



A Judge's Response to the Phenomenon of Indonesian Legal Pluralism: The Compartmentalization of Law on Divorce Case of Sasaknese Marriage

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Abstract: The legal plurality in a civil and plural society, such as Indonesia, is necessary. Today, Indonesians practice state law and are subject to religious and customary law. The Sasaknese live in Indonesia's state territory, which requires them to submit to Indonesian state law. In contexts of ethnicity and local civilization, they need the pursuance of Sasak customary law, and in the context of Muslims, they need the subservience of Islamic law. These three laws have rules regarding marriage law, tradition, and culture. This article will discuss and deal with the response of the state officer and the Praya Religious Court in Lombok Island in the case of Sasaknese divorce. The approach is socio-legal studies and the theory of legal compartmentalization. A methodological study of this article deals with juridical-normative-empirical analysis. The critical point explored in this article is the attitude of legal compartmentalization as an essential response from judges in seeing the phenomenon of legal plurality in the Sasak society. The judges adopted legal compartmentalization to provide justice, protection, and balance rights and obligations between men/husbands and women/wives in a family.

Keywords: Indonesian legal pluralism; Islamic law; Sasaknese marriage-divorce.

Abstrak: Pluralitas hukum dalam masyarakat majemuk seperti bangsa Indonesia adalah sebuah keniscayaan. Saat ini masyarakat Indonesia tidak hanya mempraktikkan hukum negara, namun juga tunduk pada hukum agama dan hukum adat. Sebagai bagian dari warga Indonesia, masyarakat Sasak tunduk pada hukum negara Indonesia. Dalam konteks etnis, mereka menaati hukum adat Sasak; dan sebagai Muslim, mereka membutuhkan hukum Islam. Tulisan ini akan membahas respon Pengadilan Agama Praya di Pulau Lombok terhadap keberadaan pluralitas hukum dalam kasus perceraian suku Sasak. Respon negara dibatasi hanya pada sikap hakim dalam memeriksa, mengadili, dan memutus perkara perceraian-perkawinan masyarakat Islam Sasak. Artikel ini membahas tentang paradigma integrasi atau jalinan harmonis antara hukum dan masyarakat. Pendekatan yang digunakan adalah model kajian sosio-legal sebagai arus utama, yang spesifikasi

tentang teori kompartementalisasi hukum. Metode kajian artikel ini, menggunakan metode penalaran hukum analisis yuridis-normatif-empiris. Point penting yang diekspolari dan ditangkap dalam tulisan ini adalah, sikap kompartementalisasi hukum pengadilan sebagai respon penting para hakim dalam melihat fenomena pluralitas hukum dalam masyarakat Sasak. Para hakim menempuh kompartementalisasi hukum semata-mata untuk memberikan keadilan, perlindungan, dan keseimbangan hak dan kewajiban antara pria/suami dan wanita/isteri dalam berkeluarga.

Kata Kunci: pluralisme hukum Indonesia; hukum Islam; perkawinan-perceraian Sasak.



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Introduction

Maintaining the harmonization of norms in a pluralist society and that of the Indonesian people is very important.¹ If the plurality of norms is not managed correctly, it could impact national disintegration.² Each other will accuse each other that what is true is only the legal norms owned by certain groups.³ In some cases of legal pluralism as a dominant society, the majority group will force the minority group to submit to one of the norms it believes to be true.⁴ Instead of the plurality of norms, it will become the national identity; instead, the plurality of norms will lead to horizontal conflicts between the nation's community and civil societies.⁵ Realizing the importance of maximizing the positive potential of the plurality of laws, the Indonesian people, in developing national law, took several essential steps in

¹ Jufri, M., Safi, S., Aidonojie, P. A., Zaini, Z., & Arowosaiye, Y. I., "Religion and State in Islamic Constitutional Law: The Role of Pesantren in Strengthening Symbiotic Islam and the State in Madura", *Justicia Islamica*, 21 no.2, (2024): 221-246. <https://doi.org/10.21154/justicia.v21i2.9283>. And See Putra, G. P., Irianto, S. and Manullang, E. F. M., "Legal pluralism in the special district province of Yogyakarta, Indonesia", *International Journal of Asia Pacific Studies*, 19 no.1, (2023): 1-22. <https://doi.org/10.21315/ijaps2023.19.1.1> Read to Suci Flambonita and friends, "The Concept of Legal Pluralism in Indonesia in The New Social Movement," *Jurnal Analisa Sosiologi*, Juli 2021, 10 (Special Issue ICOSAPS), 361-37.

² Read Feridus Welak, "Populisme di Indonesia: Ancaman bagi Integritas Masyarakat dan Reaktualisasi Pancasila", *Pancasila : Jurnal Keindonesiaan*, 02, no. 01, (April 2022): 62-70.

³ See Samuel Hamonangan Simanjuntak, FX. Djoko Priyono, "Legal Pluralism as Pancasila's Reflection to Realize Substantive Justice in Law Enforcement and Law-Making", *Pancasila: Jurnal Keindonesiaan*, 02, no. 01, (April 2022): 37-48.

⁴ Aziz, M. W., Amri, A., Jakiyudin, A. H., & Aminah, S., "Harmony in Diversity: The Role of Minority Jurisprudence in Realizing Religious Harmony in Jayapura, Papua", *Justicia Islamica*, 21 no. 2, (2024): 315-336. <https://doi.org/10.21154/justicia.v21i2.7394>

⁵ Read Keebet von Benda-Beckmann & Bertram Turner, "Legal Pluralism, Social Theory, and The State", *The Journal of Legal Pluralism and Unofficial Law*, 50, no. 3, (2018): 255-274. <https://doi.org/10.1080/07329113.2018.1532674>

national legislation, including assimilation, acculturation, and compartmentalization of legal norms.⁶

In realistic legality, the state sometimes responds to legal pluralism by assimilating norms or adjusting one norm to another.⁷ This legal assimilation is a combination of legal substance between customary or religious legal norms and national law, based on the level of dominance of each norm.⁸ If the assimilation method is ineffective, Indonesia will adopt the legal norm of acculturation.⁹ In this context, the state makes adjustments between one legal norm and another legal norm, and the results of this norm adjustment will be ratified into national law.¹⁰ If the state deems the accommodation of the two legal norms (custom and religion) unnecessary, it takes the way of national legal independence. Independence of national law or out of customary and religious provisions is intended to compartmentalize state law from customary law and religion in this paper.¹¹

In line with the discourse of compartmentalization of law above, this article will contextualize the concept of compartmentalization of law in the case of Sasaknese divorce. Today, Sasak people still practice three types of marital legal systems in their legal marriage: Sasak customary law, Islamic religious law, and Indonesian state law. This paper will look at one of the divorce cases of the Sasak community in Lombok, which was examined, tried, and decided by the Praya Religious Court, Central Lombok, West Nusa Tenggara. In this decision, the authors

⁶ Ratno, *Hukum Sakral dan Hukum Sekuler* (Jakarta: Alvabet, 2008), 500. Post article, see Itmam, M. S., & Aouich, A., "Legal Politics of Religious Moderation and State Defense Policy at Public Universities", *Justicia Islamica*, 21(1), (2024): 87-110. <https://doi.org/10.21154/justicia.v21i1.9242>.

⁷ Legal assimilation can be interpreted as transplanting of legal norms. Nazifah, "Politikasi Peraturan Daerah Syariah Dalam Bingkai Pluralisme Indonesia," publication Number 45-168-1-PB. Nazifah is a lecturer in Law, Faculty of Law, Batanghari University, Jambi, Sumatra Indonesia.

⁸ Khalid MD, M. M., Hidayat, A., Juhri, M. A., & Solehah, E. L., "Tracing the Trialectic: The Process and Influence of Three Laws in the Establishment of Religious Courts in Indonesia", *Justicia Islamica*, 21 no.1, (2024): 137-154. <https://doi.org/10.21154/justicia.v21i1.8741>

⁹ "Roseveare defines legal pluralism as 'the existence of multiple sources of law (both state and non-state) within the same geographical area'. See Bakrania, S. With H. Haider, *Safety, Security and Justice: Topic Guide* (Birmingham, UK: GSDRC, University of Birmingham, 2016), 15.

