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Convergence of Customary, Islamic and State Law in Sasak Community Marriages

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Abstract

This research examines the interaction between customary law, Islamic law and state law in the context of marriage in the Sasak community, Lombok, Indonesia. Through a descriptive qualitative approach, this research collects data using in-depth interviews, participant observation, and documentation studies to understand the complex dynamics of interlegality. The research results show that the Sasak people actively navigate the tensions and synergies between the three legal systems in their marriage practices. Legal conflicts often arise from differences in the interpretation and application of customary, Islamic and state law, especially in aspects of dowry, inheritance and child custody. The Sasak people use mechanisms such as mediation by traditional and religious leaders and adaptation of customary legal practices to resolve this conflict. This research provides important insights into how multicultural societies such as the Sasak manage their legal diversity, which can help in the



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Keywords

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Introduction

In a multicultural and pluralistic society like Indonesia, the interaction between various legal systems – both traditional, religious and state – results in rich and complex social dynamics. The Sasak people on Lombok Island, as one of the ethnic groups in Indonesia, offer important insights into how these three legal systems converge, especially in the context of marriage, which is not only a social event, but also a legal and cultural event rich with symbolic values. . Marriage in the context of Sasak society

is not just a private event between individuals, but rather a procession involving local customary law, Islamic law which has long been adopted as the majority religion in the area, as well as state law which applies generally throughout Indonesia. The study of how these three legal systems interact in Sasak marriage practices offers an interesting example of the phenomenon of interlegality, where more than one legal system operates simultaneously in the same social space. At every stage of marriage, from marriage negotiations, determining the dowry, to carrying out wedding rites, these three legal systems are interrelated and sometimes conflict. Marriage, in the Sasak traditional context, for example, often begins with a unique ritual such as **merarik** (sanctioned kidnapping) which has strong social and symbolic relevance, but can raise questions in terms of Islamic law and state law. On the other hand, Islamic law influences certain forms of marriage practices, including maintenance and inheritance obligations, which must be integrated with local customary laws which often have different rules regarding ownership and inheritance.

This interaction not only generates challenges, but also facilitates a creative dialogue between tradition and modernity, where the Sasak people actively adapt customary practices to contemporary needs and the applicability of state law. This reflects the dynamics of a society that lives between strong traditions and demands for modernization and legal homogenization. Through marriage, the Sasak people show how they adapt, negotiate, and sometimes challenge various aspects of applicable law, marking them as dynamic actors in the broader social canvas of Indonesia. Exploring these interactions is not only important for understanding social dynamics in Lombok, but also provides insight into the development of legal policies that are more inclusive and sensitive to the cultural diversity that exists in Indonesia.

The Sasak people, who inhabit the majority of Lombok, practice a rich and layered customary legal system, a legacy of centuries that has continued to survive and adapt to external influences, especially since the arrival of Islam to Indonesia. Islam, as the dominant religion among the Sasak people, has integrated itself into their social and legal structures, offering a strict set of rules regarding marriage that sometimes differ or contrast with pre-existing customary norms. This tension reflects a broader dynamic between tradition and modernity, where customary law continues to be maintained while accommodating established religious principles. On the other hand, as an integral part of the Republic of Indonesia, the Sasak people are also under the auspices of national law, which is built on the basis of legal legalism and positivism which seeks to harmonize customary and religious practices with national standards. This includes efforts to protect individual rights and ensure equality before the law, often challenging deeply rooted local practices. Therefore, the interaction between customary law, Islamic law and national law is not only a legal encounter, but also a complex blend of traditional values and modern aspirations.

In this context, the conflicts and synergies between the three legal systems require deeper understanding. Each system carries its own legitimacy and authority that is recognized by members of society, creating a dynamic legal landscape. Through this study, we seek to understand how the Sasak people navigate this diversity of laws in their daily lives, especially in regulating marriage which not only concerns social status, but also inheritance rights, child care, and various other crucial legal aspects. These linkages create a legal matrix that not only depicts the interface between three different legal systems but also how they together shape and influence the broader social context in which Sasak society operates. By understanding this complex relationship, we can draw broader conclusions about how law

and culture influence each other and shape people's daily lives in Indonesia's multicultural context.

