documentation. Besides that, the researcher also conducted a search through books related to dowry or Passorong. Data processing uses deductive techniques, starting from general propositions and ending with specific conclusions. While data analysis using descriptive qualitative analysis.

**Discussion**

**Mechanism of Giving and Objects of Giving Passorong in Mandar Marriage, Majene Regency**

Based on the data obtained from the six districts, it shows that the mechanism for giving Passorong from the prospective husband to the prospective wife has diversity, the form of giving Passorong is usually objects that have value or benefits, but as for passorong in the form of services according to Islamic law, this has never been encountered in the Mandar Society of Majene Regency because it is

---

4. H.M. Syahid, Head of Banggae Timur Office of Religious Affairs, Interview on Wednesday, 10 March 2021


https://jurnal.iain-bone.ac.id/index.php/albayyinah
considered that *passorong* in the form of services is a dowry that has no form so that it cannot be a sign of marriage or a wedding souvenir.\(^6\)

The mechanism for granting *passorong* is usually carried out through several stages before the marriage contract, the granting of *passorong* is carried out by agreement after the proposal process takes place, while the stages that determine the agreement on the provision of *passorong* include; (1) Determination of the amount and form of dowry is usually carried out during the mattandajari procession (this stage of the procession is the determination of the wedding day as well as the determination of the object and amount of *Passorong* and others;\(^7\) and (2) Maccanring procession (this stage of the procession is the consolidation as well as the inauguration of all the series of wedding events to be held.\(^8\)

Based on the data obtained from the field, the shape of the *Passorong* object given by the prospective husband to his prospective wife varies, while the data is as follows.

a. Banggae District shows that marriage events in the 2019-2021 period included the provision of a *passorong* of 50% Gold Ring + A Set of Prayer Tools, 20% Real\(^9\) or converted in Rupiah 10% A plot of land and 10% Coconut Trees / Cloves + 10% Land and others.\(^10\)

b. East Banggae District shows that marriage events in the 2019-2021 period included the giving of 60% Gold Ring + A Set of Prayer Tools, 15% Land, 15% Coconut Trees / Cloves + Land and 10% Real or converted in Rupiah and others.\(^11\)

c. Pamboang District shows that in the 2019-2021 period, marriage events were given a *passorong* of 60% Gold Ring + A Set of Prayer Tools, 15% Land, 15% Coconut Trees + Land and 10% Real or converted in Rupiah and others.\(^12\)

d. Sendana District shows that marriage events in the 2019-2021 period included the provision of a 60% gold ring + a set of prayer tools. 15% Land 15%

---

\(^6\)Abdul Gaffar Haris, Tammerodo Village Community Figure, Tammerodo Sendana District, Interview on Tuesday, October 26 2021, 16.00 WITA

\(^7\) Husain, Community Figure of Polewali Regency, Interview on Tuesday 19 October 2021 at 10.00 WITA

\(^8\) Abdul Gaffar Haris, Tammerodo Village Community Figure, Tammerodo Sendana District, Interview on Tuesday, October 26 2021, 16.00 WITA

\(^9\) *Real* is the Currency Value of Saudi Arabia, it is commonly used as a dowry in the Mandar and Bugis ethnicities

\(^10\) Data source of the Banggae District Office of Religious Affairs, accessed on Monday 18 October 2021 at 09.00 WITA

\(^11\) Data Source Office of Religious Affairs in East Banggae District, accessed on Thursday 21 October 2021 at 09.00 WITA

\(^12\) Data source Pamboang District Religious Affairs Office, accessed on Tuesday, October 19 2021 at 09.00 WITA

https://jurnal.iain-bone.ac.id/index.php/albayyinah
Coconut Trees/ Cloves + Land and 10% Real or converted in Rupiah and others.  

e. Tammerodo Sendana District shows that marriage events in the 2019-2021 period included the provision of a passorong of 60% Gold Ring + A Set of Prayer Tools, 15% Land 15% Coconut Trees/Cloves + Land and 10% Real or converted in Rupiah and others. 

f. Tubo Sendana District shows that marriage events in the 2019-2021 period included the provision of a passorong of 60% Gold Ring + A Set of Prayer Tools, 15% Land 15% Coconut Trees / Cloves + Land and 10% Real or converted in Rupiah and others. 

From these data, the six districts sampled as a population to represent all sub-districts in Majene Regency, it can be understood that marriage passes in the Mandar Regency community are still dominated in the form of gold and land and coconut trees accompanied by land, real or converted in rupiah currency. Based on the information from the interview results, the passorong in the form of a set of prayer tools is a tradition that must be fulfilled even though it was not discussed beforehand or not mentioned in the marriage contract.

Considering that a dispute over the granting of a passorong has occurred in Majene Regency, so especially for a passorong (dowry) in the form of land for the prospective husband, he must attach a certificate of passorong from Lurah or the village head. The passorong land certificate aims to ensure that there is and where the place or location of the dowry in the form of land is located.