¹⁰ See Prasetyo, Y., & Amaral, L. S., "The Concept of Civilized Indonesian Law: Strengthening Islamic Spiritual Values in Law", *Justicia Islamica*, 21 no.1, (2024): 179-198. <https://doi.org/10.21154/justicia.v21i1.9016>

¹¹ Purnama, D., Asmuni, A., & Tanjung, D., "The Justice Orientation in the Court Decree: The Judge Legal Reasoning in Compensation Imposition of Musharakah Agreement", *Justicia Islamica*, 20 no.2 (2023): 241-260. <https://doi.org/10.21154/justicia.v20i2.6845>. In the Indonesian dictionary, the word compartment is defined as "a separate part or part of an organization that deals with a particular field". In Oxford Dictionaries, the word compartmentalization is defined as "the division of things of people into separate sections or groups". In the Cambridge Dictionary, the word compartmentalization is defined as "the act of separating things into parts and not allowing those parts to mix together". Some of these explanations provide understanding that compartmentalization is the classification or separation of an object or person based on type, shape, nature, and so forth. Clustering can also be done based on various parameters used.

see that the panel of judges did not consider significantly the aspects of Sasak adat law and Islamic law; instead, the judges regarded them as aspects of state law.¹² Thus, the authors see that the strategy of the panel of judges undertaking compartmentalization of law is solely oriented towards realizing the fulfillment of the juridical aspects of state law only.¹³ On Court reasoning, the judges adopted a legal compartmentalization solely to provide justice, protection, and balance of rights and obligations between men/husbands and women/wives in starting, building, and pursuing family justice. The approach used the model of socio-legal studies mainstreams, famous for the theory of legal compartmentalization.¹⁴ A methodological study of this article deals with the legal reasoning methods of juridical-normative-empirical analysis. The critical point explored and captured in this article is the attitude of legal compartmentalization as an essential response from judges in seeing the phenomenon of legal plurality in the Sasak society.

The Legal Issue of a Divorce Case on the Sasak Marriage Law

The legal issue in this paper, which will be discussed in this article, is about the hard work of a Muslim woman working abroad who sued for divorce from her husband in the Sasak tribe. This woman argued that her husband did not comply with the obligations of marriage. In the teachings of Sasak and Islam, a husband is required to guarantee a decent life for his wife. But in reality, due to the husband's inability to provide a decent life, the wife works hard abroad to meet the family's needs.¹⁵ Instead of a husband providing a decent life, the husband marries someone else. A wife filed for divorce in court based on the injustice she received. So the main problem here is the hard work of a wife in seeking justice in the context of the plurality of marriage laws, namely Islam, Custom, and the State. The judge and the

¹² Found with related issue in article of Hikmah, N., Faisol, S. A., & Che Noh, M. A., "The Existence of Marriage Post the Constitutional Court Decision: As a Right or a Prerequisite?", *Justicia Islamica*, 21 no.1, (2024): 111-136. <https://doi.org/10.21154/justicia.v21i1.7333>

¹³ Relate issue, found in article of Alifa, H. L., Sodiqin, A., & Ambarayadi, B., "Interreligious Marriages in Indonesia: From Legal Disharmony to Legal Conflict", *Justicia Islamica*, 20 no. 2, (2023): 193-214. <https://doi.org/10.21154/justicia.v20i2.5922>

¹⁴ Miftahul Huda et al., "Tradition, Wisdom and Negotiating Marriage and Inheritance Disputes on Javanese Muslim," *Al-Istinbath: Jurnal Hukum Islam* 9, no. 1 (May 30, 2024): 25-44, <https://doi.org/10.29240/jhi.v9i1.9887>.

¹⁵ Laras Shesa et al., "Reformulating Progressive Fiqh of Talak (Divorce): A Contemporary Study of the Principle of Making Divorce More Difficult in SEMA No. 1 of 2022 for Women's Protection," *MILRev: Metro Islamic Law Review* 3, no. 2 (December 13, 2024): 236-62, <https://doi.org/10.32332/milrev.v3i2.9950>.

court responded to the wife's strong effort with legal compartmentalization actions. The legal issues will be explored and discussed under this paragraph.¹⁶

Decision of the Praya Religious Court, Central Lombok Regency, West Nusa Tenggara Number 0549/Pdt.G/2012/PA.PRA.¹⁷ Regarding the Plaintiff's Divorce, it does not display the identity of the Plaintiff and Defendant as a whole.¹⁸ The Decision of the Praya Religious Court, Number 0549/Pdt.G/2012/PA. The Praya Religious Court published PRA, and that decision only shows several plaintiffs' and defendants' identities, such as age, religion, education, and occupation. The plaintiff is 30 (thirty) years old, is Muslim, has an elementary school education, and is a farmer. On Decision, the Defendant is 31 years old, is Muslim, is a farmer by occupation, and has an elementary school education. The Plaintiff and Defendant were recorded as legally married, both in Islamic Law and State Law, which was held on August 28, 2003, in Central Lombok, and the Marriage Certificate Quotation Number confirmed the marriage: 362/24/IX/2003. The Office of Religious Affairs (Kantor Urusan Agama) issued the Marriage Certificate in Central Lombok on September 13, 2003. This divorce suit was initiated by a wife (Plaintiff), with the Plaintiff's claim letter on November 19, 2012, and was registered in the Registrar's Office Number: 0549 / Pdt.G/2012/PA.PRA. of the Praya Religious Court, Central Lombok, West Nusa Tenggara Province.

In their lawsuit, the Plaintiff filed for divorce with the Praya Religious Court for several vital reasons (*Fundamentum Petendi*)¹⁹ First, after 2 (two) years of the Plaintiff working in Saudi Arabia from 2010-2012, the Defendant reportedly married another woman named Dina in the village of Jago, Praya, Central Lombok district. To confirm and respond to the news, the Plaintiff went home from Saudi Arabia to Central Lombok, Indonesia, in 2012 to prove the truth about the Defendant's marriage to Dina. After the Plaintiff confirmed that it was true that the Defendant

¹⁶ Lukman Santoso, Yutisa Tri Cahyani, and Suryani Suryani, "Dilema Kebijakan Wisata Halal Di Pulau Lombok," *Jurnal Sosiologi Reflektif* 15, no. 1 (November 9, 2020): 23-44, <https://doi.org/10.14421/jsr.v15i1.1968>.

¹⁷ Decision Number 0549/Pdt.G/2012/PA.PRA Praya Religious Court, Central Lombok, West Nusa Tenggara.

¹⁸ In civil law, the Plaintiff is interpreted or intended as a person who feels his rights are violated or taken by others, so that he has the right to seek truth or justice against anyone who takes his rights in front of a trial or court. Whereas the Defendant is a person who is deemed to have violated or taken the rights of another person without the consent of the person concerned, so the defendant was led to all trials or courts to take responsibility for his behavior depriving the rights of others. See Retnowulan Sutantio dan Iskandar Oeripkartawinata, *Hukum Acara Perdata dalam Teori dan Praktik*, cet. Ke-11 (Bandung: Mandar Maju, 2009), 2.