Studies on interlegality in Indonesia, especially those related to marriage, are still relatively rare, even though the complexity of problems arising from differences in legal systems often demands innovative and adaptive solutions. It is hoped that this research can fill this gap by providing an in-depth analysis of how the Sasak people view and integrate these three legal systems in their lives, especially in facing the ever-changing challenges of modernity and globalization. In addition, this understanding is important for developing legal policies in Indonesia that are more inclusive and respect the diversity of local legal systems without ignoring the need for consistent and fair national legal standards. This is important in the context of Indonesia, an archipelagic country with wide ethnic and cultural diversity, where each ethnic group has characteristics that can contribute to national social and cultural wealth.

The main aim of this research is to map and analyze the interaction between customary law, Islamic law and state law in the context of marriage in Sasak society. This research aims to document the traditional marriage practices of the Sasak people and the adaptation of these practices to the influence of Islam and state law. Apart from that, this research will also analyze the conflicts and synergies that arise between the three legal systems in marriage cases. Based on this analysis, this research aims to provide legal policy recommendations that support effective harmonization between diverse legal systems, taking into account customary, religious and national values. Thus, it is hoped that this research can produce insights that contribute to the development of law that is more holistic and responsive to social needs in Indonesia.

Methods

This research will use a descriptive qualitative approach. This method was chosen because of its ability to explore and

understand phenomena in their original context, which is very important for understanding the complex interactions between customary law, Islamic law and state law in the context of marriage in the Sasak community. Data will be collected through in-depth interviews, participant observation and documentation studies. In-depth interviews will be conducted with various stakeholders, including traditional leaders, religious figures, and community members who have experienced the marriage process, to gain in-depth insight into how they understand and navigate these three legal systems.

Data analysis will be carried out using content analysis techniques to identify main themes and patterns in the data relating to the way customary law, Islam and the state interact and influence marriage practices. This research will also use interlegality theory to assist in framing and interpreting the findings, providing an adequate theoretical context in understanding the legal dynamics that occur. The validity and reliability of the findings will be strengthened through triangulation of sources and methods, where information obtained from interviews will be verified and enriched through observations and relevant documents. Thus, it is hoped that this research can provide a comprehensive and in-depth picture of legal interactions in marriage in Sasak society, as well as the implications of these interactions for the development of legal policy in Indonesia.

Results and Discussion

Documentation of Sasak Traditional Marriage Practices

In the context of this research, in-depth documentation of the traditional marriage practices of the Sasak people offers a critical lens into the interactions between tradition, religion, and state regulations. Marriage practices, particularly the sanctioned ritual of merarik or abduction, illustrate the complexity and depth of Sasak culture, as well as how these practices have adapted and survived significant social and legal changes. Marriage in Sasak society is not only a social agreement between two individuals, but also a series of rituals rich

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with cultural symbolism and the importance of transmitting traditional values. The merarik ritual, for example, is a practice that survives from the old patriarchal system, where the symbolic abduction of a woman by a man is considered a form of acceptance and recognition of courage and ability to lead a family. Although this practice is often interpreted negatively from a modern perspective, in the context of Sasak customs, this ritual has deep connotations of honor and social status. With the arrival and spread of Islam in Lombok, Sasak marriage practices underwent significant adaptation. Islamic law brings changes to marriage procedures, including determining the dowry, marriage contracts, and the rights regulated in marriage. The practice of kidnapping, in some cases, must be reconciled with Islamic norms that do not allow kidnapping or marriage without the explicit consent of both parties. In this context, many of the traditional Sasak rituals have been modified to comply with Sharia principles, demonstrating a unique form of religious acculturation.

As part of Indonesia, the Sasak people are also subject to state law which aims to regulate and protect human rights, including in the context of marriage. National marriage laws that emphasize equality and consensual marriage have the potential to conflict with the practice of marriage. However, in practice, there is ongoing negotiation and mediation between local stakeholders, traditional leaders and legal officials to find a middle ground that allows the continuation of traditional values while complying with national regulations. Despite facing pressures from modernization and legal homogenization, the Sasak people show strong cultural resilience. This research documents how the adaptation and transformation of traditional marriage practices is not a rejection of tradition, but rather a dynamic effort to maintain cultural relevance and integrity in an era of globalization and rapid social change. By documenting in detail Sasak traditional marriage practices, this research not only reveals the complexity of legal and cultural interactions but also shows how the Sasak people maintain their identity in confrontation with global and national forces. This discussion provides important insights for the development of legal policies that are more inclusive and sensitive to cultural diversity, while ensuring that local traditions can survive and thrive in the context of modern multicultural countries.