Comparative Analysis of Law of Passorong Ownership According to Islamic Law and Positive Law

The term Passorong in the Mandar ethnicity of Majene Regency is a gift of wealth from a prospective husband to a prospective wife to carry out a marriage, this is similar to giving a dowry in Islamic law. As previously explained, the mechanism for giving passorong varies, but the dowry object is usually in the form of objects that have value or benefits, such as gold, land and coconut trees along with

13 Data source Sendana District Religious Affairs Office, accessed on Friday, October 22 2021 at 09.00 WITA
14 Data Source Office of Religious Affairs in Tammeroddo Sendana District, accessed on Tuesday 26 October 2021 at 09.00 WITA
15 Data Source Office of Religious Affairs in Tubo Sendana District, accessed on Monday 25 October 2021 at 09.00 WITA
16 M. Syahid, Head of the Office of Religious Affairs in Banggae Timur District, Interview on Thursday 21 October 2021 at 09.00 WITA

https://jurnal.iain-bone.ac.id/index.php/albayyinah
the land and so on. This custom has been passed down from generation to

generation.

Giving Passorong in the Mandar Society of Majene Regency is mandatory,
even part of the community understands that passorong is a wedding token or
souvenir so that the dowry is very valuable in marriage. The provision of a passorong
is usually agreed before the marriage contract (ijab-qabul) takes place, this is in line
with Islamic law, as classified by the ulema, namely dowry is divided into two types,
namely musamma dowry and mitsil dowry, but the giving of Passorong (dowry) is not
known as the term dowry in the form of services so that the giving of Passorong
(dowry) in Mandar community of Majene Regency seems only in the form of
material.

The practice of giving passorong in the Mandar community of Majene
Regency is still classified as giving a musamma dowry. Musamma dowry17 is a gift of
dowry that is strictly determined regarding the amount and type of something that
is used as dowry at the time the marriage contract takes place, as is the case in the
Mandar Society of Majene Regency. The scholars have also agreed that the
musamma dowry must be paid in full by a husband, if one of the following occurs,
namely:

(1) Husband has intercourse with his wife.18

Word of Allah swt. in QS. an-Nisa/4: 21

وَكَيْفَ تَأْخُذُونَهُ وَقَدْ أُهْصَنُشُ لِي بَعْضٍ وَأُهْصَنْتُ بَعْضَكُمْ مِنْكُمْ مِثْلًا عَلَيْنَا

The translation:
And how could you take it while you have gone in unto each other and they
have taken from you a solemn covenant?19

This verse teaches that if a husband has sexual intercourse with his wife, he
is no longer allowed to take back any dowry he has given. With this verse, Islamic
law stipulates that the mixing of a husband and wife results in the prohibition of a
husband taking back the dowry he has given.

(2) One of the husband and wife died

The musamma dowry must also be paid in full if the husband has mixed with
his wife, and it turns out that the marriage is broken for certain reasons, such as it
turns out that his wife is a mahram herself, or it turns out that a virgin turns out to
be a widow, or is pregnant from a previous husband. However, if the wife is


https://jurnal.iain-bone.ac.id/index.php/albayyinah
The Law of Passorong Ownership in Mandar Community Marriage, Majene ...
Supriadi & Muh. Ridwan P
DOI: 10.35673/al-bayyinah.v7i.3131

divorced before mixing,\textsuperscript{20} based on the word of Allah swt. in QS. Al-Baqarah/2: 237.

وَإِنَّ طَلَقْتُنَّهُنَّ مِنْ قَبْلَ أَنْ تَعْفُوُنَّ وَقَدْ فَرَضْتُمْ لَهُنَّ فَرِيْضَةً فَيَعْفُوَا أَفَوْرًا أَوْ يَعْفُوُنَّ بَيْنَكُمْ أَنَّ اللَّهَ يُتْحَمِّلُ بِصِرَائِرَهُ

The translation:
And if you divorce them before you have touched them and you have already specified for them an obligation, then [give] half of what you specified - unless they forego the right or the one in whose hand is the marriage contract foregoes it. And to forego it is nearer to righteousness. And do not forget graciousness between you. Indeed Allah, of whatever you do, is Seeing.\textsuperscript{21}

As previously explained, the mechanism for giving passorong in the Mandar community in Majene Regency is usually in the form of objects that have value or benefits, for example gold, land and coconut trees along with the land and so on. However, the Law no. 1 of 1974 concerning Marriage has several weaknesses because the dowry is not clearly explained regarding the object and procedure for surrender and civil ownership rights so that this will have the potential for disputes to occur in the future.