¹⁹ *Fundamentum Petendi* is the basis of a lawsuit that explains about the real events of the facts or legal events that occur (factual ground) along with various legal grounds (legal ground. Read Moh Hatta dan Dyah Ersita Yustanti, *Hukum Acara Perdata Dalam Tanya Jawab* (Yogyakarta: Liberty, 2010), 12.

was married to Dina. *Second*, (4) Four months after returning (back home) from Saudi Arabia to Indonesia, the Plaintiff has never been stay (at home) in one house as the Defendant, and for 4 (four) months after the Plaintiff back home from Saudi Arabia, she was lived in his parents' house. *Third*, before the Plaintiff went to Saudi Arabia to work as an Indonesian Worker (*Tenaga Kerja Wanita*) in Saudi Arabia, the Plaintiff and Defendant often had quarrels of family disputes of Domestic Violence, both in the form of rude (towards family crime-violence or physical expressions-violence). *Fourth*, while the Plaintiff was in Saudi Arabia, the Plaintiff and Defendant kept in contact and exchanged news and information. The Plaintiff often sent money to the Defendant, and they are family. As each of the reasons and legal facts for the Plaintiff's claim, the Plaintiff requested that the Praya Religious Court grant the Plaintiff's request, with several central points of the lawsuit. The *first* was the Praya Religious Court, which granted the Plaintiff's claim. *Second*, the Praya Religious Court must drop, overthrow, or bring down the First Talak (*Ba'in Shughra*) for the Marriage Status between Defendant and Plaintiff. *Third*, for the charge, cost, price, and finance of this assembly-court session for applying the law. *Fourth*, in the panel context of the judges' forum, there are different or distinguished opinions, and the court is asked to make a fair decision (*Ex Aequo et Bono*).²⁰

Divorce Case, Family Worker, and Gender Equality as Post-Household Tasks of Contemporary Sasak Islam

In the dictum of its decision, the Praya Religious Court judges decided that the Plaintiff's claim registered (*gugatan*)²¹ in the Registrar's Office of the Praya Religious Court, Registration Number: 0549/Pdt.G/2012/PA.PRA. Central Lombok Regency, West Nusa Tenggara Province, contains several matters. The first is the defendants who have not been formally present or have not attended all the assembly or court

²⁰ Decision Number 0549/Pdt.G/2012/PA.PRA. Praya Religious Court, Central Lombok Regency, West Nusa Tenggara Province.

²¹ The Civil Procedural Law recognizes the term lawsuit (*contentiosa*) and petition (*voluntary*). The fundamental difference between a lawsuit and a petition is, a lawsuit is definitely a dispute between two or more parties, there is a legal action that is considered to rob or violate the rights of others. Thus, in a lawsuit the judge functions as an assembly that hears and decides who is right and wrong. Whereas in the petition there are no disputes, only the one-sided interests of the applicant (*ex parte*), could be because the applicant has the same rights between several people who in one legal case. For example the case of disputes between heirs about the portion of each heir to the property left by the testator, or adoption of a child, changing the name, guardianship, abilities, and so forth. So, the judge in the petition case only serves to determine or provide certainty in a legal case, the judge's decision is only declaratory or only explains the case. See Retnowulan Sutantio dan Iskandar Oeripkartawinata, *Hukum Acara Perdata Dalam Teori dan Praktik*, cet. Ke-11 (Bandung: Mandar Maju, 2009), 10. Read Zainal Asikin, *Hukum Acara Perdata di Indonesia* (Jakarta: Kencana, 2015), 15.

session proceedings. *Second*, in its jurisdiction, the Praya Religious Court judges and decides with *Verstek*.²² *Third*, the Praya Religious dropped the first divorce (*Talak Ba'in Shughra*) for Marriage Status between Defendant and Plaintiff. *Fourth*, order the Registrar of the Praya Religious Court to send a copy of the Decision that has permanent legal document to the Marriage Registrar of the Office of Religious Affairs, whose territory includes the Plaintiff's residence and the Defendant's residence, and record the divorce legal issue in the list provided. *Fifth*, the plaintiff must pay all costs incurred in the case, which have been calculated as Rp. 391,000 (three hundred and ninety-one thousand Rupiah).²³

Based on the Plaintiff's request statement, several legal facts were revealed during the trial. Before the Plaintiff left for Saudi Arabia to work as an Indonesian Worker, the Plaintiff testified that the Plaintiff and Defendant often had disputes and quarrels regarding livelihoods and necessities of life that the Defendant could not meet. This reason for not fulfilling the necessities of life is the main reason for the Plaintiff's choice to work as an Indonesian Worker in Saudi Arabia. According to the contents of the lawsuit, the Plaintiff stated that the Defendant allowed the Plaintiff to work in Saudi Arabia as an Indonesian Worker. During the Plaintiffs' stay in Saudi Arabia, there were no significant disputes, as is evident from the Plaintiff's statement, which stated that the Defendant permitted his departure to Saudi Arabia. During the Plaintiff's time in Saudi Arabia, communication with the Defendant was well established, as proven by the Plaintiff's habit of sending money to the Defendant and his family.²⁴ Disputes between the plaintiff and the Defendant have occurred, but the disagreement occurred before the Plaintiff left for Saudi Arabia. The dispute also did not have high tension, resulting in negative expressions (family violence).

As the legal facts above illustrate, as long as the Plaintiff worked in Saudi Arabia to become an Indonesian Worker, the condition of the Plaintiff's and Defendant's family did not appear to be disputes or quarrels whose tension could

²² The *Verstek* verdict is also known as the absent verdict. *Verstek* is a court decision where during the trial until the court and the panel of judges decide and read the court decision the defendant or the respondent is not present directly, after several times the court summoned the defendant or the respondent to be present in the trial. In short, *Verstek* is the absence of the respondent or defendant in the reading of the court's decision, both the absence of the respondent or the defendant directly, and the absence of representatives from the defendant or respondent. See Yulia, *Hukum Acara Perdata* (Lhokseumawe: Unimal Press, 2018), 40.

²³ Decision Number 0549/Pdt.G/2012/PA.PRA. Praya Religious Court, Central Lombok Regency, West Nusa Tenggara Province

²⁴ Decision Number 0549/Pdt.G/2012/PA.PRA. Praya Religious Court, Central Lombok Regency, West Nusa Tenggara Province

lead to divorce. Interestingly, the shadowiness of the abuser and Defendant during the Plaintiff in Saudi Arabia did not coincide with other legal facts, namely, the Defendant was married to another woman (Dian). In this case, there is a discrepancy between the Plaintiff's legal statement (*das sollen*) and the legal facts in the Plaintiff's claim letter (*das sein*). Suppose the Defendant could be present at this hearing along with the witnesses presented by the Defendant. In that case, the judges might be able to explore the reasons and various other factors in depth. The Defendant adopted the policy to marry Dian so that the trial process could run fairly.²⁵ Most interesting from this case was the judge's response to the change in Sasaknese marriage. Previously, the Sasak community had never known a wife to make a living until they went abroad, but rather, a husband who migrated abroad to spend with his family. This issue, of course, is that the change in role in the household must be responded to well by the judges, so that the change in role in the household also involves the judge in making patterns in the community. Community housing must be responded to effectively by law, so that changes in the community occur regularly and do not occur in a mess.²⁶

The Defendant's act of marrying another woman could be due to disappointment and serious problems with the Plaintiff, or because the Defendant could not establish long-distance relations or separate from the Plaintiff. Suppose the Plaintiff and Defendant have no serious issues in their household. In that case, the Defendant might find it quite challenging to choose to marry someone else, claiming that the Plaintiff and Defendant have been blessed with a girl who is 8 (eight years old), and the Defendant has always raised their daughter. Based on the testimony of a witness in the trial, the Plaintiffs and Defendants of their household were initially very harmonious, but after the Plaintiff chose to work in Saudi Arabia as Indonesian Workers, the Plaintiff and Defendant's households began to often get into disputes. This legal fact shows that the Defendant disagreed that the Plaintiff worked in Saudi Arabia. Of course, this legal fact was inversely proportional to the contents of the Plaintiff's claim letter, explaining that the Defendant approved his

²⁵ Fair (*adil*) in the perception of the court is given an equal or balanced position between the Plaintiff and Defendant. The Plaintiff and Defendant were given the same right to speak in the courtroom, and had the same right to be heard and considered by the panel of judges. This is based on the principle of procedural law that reads *audi et alteram partem* or to each his own. Through this principle the law through the trial views the same between the Plaintiff and Defendant (equality be for the law). See Elisabeth Nurhaini Butarbutar, "Konsep Keadilan Dalam Sistem Peradilan Perdata", *Mimbar Hukum*, 21, no. 2, (Juni 2009): 355-369.

²⁶ Wicipta Setiadi, "Arti Penting Lembaga-Lembaga Hukum di Indonesia dalam Merespon Perubahan Sosial", *Dialektika Pembaharuan Sistem Hukum Indonesia* (Jakarta: Sekretariat Jenderal Komisi Yudisial Republik Indonesia, 2012), 46.

departure to Saudi Arabia. In the Sasak community value system, children are entirely with their mothers, not with their fathers, so that, if wives are deemed unable to care for their children, or if they act violently toward their children, some Sasak communities or extended families will encourage husbands to divorce their wives.²⁷ Especially with the case, namely a child with his father, and the marriage status between the Plaintiff and the Defendant is still husband and wife.