Interaction Between Customary Law and Islamic Law:

The interaction between customary law and Islamic law in Sasak society not only marks the coexistence of two legal systems but also reflects a dynamic process of adaptation and negotiation. In the context of marriage, this interlegality becomes very important because these two legal systems have sometimes different, but often complementary views regarding the principles of marriage, including dowry and inheritance management. The dowry, or dowry, is an integral component of marriage according to Islamic law, considered a gift from the husband to the wife that validates the marriage. In Sasak society, the practice of dowry is also enriched by customary law which may prescribe different forms and values of dowry to reflect social status, family agreements, and other local factors. While Islamic law tends to be more rigid in determining that the dowry must be material (such as money, gold, or other valuables), Sasak customary law may allow the substitution or addition of other forms such as land or livestock, which shows flexibility in adapting customary law to local values. Conflicts may arise when Islamic law is deemed inadequate by customary norms in dealing with more complex pre-nuptial agreements or when local customs require practices that are not explicitly recognized by Islamic law. However, synergy occurs when both systems seek to assert their role in protecting women's rights, where the dowry functions as economic security for the wife.

Regarding inheritance, Islamic law provides very structured guidelines regarding who is entitled to receive what and how much, which can differ significantly from customary law. Sasak customary law may have its own rules that focus on the maintenance of property within a particular family or community, which sometimes conflicts with the more egalitarian principles of division advocated by Islam. For example, in some cases, customary law may prioritize the male heir as the new head of the household, while Islamic law assigns certain shares to women and children, which promotes justice and prevents economic abuse of more vulnerable family members. Conflict occurs when customary law and Islamic law compete for dominance in certain cases, with each claiming supremacy in social and religious legitimacy. The interaction between customary law and Islamic law in Sasak society in the context of marriage is a clear example of how two legal systems can conflict and synergize in a complex social and

cultural context. Further research and in-depth analysis of the way the Sasak people navigate these interactions in their daily lives can provide valuable insights for the development of more inclusive and effective legal policies in Indonesia, which respect and integrate these two legal systems in a way that respects tradition and meet contemporary needs.

The Influence of State Laws on Marriage Practices

In multicultural and pluralistic societies such as those found in Indonesia, interactions between customary, religious and state legal systems form a complex and dynamic social landscape. Especially in the Sasak community, Lombok, the influence of state law on marriage practices not only influences the social and cultural order but also functions as a medium that reflects and influences social change, especially related to legal protection and gender equality. State law in Indonesia, which is primarily based on the principles of legalism and legal positivism, seeks to harmonize customary and religious practices with applicable national standards. In the context of marriage, this is manifested in the form of laws that regulate marriage, divorce, inheritance rights and protection in the household. Indonesia's Marriage Law, for example, sets minimum age limits, administrative requirements, and legal procedures that must be followed for national recognition of marriage. One important aspect of the influence of state law is in providing legal protection to individuals in marriage, especially women and children. National law seeks to guarantee gender equality in marriage, including the right to acquire, own, manage and dispose of joint property, as well as the right to inheritance and protection from domestic violence. This reflects the country's commitment to universal human rights principles, although their implementation in the field often encounters obstacles. At the community level, reactions to state laws vary significantly. In Sasak society, some elements of state law are accepted because they are in line with aspirations for modernity and social progress. However, there is also resistance, especially when state laws are deemed to interfere with or replace long-standing customary law and Islamic norms. For example, the practice of pulling or kidnapping in the context of Sasak traditional marriages, even though it has symbolic

meaning and is recognized in custom, has the potential to conflict with national law which prohibits kidnapping and coercion.

In facing the dynamics between customary law, Islam and state law, the Sasak people show significant ability to integrate and adapt various aspects of law. This is reflected in creative and pragmatic ways of carrying out marriages that comply with Islamic law, maintain traditional traditions, while meeting the demands of state law. This adaptation process also involves negotiation and reinterpretation of values and norms to achieve sustainable harmonization between tradition and modernity. The influence of state law on marriage practices in Sasak society is inevitable and plays a crucial role in shaping social, economic and cultural dynamics. Through a legal approach that is inclusive and sensitive to diversity, as well as through ongoing dialogue and adaptation, Sasak society and Indonesia in general can lead to the development of legal policies that support effective harmonization between diverse legal systems. Further research and approaches that respect local context will be important to ensure that state laws support, not hinder, social integration and justice in multicultural societies.