According to Sudikno Mertokusumo Legal certainty is a legal guarantee that must be carried out, those who have the right to sue the law can obtain their rights and decisions must be carried out. Although legal certainty is closely related to justice, law is not synonymous with justice. General law binds everyone, socializes, while justice is subjective, individualistic and does not presuppose.\textsuperscript{22}

Giving Passorong is an act of transfer of ownership rights to an object from the original owner (prospective husband) to another person (prospective wife). In the Indonesian civil law system, the transfer of ownership rights can be found in Article 584 of the Civil Code. "Property rights to something material cannot be obtained in any other way, but by ownership, because of attachment, because of expiration, because of inheritance either according to law or according to a will and because of the appointment or surrender of a civil event to transfer property rights, carried out by a person who has the right to act freely on that object."\textsuperscript{23}

\textsuperscript{20}Abdul Rahman Ghozali, \textit{Fiqh Munakahat} (Jakarta: Kencana Prenada Media Group, 2008), p. 93


\textsuperscript{22}Sudikno Mertokusumo, \textit{Kapita Selekta Ilmu Hukum}, p. 23

\textsuperscript{23}Soesilo and Pramudji R, \textit{Kitab Undang-undang...}, p. 154

https://jurnal.iain-bone.ac.id/index.php/albayyinah
According to the provisions of Article 584 of the Civil Code mentioned above it clearly stipulates that the giving (levering)\textsuperscript{24} namely one of the ways to obtain property rights over an object, in addition to other methods that have been regulated in a limited way for the acquisition of property rights over an object. In fact, from the methods of obtaining property rights as regulated in Article 584 of the Civil Code, the most important and even what often occurs in society, the method of obtaining property rights is by giving (levering).

In particular, the granting of a passorong in the form of land attached with a certificate from the Village head or Lurah still has the potential for disputes to occur because there is no legal guarantee as proof of ownership of the dowry land for the wife, proof of dowry ownership rights in the form of land as stipulated in Law Number 5 of 1960 concerning The Basic Regulations on Agrarian Principles jo Government Regulation Number 24 of 1997 Concerning Land Registration, that the strongest evidence for land ownership is certified land or land ownership certificates.

Based on the results of the comparative analysis above, it can be concluded that the provision of passorong in Majene Regency takes various forms so that there is a need for legal guarantees to provide legal certainty to wives. The practice of giving a passorong in the form of land in the Mandar community, Majene Regency still has several weaknesses because the land that is commonly used as a dowry by the prospective husband is still in the name of the prospective husband or in the name of the prospective husband's parents.

As is meant in the Law on Basic Agrarian Regulations and Government Regulation number 24 of 1997 concerning land registration in conjunction with Article 584 of the Civil Code, a passorong is in the form of land if to obtain eigendom rights over land it must be certified. Furthermore, in order to further strengthen the strength of proof of ownership, the passorong land certificate must be in the name of the wife.

**Conclusion**

Giving Passorong in the Mandar Society of Majene Regency is something that must be handed over from the prospective husband to his prospective wife. Even the community understands that the passorong is a wedding token or souvenir so that the dowry is very valuable in marriage. The practice of giving passorong in the community is agreed before the marriage contract and passorong is mentioned at the time of the marriage contract. This is in line with Islamic Sharia, as previously

\textsuperscript{24}\textit{Levering} is an act or deed of transferring ownership rights to an item or object from one person to another. See, M. Susilo, M. Marwan and Jimmi P, \textit{Kamus Hukum}, p. 408

https://jurnal.iain-bone.ac.id/index.php/albayyinah
explained that the practice of giving dowries in the Mandar Community of Majene Regency is classified as giving the form of musamma dowry.

The granting of a passorong in Majene Regency takes various forms so there needs to be a legal guarantee to provide legal certainty to the wife, for example the practice of giving a passorong in the form of land in the Mandar community of Majene Regency needs to make a special regulation from the government regarding the mechanism for being registered and issuing a passorong land certificate in the name of the wife such as referred to in the Law on Basic Agrarian Regulations jo Government Regulation number 24 of 1997 concerning land registration that a passorong in the form of land if to obtain eigendom rights over land must be certified. Furthermore, in order to further strengthen the strength of proof of ownership, the passorong land certificate must be in the name of the wife.

References


Abdul Gaffar Haris, Tamiroddo Village Community Figures, Tammiroddo Sendana District, Majene Regency. Interview; on Tuesday 9 March 2021 at 11.00 WITA


Data source of the Banggae District Office of Religious Affairs, accessed on Monday 18 October 2021 at 09.00 WITA.

Data Source Office of Religious Affairs in East Banggae District, accessed on Thursday 21 October 2021 at 09.00 WITA.

Data source Pamboang District Religious Affairs Office, accessed on Tuesday, October 19 2021 at 09.00 WITA.

Data source Sendana District Religious Affairs Office, accessed on Friday, October 22 2021 at 09.00 WITA.

Data Source Office of Religious Affairs in Tammeroddo Sendana District, accessed on Tuesday 26 October 2021 at 09.00 WITA.

Data Source Office of Religious Affairs in Tubo Sendana District, accessed on Monday 25 October 2021 at 09.00 WITA.

https://jurnal.iain-bone.ac.id/index.php/albayyinah
H.M. Syahid, Head of Banggae Timur Office of Religious Affairs, Interview on Wednesday, 10 March 2021

Husain, Community Figure of Polewali Regency, Interview on Tuesday 19 October 2021 at 10.00 WITA


M. Syahid, Head of the Office of Religious Affairs in Banggae Timur District, Interview on Thursday 21 October 2021 at 09.00 WITA


Real is the Currency Value of Saudi Arabia, it is commonly used as a dowry in the Mandar and Bugis ethnicities