This legal case shows that a change in household function is the leading cause of divorce between the plaintiff and the defendant. Under Sasak customary law, Islam,²⁸ and Indonesian national law,²⁹ the obligation to support the family is entirely on the husband, not the wife. A wife only serves to look after and manage the family and property that the husband collects. Usually, in some rural Sasak communities, most men migrate to Saudi Arabia, Malaysia, and several other countries.³⁰ Although some women go overseas, the plaintiff's choice to migrate to Saudi Arabia has changed the family's function. It is no longer the defendant's family who is the Defendant, but rather the Defendant's position as a housekeeper and the Plaintiff's function as a provider in his household.

Divorced Lawsuit (*Cerai-Gugat*) as a Resistance of Women Against Patriarchal Culture in Sasaknese Muslim

Decision of the Praya Religious Court, Number 0549/Pdt.G/2012/PA.PRA. In Central Lombok Regency, West Nusa Tenggara Province, the divorce case is a wife's resistance to the patriarchal romanticism of the Sasaknese people.³¹ Essentially, the

²⁷ Divorce Lalu Rudi Hartono and Baiq Ita are a clear example of this, according to Salqiyah and several Kateng village communities, Praya Barat sub-district, Central Lombok, Ita as his wife is very rude in how to educate his children, because Rudi and his family cannot see behavior too much Ita was hard on her children, so Rudi was urged by her family, so, Rudi divorced his wife. Interview with Baiq Salqiyah and several Kateng village communities, Praya Barat, sub-district, Central Lombok, West Nusa Tenggara. Interview on March 28, 2018.

²⁸ The husband as head of the household and is obliged to provide a living, *kiseah*, and so forth for the family. See Pasal (79)-(84) Instruksi Presiden Republik Indonesia Nomor 1 tahun 1991 tentang Kompilasi Hukum Islam.

²⁹ Husband as head of household, and wife as housewife. See Pasal (30)-(34) Undang-Undang Republik Indonesia Nomor 1 Tahun 1974 tentang Perkawinan.

³⁰ Kateng village, Praya Barat sub-district, and several villages in Central Lombok district, West Nusa Tenggara and several villages in Pringgasela Sub-district, East Lombok district, West Nusa Tenggara as samples and facts of this argument.

³¹ One of the principles of proceedings in the Religious Courts is the principle of Islamic personality. This principle requires that for Indonesian citizens (WNI) who are Muslim, the settlement of marital problems be fully resolved in the Religious Courts. Indonesian citizens who are not Muslim should not be forced to submit to and obey the authority of the Religious Courts environment. In this context, because the Plaintiffs and Defendants are Muslim, the claim to court is in the Religious Courts. See M. Yahya Harahap, *Kedudukan Kewenangan dan Acara Peradilan Agama: UU No. 7 Tahun 1989*, cet. Ke-3 (Jakarta: Pustaka Kartini, 1997), 37-38.

Sasak community takes kinship from the father or father's lineage and the mother's (bilateral/parental) line. However, in matters of divorce in the Sasaknese and Islamic context, there is not much difference, both of which give privileges to the husband in matters of divorce (*patriarchy*).³² The basic reason for the Plaintiff to defend the Defendant in a religious court was that the Defendant was married to another woman without the permission and knowledge of the Plaintiff. The Defendant may not have planned to marry Dian (third person) if seen from the Sasak tradition. However, due to the insistence of those around him who continued to whisper and portray the Defendant as a weak man, the Defendant finally chose to marry Dian. In this context, the Defendant can be justified by the Sasak people, even if they marry without the Plaintiff's knowledge. But if a man leaves a woman, then the man is wrong, and the woman is right. So, from the Sasaknese perspective, right and wrong in marriage determine who leaves first. In this situation, it cannot be said that Sasak people are entirely patriarchal, because some Sasak people also strongly reject polygamy, both men (*polygyny*) and women (*polyandry*).

For the Sasak people, a man has no pride if assigned to look after the house, and his wife goes abroad. Wife, too, if a wife leaves her husband's house to go overseas, he will get the title of a bad husband. If there is a woman (wife) like that, Sasak people will usually say to the man concerned (husband), "japakm nine marak mentie, seang-seang wah". It means divorced women like that. The Sasak people also see that, as best as a woman can be, if she dares to leave her husband, even if the woman concerned is a victim of domestic violence, the woman in question will still be seen as a woman who is not good.

In the Sasak tradition, if a woman leaves her husband's house because of a household (husband and wife) dispute, the wife usually does not go to their parents' house, but prefers the home of their relatives or close relatives. Referring to Sasaknese values and legal culture, if a woman (wife) returns to her parents' house because of a household dispute, her parents will advise their children wisely. Parents will say that their daughter's actions are wrong and hasty decisions, and are not justified by the customs, traditions, and values of the Sasaknese peoples. The social norms of such local communities must also be considered by the court or panel

³² Divorce law used by the Sasak Islamic community today is the result of struggles between Islamic teachings and local Sasak values, in the form of acculturation, adaptation, or modification. According to Hasan Bisri, Islamic Social Institutions can be seen from two points of view, first, in terms of the struggle between Islamic law and customary law, and secondly, in terms of social interactions that lead to a mutual agreement on right and wrong or good and bad. Cik Hasan Bisri, *Peradilan Agama di Indonesia*, cet. Ke-4 (Jakarta: Rajawali Pers, 2003), 69-71.

of judges who examine, hear, and decide upon the case. In the law itself, the judge is required to make the fairest decisions. In some theories of justice, the term justice is also recognized based on a sense of justice and moral sentiment from the community (sense of justice). Judges' consideration of customary law directly adjacent to the norms prevailing in the community (social norms) is critical.³³ Suppose the judge's decision does not consider aspects of traditional morality and religious values. In that case, it is feared that societal changes will be uncertain and very far from the nation's noble values.

Another social change in the case of divorce is the transfer of family functions. Usually, those who spend the dominant household needs are handled by the husband, but when dominance changes into the hands of the wife, then it is not fair. Thus, the husbands in the Sasak community consider it unnatural if the wives spend their husbands' and their families' money. In essence, for the Sasak community, as long as a husband and wife live in one household, there is no such thing as a husband to spend his wife, or vice versa, the wife spends her husband, however, the results of working together with husband and wife are joint property. If there is a divorce, it will fully become the children's property. In this case it can be seen that the Plaintiff sent money to the Defendant and his family, such actions are alarming for the husbands of the Sasak community, because they will always get negative words from the community, even though the community conveys in the form of a joke, but the duplication is a serious matter. For example, phrases like, "embe taokm tolok mamem, harge' dirikm sebagai mame tie",³⁴ where do you pride yourself as a man, a wife to provide for her husband? Wild expressions like this can also encourage the Defendant to remarry another woman.

The facts of the social life of the Sasak people show that patriarchy in the context of trust is very large. So, it can be seen that the actions of the Plaintiffs to defend the Defendant are not only a resistance to the unwillingness of the Plaintiff to be polygamous by the Defendant, but also a form of resistance to the strong existence of men in the beliefs of Sasak and Islam.³⁵ Interestingly, even though the

³³ Wicipta Setiadi, "Arti Penting Lembaga-Lembaga Hukum di Indonesia dalam Merespon Perubahan Sosial", *Dialektika Pembaharuan Sistem Hukum Indonesia* (Jakarta: Sekretariat Jenderal Komisi Yudisial Republik Indonesia, 2012), 48.

³⁴ The Statements are almost heard in every male group that has a wife in the Sasak community, especially those in the Central Lombok region.

³⁵ Violations of legal norms can be caused by damage to the household order (Broken home) on the one hand, and damage to the social order (Broken Society) on the other. Reed Achmad Ali dan Wiwie Heryani, *Menjelajahi Kajian Empiris Terhadap Hukum* (Jakarta: Kencana, 2013), 187.

Defendant and the Plaintiff have never divorced, the Plaintiff has never responded to the slightest request by the Defendant, the Plaintiff remains determined to divorce the Defendant. As a result of the Defendant's attitude of never ignoring the Plaintiff's claim in the Court, the Praya Religious Court judges, Central Lombok, then decided this divorce case with Verstek's decision, and granted the Plaintiff's claim.