Dynamics of Legal Modernization and Homogenization in the Sasak Wedding Tradition

Modernization and homogenization of law is a phenomenon that dominates many societies throughout the world, including Indonesia. In the context of the Sasak community on Lombok Island, these two dynamics have a significant effect on the way marriage traditions are practiced and interpreted amidst the demands of modernity. This research investigates how the Sasak people adapt to legal changes that often conflict with their traditional norms, while still trying to maintain a strong cultural identity. In Sasak society, marriage is not only a union between individuals, but also a deep social act that reflects the values and social norms of the community. The tradition of merarik, or sanctioned kidnapping, is an example of a long-standing customary practice, which, although it may appear to contradict formal law, is still maintained as an integral part of the social identity of the Sasak people. However, with the introduction of national laws that sought to homogenize legal practices across Indonesia and promote uniform standards, such as gender equality and protection of individual rights, friction occurred between customary law and state law.

Legal modernization is often seen as a tool to achieve normative homogenization across the region, but in Sasak society, it also functions as a catalyst for dialogue between tradition and modernity. Interviews with traditional leaders and community members show that many of them see legal modernization not as a threat, but as a challenge to align their traditional practices with the needs and demands of modern times. For example, in the context of marriage, these adaptations may manifest in the form of modifications to the merarik rite or adjustments in dowry negotiations that are more in line with Islamic and national legal principles of justice and equality. Furthermore, the phenomenon of legal homogenization invites critical discussions about how national law can be integrated with customary law without sacrificing the cultural characteristics of each ethnic group. From the research results, it appears that despite efforts by the government to introduce uniform laws, there is still a lot of room for the Sasak people to negotiate how they implement these laws in their customary practices. This creates a form of legal hybridity where customary law and state law overlap but also influence each other. This discussion leads us to the conclusion that the interaction between legal modernization and homogenization and marriage traditions in Sasak society is dynamic and layered. This not only shows resistance to enforced legal homogenization, but also highlights the strategic adaptations made by communities to ensure that their traditions remain relevant and meaningful in an ever-evolving legal and social context. Therefore, a deep understanding of these dynamics is important for the development of legal policies that are sensitive to cultural diversity, which can support harmonious coexistence between customary law and national law in Indonesia.

Legal Conflict Resolution in Sasak Society

In the context of a multicultural and pluralistic society in Indonesia, the Sasak people on Lombok Island face unique challenges in harmonizing the three applicable legal systems: customary law, Islamic law and state law. Legal conflicts often arise when the principles and practices of one system conflict with another, particularly in the context of marriage involving aspects such as

rituals, inheritance, and child custody. One example of conflict that often occurs is in the practice of merarik, or kidnapping, which is approved in Sasak marriage customs. This practice, although it has social justification and function in customary law, often creates conflicts with the principles of Islamic law which require explicit consent from both parties before marriage, as well as conflicts with state laws that regulate individual protection and consent in marriage. The Sasak people use several mechanisms to resolve conflicts between these legal systems. Here are some commonly encountered approaches:

1. **Mediation by Traditional and Religious Leaders:**
Traditional and religious leaders often act as mediators in legal conflicts. They help negotiate solutions that respect customary legal principles while ensuring compliance with Islamic law and state regulations. This mediation process is respected because both parties to the conflict recognize the authority and legitimacy of these figures.
2. **Adaptation and Flexibility of Customary Law:**
In many cases, Sasak customary law shows flexibility that allows adaptation to the demands of Islamic law and state law. For example, in the practice of merarik, although traditionally considered a sanctioned abduction, recent adaptations have included more explicit elements of consent to ensure that the practice does not violate the principles of Islamic law and modern law on human rights.
3. **Use of National Law as Arbitrator:**
In some cases, especially when there are disagreements that cannot be resolved through customary law or Islamic law, Sasak people may turn to the national legal system. State courts can act as the final arbiter in resolving conflicts, especially if they relate to issues such as child custody or division of inheritance that cannot be resolved internally.
4. **Implications for Legal Policy**
The resolution of legal conflicts in the Sasak community provides important lessons about the importance of an inclusive and adaptive approach in legal policy in Indonesia. Recognition of legal plurality and the need for flexible conflict resolution mechanisms is crucial in managing cultural and legal diversity. Successful legal policies must take into account customary and

religious values as well as the need to meet state legal standards that are consistent and fair.