Seeing the social life of the Sasak community in family law, the panel of judges should not merely take the path of compartmentalizing the law, but rather, the judges must also carry a variety of perspectives to accommodate customary and Islamic law.³⁶ Indeed, an essential step for the judges to accommodate customary and Islamic law is the dialogical legalist interaction step. This is important because humanity has passed on a classic expression that says *Ubi Societas Ibi Ius*. Peter Mahmud Marzuki interpreted as "where there is a community, there is a law, or in other words, the law has existed since society exists".³⁷ This will be very relevant if departing from the aspiration that humans are creatures who cannot live by themselves but need the help of others and the environment to sustain their lives. In other words, humans are social creatures who always need other humans and the surrounding environment.³⁸ That fact can also be contextualized to state law, which will not be able to last long if it is not strongly supported by customary law and religious law in Indonesia.

Compartmentalization of State Law in the Divorce Case of a Sasaknese Muslim Legal Marriage

In the general Indonesian context, the word compartmentalization is more familiar in the livestock environment.³⁹ Then, in the legal environment. Likewise, with the international context, the term compartmentalization is better known in the science

³⁶ In the context of Indonesian law, the judges are the last and greatest hope for the existence of customary and religious law as a symbol of the rule of law characterized by Pancasila as an abstraction of the nation's noble values. Judges under the auspices of the Supreme Court and the Constitutional Court have the absolute authority of the 1945 *Constitution* of the Republic of Indonesia to exercise judicial power as an important part of state sovereignty and the rule of law (*subsidiar*) to realize the ideals of the rule of law (*rechtsidee*), and popular sovereignty as a primary. See Zainal Arifin Hoesein, *Kekuasaan Kehakiman di Indonesia* (Malang: Setara Press, 2016), 130-135.

³⁷ See Peter Mahmud Marzuki, *Pengantar Ilmu Hukum* (Jakarta: Kencana, 2008), 41.

³⁸ Soerjono Soekanto, *Pokok-Pokok Sosiologi Hukum* (Jakarta: Rajawali Press, 2012), 1-2.

³⁹ For example, this can be seen in a livestock and animal magazine called Infolvet. In October 2007, an article entitled "The Time for Restructuring and Compartmentalization" specifically appeared, which specifically discussed the reality of increasing bird flu cases in Jakarta, Indonesia. Infolvet: Journal Peternakan dan Kesehatan Hewan, "Saatnya Restrukturisasi dan Kompartementalisasi", <http://www.majalahinfolvet.com>, 16 Oktober 2007, read 27 Januari 2020.

of Biology,⁴⁰ Psychology,⁴¹ Forestry,⁴² Agriculture, and Animal Husbandry than in the science of law. When emphasized in the context of Indonesian law, the word compartmentalization is not found in statutory regulations. However, the word compartment is found in Minister of Agriculture Regulation No. 28/Permentan/OT.140/5/2008. The Regulation of the Minister of Agriculture is to classify various groups of poultry based on animal health.⁴³ In the hierarchy of the Indonesia regulatory system, the Regulation of the Minister (peraturan menteri) is an integral part of the hierarchy of statutory regulations in Indonesian law.⁴⁴

As explained above, the word compartmentalization can be used in various scientific discourses, from forestry to legal scholarship. The word's flexibility means that its meaning is very contextual. In legal literacy, the word compartmentalization can be found in Ratno Lukito's writings.⁴⁵ And the writings of Ronen Perry⁴⁶. Ratno used the word compartmentalization in the context of legal struggle, so that this legal compartmentalization was defined as the independence of one legal system from another legal system. Another means is that the legal system runs above the legal provisions made, without having to be intervened by the provisions of other legal systems. Perry interpreted the word compartmentalization as sorting or grouping between one legal system and another legal system in the case of legal pluralism. Compartmentalization of law is the classification of law into several parts based on the legal recognition of a society or the direct recognition of a

⁴⁰ Read Alex Blokhuis and friends, "Transient Compartmentalization Dynamics in the Presence of Mutations and Noise", publication number doi: <http://dx.doi.org/10.1101/521211>, 1-32.

⁴¹ Florian Hinzpeter and friends, "Optimal Compartmentalization Strategies for Metabolic Microcompartments", *Jurnal Biophysical Society*, Vol. 112, 28 Februari 2017, 767-779.

⁴² Kevin T. Smith, "Compartmentalization Today", dalam *Arboricultural Journal*, Agustus 2006. Publication number Doi: 10.1080/03071375.2006.9747457.

⁴³ "A compartment is a farm and its environment consisting of one or more groups of poultry that have animal health status". See Peraturan Menteri Pertanian, Nomor 28/Permentan/OT.140/5/2008 tentang Pedoman Penataan Kompartemen dan Penataan Zona Usaha Perunggasan.

⁴⁴ See article (7) Law Number 12 of 2011 concerning the Formation of Laws and Regulations: the hierarchy of Indonesia regulatory system is, 1945 Constitution of the Republic of Indonesia, Decree of the People's Consultative Assembly, Law of the Republic of Indonesia/Government Regulation in Lieu of Law of the Republic of Indonesia, Government Regulation of the Republic of Indonesia, Presidential Regulation of the Republic of Indonesia, Provincial Regional Regulation, Regency/City Regional Regulation. The hierarchy of Indonesian regulatory regulated on article (8), is: People's Consultative Assembly, People's Representative Council, Regional Representative Council, Supreme Court, Constitutional Court, Supreme Audit Agency, Judicial Commission, Bank Indonesia, Minister, agency, institution, or commission of the same level established by Law or Government by order of Law, Provincial Legislative Council, Governor, Regency/City Legislative Council, Regent/Mayor, Village Head or equivalent.

⁴⁵ Ratno, *Hukum Sakral dan Hukum Sekuler* (Jakarta: Alvabet, 2008), 500.

⁴⁶ Ronen Perry, "Book Review: Compartmentalization and Harmonization of Tort Law In Europe", *Journal of European Tort Law*, Vol. XX:XXX, (4 Februari 2015): 1-15.

sovereign state. Today, the Indonesian people still believe in the existence of customary law, religious law, and especially state law, which has an elegant, structured, and well-organized legal apparatus.

Based on the decision of the Praya Religious Court, Number 0549 / Pdt.G / 2012 / PA.PRA, Central Lombok Regency, West Nusa Tenggara Province, and several main points in the Plaintiff's claim consist of primaries and sub-primaries. Primair covers several things: The *first* is that the Praya Religious Court granted the Plaintiff's claim. *Second*, the first divorce (Talak Ba'in Shughra) was dropped for Marriage Status between Defendant and Plaintiff. *Third*, these court fees should be charged according to the applicable law. Meanwhile, the Subsidair, in the Panel context of Judges Forum, has different or distinguishable opinions and asks the court to make a fair decision (*Ex Aequo et Bono*).⁴⁷

Based on the Plaintiff's claim above, it shows that, according to Islamic law and Sasak customary law, the Plaintiff has not been divorced by the Defendant. Interestingly, even though the Defendant's Islamic and Sasak marriages have not been divorced by the Defendant, in reality the Plaintiff in his lawsuit did not ask the Court to issue a provisional ruling/ decision (*Putusan Provisionil*),⁴⁸ which could separate the rights and obligations of the wife-wife between the Plaintiff and the Defendant after the Plaintiff returned from Saudi Arabia.⁴⁹ This means that, as long as Defendant has not divorced Plaintiff, both legally Islamic and Sasak, Plaintiff and Defendant still have a husband-and-wife relationship. According to Islamic law and Sasak, the Plaintiff and Defendant must live together in one house. After the Plaintiff returned from Saudi Arabia, the Plaintiff went to the Defendant's house, and the Plaintiff did not want to live together, meet, or live with the Defendant. The Plaintiff's strong determination to divorce the Defendant was why Praya's Religious Court failed to mediate the Plaintiff. Legal facts that are no less interesting, during the trial process, the Defendant never responded to anything the Court did, either

⁴⁷ See Decision Number 0549/Pdt.G/2012/PA.PRA Praya Religious Court, Central Lombok, West Nusa Tenggara.

⁴⁸ Provisionil Decision is a court decision that is temporary during the trial, the purpose is solely to provide benefits between the two parties. Likewise with the provision of a lawsuit, it is a lawsuit to obtain temporary actions that have legal legitimacy while the case is still ongoing, or before the final verdict is handed down. Read Lilik Mulyadi, *Kompilasi Hukum Perdata Perspektif Teoritis dan Praktik Peradilan* (Bandung: Alumni, 2009), 29-31.

⁴⁹ According to Subekti, the rights and obligations of husband and wife is husband and wife must be faithful to each other, help each other, live together, provide mutual support, and educate children together. See Subekti, *Pokok-Pokok Hukum Perdata*, cet. Ke-20 (Jakarta: Intermasa, 1985), 28.

in the form of notification or summons from the Praya Religious Court.⁵⁰ The attitude of not wanting to know from the Defendant can be interpreted that, in essence, the Defendant does not want to divorce the Plaintiff, even though the Defendant is said to have married another woman named Dian.

In Indonesian civil law (hukum perdata), regulated in the Civil Code and the Republic of Indonesia Law No. 1 of 1974 concerning Marriage, the actions of the Plaintiff who does not wish to live in the same house as the Defendant cannot be justified. The Plaintiff's actions can be justified legally if the Plaintiff submits a formal claim to the Court. The provisional lawsuit, for example, requested that during the trial process, the Plaintiff and Defendant were allowed not to live in one house, and so on. However, as long as there is no provisioned claim from the Plaintiff, it also applies to the provisions of Indonesian marriage law, Indonesian Marriage Law requires a husband and wife to be loyal to each other, the husband to be the head of the household, the wife to be the household regulator, the wife must obey the husband, the husband must accept the wife's presence in the house where he lives, and so on.⁵¹

Without a formal claim to the court, the rights and obligations of the husband and wife between the Plaintiff and Defendant continue to run normally in Islamic law, Sasak, and Indonesian law. Thus, if the Plaintiff is concerned that unintended behavior will occur, as a result of the existence of the rights and obligations of the husband and wife attached to the Plaintiff and Defendant, the Plaintiff may submit a provisional suit (*gugatan provisionil*) to the court. In recent years, various cases of killings among other family members have been rife. Many instances of killing family, a husband killed his wife,⁵² a wife killed her husband,⁵³ teenagers or adults

⁵⁰ Putusan Pengadilan Agama Praya, kabupaten Lombok Tengah, provinsi Nusa Tenggara Barat Nomor 0549/Pdt.G/2012/PA.PRA.

⁵¹ See article (*Pasal*) (104)-(118) Kitab Undang-Undang Hukum Perdata (*Burgerlijk Wetboek van Indonesie*), and article (32)-(34) Undang-Undang Republik Indonesia Nomor 1 Tahun 1974 tentang Perkawinan. Read Salim HS and Erlies Septiana Nurbani, *Perbandingan Hukum Perdata* (Jakarta: Rajawali Pers, 2014), 152-155.

⁵² See liputan6, "Suami Bunuh Istri", <https://www.liputan6.com>, news title "Tak Mau Diajak Rujuk, Pria ini Tikam Istri Hingga Tewan" uploaded on 5 Desember 2019. The news title "Cemburu Buta, Pria Bantai Istri Pakai Golok Hingga Tewan" uploaded on 4 Desember 2019. The news title "Polisi Ungkap Motif Suami Bunuh Istrinya di Jember" uploaded on Oktober 2019. The news title "Kalah Taruhan, Suami di Batang Jateng Tega Bunuh Istri" uploaded on September 2019. The news title "Diduga Berselingkuh, Suami di Indralaya Bunuh Istri" Uploaded on Agustus 2019. The news has been accessed on 27 Desember 2019.

⁵³ See Devira Prastiwi, "Fakta Baru Terungkap Saat Aulia Kesuma Rekonstruksi Pembunuhan Suami dan Anak Tiri", <https://www.liputan6.com>, uploaded on 10 September 2019, has been accessed on 27 Desember 2019. Reed too "Bela Diri Saat Dianiaya, Istri Kapak Suami di Darmasraya", <https://news.detik.com>, uploaded on 9 September 2019, has been accessed on 27 Desember 2019.

have killed their parents,⁵⁴ and so on. Of course, the murder cases between family members are the impact of social change that is very fast, but the law is not able to keep pace with social change. Thus, social change, especially in the family context, occurs uncivilly, far from the values of universal human morality, customs, religion, and so forth. Perhaps through court decisions, the judges can guard this society's change in a civilized, orderly, moral manner, and not deviate from the values of Sasaknese Law, religion, and humanist universality. Change in society is a necessity and cannot be denied in the life of humanity. However, the change can be enforced by law, so social change can still be controlled. Another real example of an uncontrolled social change in society is that social media allows people to swear, curse, bring down, etc.⁵⁵ The attitude or behavior of the people who are too far cannot be blamed entirely on the law, but at least the law can be present to oversee social change more regularly.

In this divorce case, the Plaintiff is firmly determined to divorce the Defendant. In connection with that, the Praya Religious Court decided: The *first* is the defendants who have not been formally present or have not attended all the assembly or court session proceedings. *Second*, in its jurisdiction, the Praya Religious Court judges and decides with *Verstek*. *Third*, the Praya Religious dropped the first divorce (*Talak Ba'in Shughra*) for Marriage Status between Defendant and Plaintiff. *Fourth*, order the Registrar of the Praya Religious Court to send a copy of the Decision that has permanent legal document to the Marriage Registrar of the Office of Religious Affairs, whose territory includes the Plaintiff's residence and the Defendant's residence, and record the divorce legal issue in the list provided. *Fifth*, the plaintiff must pay all costs incurred in the case, which have been calculated as Rp. 391,000 (three hundred and ninety-one thousand Rupiah). Although the Defendant never responded to the Plaintiff's claim, the Praya Religious Court still

⁵⁴ See Tribunnews.com, "Anak Bunuh Orangtua", <https://www.tribunnews.com>, has been accessed on 27 Desember 2019. The news title, "Mau Lebaran, Anak Malah Tega Bunuh Ayah Kandung Sendiri, Aksinya Dibantu Sepupu", uploaded on 3 Juni 2019. The news title "Tak Hanya Bunuh Ayahnya, S Sempat Pukul Ibunya Pakai Balok Kayu", uploaded on 11 Oktober 2015. The news title "Seorang Anak di Jakarta Utara Tega Bunuh Orang Tua Kandungnya", uploaded on 11 Oktober 2015. Reed too Wira Prawira, "5 Kasus Pembunuhan Anak Terhadap Orang Tua Sendiri Sejak Awal 2019", <https://kitakini.news>, uploaded on 26 Juni 2019, has been accessed on 27 Desember 2019.

⁵⁵ In December 2018, a Middle School Student in Bekasi was beaten by other students after swearing at each other through social media. In November 2018 a similar case occurred in Bintaro, South Jakarta. Realizing the negative impact of social media that is not wise and wise in social media, on Wednesday, April 10, 2019 President Jokowi through his Instagram @jokowi commemorated the Indonesian people that, Indonesian people were in the transition to social media, so they had to be careful in media social. See Yudo Dahono, "Saat Remaja Tak Bisa Kendalikan Diri di Media Sosial", <https://www.beritasatu.com>, uploaded on 25 April 2019, has been accessed on 27 Desember 2019.

granted the Plaintiff's claim. The Praya Religious Court granted the Plaintiff's claim based on the testimonies of witnesses presented during the trial.⁵⁶ In addition, the Praya Religious Court also cited an Arabic text to strengthen or justify the attitude of the judges towards the divorce case.⁵⁷

The divorce case shows how strong the influence of state law has been on the Sasak people lately. Although in Islamic law and Sasak customary law, the marriage between the Plaintiff and the Defendant is complex to say has been interrupted, if state law says the marriage was broken, no one can dispute it.⁵⁸ Islamic law and Sasak customary law require that a marriage be broken (divorced) if there is a firm and definite statement from a husband. However, if there is no explicit statement from the husband to divorce his wife, then the desire of the wife to divorce her husband will be resolved by deliberation and consensus.

In the Sasak custom, if a couple is divorced, the woman will be delivered very honorably by the family and all village and village governments from the residence of her ex-husband. Immediately, a woman's parents and all of her family will be very ashamed of the attitude of the male family who politely convey the problem, and no half-heartedness of the male family will apologize profusely to the family of the woman if during a family relationship big it happens a lot of mistakes, errors, and so forth. Through this value system, in some areas of Lombok inhabited by Sasak people, the widows and widowers have a negative view. Usually, in previous practice, if people fail to build a family, it won't be easy to get a life partner again. Unless their marriage is based on the attitude of forced marriage (*toros*), so that after the marriage is over, some women ask their parents to get a divorce, and do not wish to return to their husband's house.⁵⁹

The techniques of the Sasak community to maintain social stability, especially in case of divorce, can be adopted by the court to maintain a harmonious

⁵⁶ In civil procedural law, a judge is not permitted to refuse to reject a case on the grounds that there is no law governing it (*Ius Curia Novit*). Judges are allowed to reject the case because they do not have the authority, the case has been decided (*Ne Bis in Idem*), or because the case has expired (*Verjaring*). See Moh Hatta dan Dyah Ersita Yustanti, *Hukum Acara Perdata Dalam Tanya Jawab* (Yogyakarta: Liberty, 2010), 12.

⁵⁷ The judges of Praya Religious Court interpret the Arabic text as follows, "if the Defendant is unable to attend, because he is hiding or is reluctant to attend, then the judge may accept the plaintiff's claim and evidence and decide the case based on the evidence". See Decision Number 0549/Pdt.G/2012/PA.PRA Praya religious Court.

⁵⁸ According to Titik Triwulan Tutik, there are several things that can result in the termination of marriage in customary law, including: adultery wife, wife cannot have children, husband cannot fulfill obligations as husband, husband leaves wife for a long time, and there is consensus between husband and wife wife to divorce. Titik Triwulan Tutik, *Hukum Perdata dalam Sistem Hukum Nasional*, (Jakarta: Kencana, 2014), 134.

⁵⁹ Interview with Nurjah, age 70 years and over, residents of Central Lombok, interview on 2 October 2019.

relationship between the groom's family and the family of a divorced woman. If the court has decided the divorce case between the Plaintiff and the Defendant, or the applicant and the respondent, then the court may not release it, or only send a copy of the court decision paper on divorce. Instead, the court must also guard the shade in the community, perhaps by establishing cooperation with local executives, religious leaders, the community, and all existing village governments. Thus, marriage does not damage social relations between men and all their families, and between women and their families.⁶⁰ The court, through its panel of judges, ordered the plaintiff or the petitioner and the defendant or the respondent to meet, have mutual relations, say goodbye, and forgive each other, namely between the ex-husband and all of his family with his ex-wife and all of his family. Through the attitude of the judge who adopts the system, mechanism, and norms of customary law, the judges directly participate in preserving the noble customs and culture of the nation, on the one hand. On the other hand, the judges maintain harmonious relations in the community's social life. The disintegration of society today cannot be separated from the attitude of the state apparatus, which is very compartmentalized towards state law in carrying out its various duties. The state employees only look for safety, paying attention to state law or procedures, and not to aspects of customary law and Islamic law. It is time for the court and all the judges to be sensitive to legal pluralism; judges must not only use the glasses of horses, which only pay attention to the compartmentalization of state law. However, as a real form of law or the union of the spirit, life, and legal entity, the judges must pay attention to all the laws that live in society, from Islamic law to customary law. Judges must be able to dialogue with various laws that interact in society, from state law to Islam to Adat law. Judges must not be afraid of adopting customary law in multiple decisions, because customary law itself has become an essential part of the development of Indonesian national law.⁶¹ Moreover, customary law has been integrated with the constitution of the Unitary Republic of Indonesia.⁶²

⁶⁰ The law must be able to protect the various sets of existing legal interests of the community, lest the law itself damage the legal relationship between one person and another, people with objects, and people with existing legal entities. Wirjono Prodjodikoro, *Azaz-Azaz Hukum Perdata*, cet. Ke-3 (Bandung: Vorkink-Van Hoeve, 1995), 35.

⁶¹ Ade Saptomo, "Budaya Hukum dalam Masyarakat Plural dan Problem Implementasinya", dalam *Dialektika Pembaharuan Sistem Hukum Indonesia* (Jakarta: Sekretariat Jenderal Komisi Yudisial Republik Indonesia, 2014), 164-184.

⁶² See 1945 Indonesian Constitution, article 18B paragraph (2)

Conclusion

Based on the discussion above, it can be concluded that the compartmentalization of law refers to the classification and separation of legal systems based on societal recognition or formal acknowledgment by the state. In the Indonesian context, especially in marriage law, society simultaneously practices customary law, religious (Islamic) law, and state law. Religious judges in Indonesia hold a dual role: they represent the state and Islamic legal traditions. However, in the case examined, the panel of judges neglected the relevance of Sasak customary law and Islamic law, basing their decision solely on state law. This selective legal approach reflects a compartmentalization of state law over customary and Islamic law. The judges' decision aimed to achieve justice, legal protection, and a balance of rights and obligations between husband and wife in family life. Notably, the Praya Religious Court restored the Plaintiff's legal rights, ensured equality before the law despite the Defendant's absence, and dismantled patriarchal bias that disadvantaged the Plaintiff. Furthermore, the Court legitimized a shift in household roles, allowing the wife to assume the head of household, including the right to lead and provide for the family. This case thus illustrates both the limitations and transformative potential of legal compartmentalization in Indonesia's plural legal system.

References

- Ali, Achmad, and Heryani Wiwie. *Menjelajahi Kajian Empiris Terhadap Hukum* Jakarta: Kencana, 2013.
- Alifa, H. L., Sodikin, A., & Ambarayadi, B., "Interreligious Marriages in Indonesia: From Legal Disharmony to Legal Conflict", *Justicia Islamica*, 20 no. 2, (2023), 193-214.
- Appendix XXXIII. "General Guidelines for the Application of Compartmentalisation", *OIE Terrestrial Animal Health Standards Commission/March 2007*, 2019, 297-378.
- Asikin, Zainal. *Hukum Acara Perdata di Indonesia* Jakarta: Kencana, 2015.
- Aziz, M. W., Amri, A., Jakiyudin, A. H., & Aminah, S., "Harmony in Diversity: The Role of Minority Jurisprudence in Realizing Religious Harmony in Jayapura, Papua", *Justicia Islamica*, 21 no. 2, (2024), 315-336.
- Benda-Beckmann, Keebet von & Bertram Turner, "Legal Pluralism, Social Theory, and The State", *The Journal of Legal Pluralism and Unofficial Law*, 50, no. 3, (2018): 255-274
- Bisri, Hasan. *Peradilan Agama di Indonesia* Jakarta: Rajawali Pers, 2003.

- Blokhuis, Alex, and friends. *Transient Compartmentalization Dynamics in the Presence of Mutations and Noise*, publication number doi: <http://dx.doi.org/10.1101/521211/>, 1-32.
- Butarbutar, Elisabeth Nurhaini. "Konsep Keadilan Dalam Sistem Peradilan Perdata", *Mimbar Hukum*, 21, no. 2 (Juni, 2009), 355-369.
- Dahono Yudo, "Saat Remaja Tak Bisa Kendalikan Diri di Media Sosial", <https://www.beritasatu.com>, uploaded on 25 April 2019, has been accessed on 27 Desember 2019.
- Devira Prastiwi, "Fakta Baru Terungkap Saat Aulia Kesuma Rekonstruksi Pembunuhan Suami dan Anak Tiri", <https://www.liputan6.com>, uploaded on 10 September 2019, has been accessed on 27 Desember 2019. "Bela Diri Saat Dianiaya, Istri Kapak Suami di Darmasraya", <https://news.detik.com>, uploaded on 9 September 2019, was accessed on 27 Desember 2019.
- Harahap, M. Yahya. *Kedudukan Kewenangan dan Acara Peradilan Agama: UU No. 7 Tahun 1989* Jakarta: Pustaka Kartini, 1997.
- Hatta, Moh dan Yustanti Dyah Ersita. *Hukum Acara Perdata Dalam Tanya Jawab* Yogyakarta: Liberty, 2010.
- Hikmah, N., Faisol, S. A., & Che Noh, M. A., "The Existence of Marriage Post the Constitutional Court Decision: As a Right or a Prerequisite?", *Justicia Islamica*, 21 no.1, (2024): 111-136.
- Hinzpeter, Florian, and friends. "Optimal Compartmentalization Strategies for Metabolic Microcompartments", *Jurnal of Biophysical Society*, vol. 112 (28 February, 2017) 767-779.
- Hoesein, Zainal Arifin. *Kekuasaan Kehakiman di Indonesia* Malang: Setara Press, 2016.
- HS, Salim, and friends. *Perbandingan Hukum Perdata* Jakarta: Rajawali Pers, 2014.
- Huda, Miftahul, Agus Purnomo, Abdul Mun'im, Lutfi Hadi Aminuddin, and Lukman Santoso. "Tradition, Wisdom and Negotiating Marriage and Inheritance Disputes on Javanese Muslim." *Al-Istinbath: Jurnal Hukum Islam* 9, no. 1 (May 30, 2024): 25-44. <https://doi.org/10.29240/jhi.v9i1.9887>
- Infovet. "Saatnya Restrukturisasi dan Kompartementalisasi," *Journal Peternakan dan Kesehatan Hewan*, 2007, <http://www.majalahinfivet.com>.
- Instruksi Presiden Republik Indonesia Nomor 1 tahun 1991 tentang Kompilasi Hukum Islam.
- Jufri, M., Safi, S., Aidonojie, P. A., Zaini, Z., & Arowosaiye, Y. I., "Religion and State in Islamic Constitutional Law: The Role of Pesantren in Strengthening Symbiotic Islam and the State in Madura", *Justicia Islamica*, 21 no.2, (2024), 221-246.
- Khalid MD, M. M., Hidayat, A., Juhri, M. A., & Solehah, E. L., "Tracing the Trialectic: The Process and Influence of Three Laws in the Establishment of Religious Courts in Indonesia", *Justicia Islamica*, 21 no.1, (2024), 137-154.
- Kitab Undang-Undang Hukum Perdata (*Burgerlijk Wetboek van Indonesie*),

- Laras Shesa, Muhammad Abu Dzar, Elkhairati, and Henny Septia Utami. "Reformulating Progressive Fiqh of Talak (Divorce): A Contemporary Study of the Principle of Making Divorce More Difficult in SEMA No. 1 of 2022 for Women's Protection." *MILRev: Metro Islamic Law Review* 3, no. 2 (December 13, 2024): 236–62. <https://doi.org/10.32332/milrev.v3i2.9950>
- liputan6, "Suami Bunuh Istri", <https://www.liputan6.com>, news title "Tak Mau Diajak Rujuk, Pria ini Tikam Istri Hingga Tewan" uploaded on 5 Desember 2019.
- Lukito, Ratno. *Hukum Sakral dan Hukum Sekuler* Jakarta: Alvabet, 2008.
- Marzuki, Peter Mahmud. *Pengantar Ilmu Hukum* Jakarta: Kencana, 2008
- Mulyadi, Lilik. *Kompilasi Hukum Perdata Perspektif Teoritis dan Praktik Peradilan* Bandung: Alumni, 2009.
- Nazifah. "Politisasi Peraturan Daerah Syariah Dalam Bingkai Pluralisme Indonesia", publication Number 45-168-1-PB.
- Peraturan Menteri Pertanian, Nomor 28/Permentan/OT.140/5/2008 tentang Pedoman Penataan Kompartemen dan Penataan Zona Usaha Perunggasan.
- Perry, Ronen. "Book Review: Compartmentalization and Harmonization of Tort Law In Europe", *Journal of European Tort Law*, Vol. XX:XXX (4 Februari, 2015), 1-15.
- Prasetyo, Y., & Amaral, L. S., "The Concept of Civilized Indonesian Law: Strengthening Islamic Spiritual Values in Law", *Justicia Islamica*, 21 no.1, (2024), 179-198.
- Prodjodikoro, Wirjono. *Azaz-Azaz Hukum Perdata* Bandung: Vorkink-Van Hoeve, 1995.
- Purnama, D., Asmuni, A., & Tanjung, D., "The Justice Orientation in the Court Decree: The Judge Legal Reasoning in Compensation Imposition of Musharakah Agreement", *Justicia Islamica*, 20 no.2, (2023), 241-260.
- Putra, G. P., Irianto, S. and Manullang, E. F. M., "Legal pluralism in the special district province of Yogyakarta, Indonesia", *International Journal of Asia Pacific Studies*, 19 no.1, 2023, 1-22.
- Decision Number 0549/Pdt.G/2012/PA.PRA Praya Religious Court, Central Lombok Regency, West Nusa Tenggara Province.
- Read Feridus Welak, "Populisme di Indonesia: Ancaman bagi Integritas Masyarakat dan Reaktualisasi Pancasila", *Pancasila : Jurnal Keindonesiaan*, 02, no. 01, (April 2022): 62-70.
- S. Bakrania, with H. Haider, *Safety, Security and Justice: Topic Guide*, Birmingham, UK: GSDRC, University of Birmingham, 2016.
- Santoso, Lukman, Yutisa Tri Cahyani, and Suryani Suryani. "Dilema Kebijakan Wisata Halal Di Pulau Lombok." *Jurnal Sosiologi Reflektif* 15, no. 1 (November 9, 2020): 23–44. <https://doi.org/10.14421/jsr.v15i1.1968>

- Saptomo, Ade. "Budaya Hukum dalam Masyarakat Plural dan Problem Implementasinya", dalam *Dialektika Pembaharuan Sistem Hukum Indonesia* Jakarta: Sekretariat Jenderal Komisi Yudisial Republik Indonesia, 2014.
- Setiadi, Wicipta. "Arti Penting Lembaga-Lembaga Hukum di Indonesia dalam Merespon Perubahan Sosial", *Dialektika Pembaharuan Sistem Hukum Indonesia* Jakarta: Sekretariat Jenderal Komisi Yudisial Republik Indonesia, 2012.
- Simanjuntak, Samuel Hamonangan, FX. Djoko Priyono, "Legal Pluralism as Pancasila's Reflection to Realize Substantive Justice in Law Enforcement and Law-Making", *Pancasila: Jurnal Keindonesiaan*, 02, no. 01, (April 2022): 37-48.
- Smith, Kevin T. "Compartmentalization Today", dalam *Arboricultural Journal* (Agustus, 2006). Publication number Doi: 10.1080/03071375.2006.9747457.
- Soekanto, Soerjono. *Pokok-Pokok Sosiologi Hukum* Jakarta: Rajawali Press, 2012.
- Subekti, *Pokok-Pokok Hukum Perdata* Jakarta: Intermasa, 1998.
- Suci Flambonita and friends, "The Concept of Legal Pluralism in Indonesia in The New Social Movement", *Jurnal Analisa Sosiologi*, Juli 2021, 10 (Special Issue ICOSAPS), 361-37.
- Sutantio, Retnowulan. *Hukum Acara Perdata dalam Teori dan Praktik* Bandung: Mandar Maju, 2009.
- Tribunnews.com, "Anak Bunuh Orangtua", <https://www.tribunnews.com>, has been accessed on 27 Desember 2019.
- Wira Prawira, "5 Kasus Pembunuhan Anak Terhadap Orang Tua Sendiri Sejak Awal 2019", <https://kitakini.news>, uploaded on 26 Juni 2019, has been accessed on 27 Desember 2019.
- Tutik, Titik Triwulan. *Hukum Perdata dalam Sistem Hukum Nasional* Jakarta: Kencana, 2014.
- Yulia. *Hukum Acara Perdata Lhokseumawe*: Unimal Press, 2018.
- Law Number 1 of 1974 concerning Marriage.
- Law Number 12 of 2011 concerning the Formation of Legislation.
- United States Department of Agriculture, *Compartmentalization for Protection Against Avian Influenza and Newcastle Disease in Primary Poultry Breeding Companies in The United States of America*, United States of America: National Poultry Improvement Plan of the United States of America.