Analyzing legal conflict resolution in Sasak society provides deeper insight into how the community manages legal differences in their daily lives. This study is not only relevant for policy development in Indonesia but also contributes to global understanding of how multicultural societies can navigate between tradition and modernity in a complex legal order.

The Role of Stakeholders in Navigating Interlegality in Sasak Society

In the context of a dynamic multicultural society such as the Sasak community on Lombok Island, interactions between legal systems – customary, Islamic, and national – form a complex and layered social landscape. Stakeholders, especially traditional leaders, religious figures, and community members, play a vital role in mediating and navigating these interlegalities. They not only act as implementers of norms and rules, but also as mediators in conflicts and as agents of innovation and cultural adaptation. This research explores more deeply how they contribute to the maintenance of social harmony in the context of marriage, which is often a meeting point between traditional values and the demands of modernization. Sasak traditional leaders have a fundamental role in enforcing customary law and maintaining traditions. In the context of marriage, they often function as mediators and interpreters of customary norms who must adapt to the demands of Islamic law and national law. For example, in the sanctioned practice of kidnapping or kidnapping, traditional leaders help negotiate terms that meet customary legal requirements while ensuring they do not conflict with Islamic principles of valid marriage. They also play a role in resolving disputes that may arise when customary norms conflict with national law, such as in cases of inheritance rights or division of property. Religious figures in Sasak society, who are generally ulama or Islamic religious leaders, play an important role in interpreting and integrating Islamic law with local practices. In marriage, they offer spiritual and legal guidance regarding aspects such as dowry, marriage contract, and husband and wife obligations, in accordance with Islamic law. They also often act as mediators in conflicts involving clashes between customary practices

and Islamic teachings, ensuring that the solutions found are not only religiously legal but also acceptable to society at large.

Members of the Sasak community, especially those who have gone through the marriage process, act as practitioners and keepers of traditions. They navigate the tensions between legal systems through their choices, for example in deciding whether to follow a complex traditional procession or choose a simpler ceremony that is more in line with Islamic principles. In this case, they do not just passively accept traditions, but actively interpret and sometimes modify these practices to reflect prevailing social and legal conditions. The active role of stakeholders in navigating interlegality in Sasak society is key in maintaining social harmony. They facilitate a dialogue between tradition and modernity, where adjustments and compromises allow not only the continuity of cultural practices but also social cohesion. For example, adjustments in marriage practices to ensure consent between both parties and comply with national laws on marriage represent practical adaptations that support social integration and legal compliance. Through their roles as mediators, tradition keepers, and adaptation agents, traditional leaders, religious figures, and community members play a strategic role in ensuring that interactions between legal systems in Sasak society do not simply result in conflict.

Legal Policy Recommendations: Supports integration between customary law, Islamic law and state law

From the findings of this research, it appears that the interaction between customary law, Islamic law and state law in the context of marriage in the Sasak community creates complex dynamics, often contradictory but also synergistic. Based on this in-depth analysis, the research concludes that there is an urgent need for policy reform that not only considers the existence and legitimacy of each legal system but also supports effective integration between them. These legal policy recommendations are directed at creating a legal framework that is more inclusive and sensitive to cultural diversity, which is important to support peaceful and productive coexistence between various legal systems in Indonesia.

1. Harmonization of Marriage Laws

One of the main recommendations is the harmonization of marriage law provisions in the three legal systems. The government must take the initiative to facilitate dialogue between traditional leaders and religious figures to reconcile differences in

marriage regulations, including dowry issues, inheritance and child custody. The aim of this harmonization is not to homogenize legal practice but to find common ground that can accommodate important principles from all legal systems involved.

2. Establishment of a Legal Mediation Agency

It is recommended to form a legal mediation body consisting of experts in customary law, Islamic law and state law. This body will function as a medium for resolving legal tensions and conflicts that arise in society, especially those related to marriage. This mediation body will also be tasked with providing assessments and advice on legal cases that require an interlegalistic approach, helping the public to navigate legal differences more effectively.

3. Intercultural Legal Education and Training

Increasing public awareness and understanding of the diversity of legal systems through education and training is essential. Legal education programs in schools and universities should include modules that teach about customary law, Islamic law, and state law, and how the three interact with each other. Such training should also be extended to local communities through workshops and seminars that enable the general public to understand how best to access and use the applicable legal system for their benefit.

4. Flexible and Adaptive Law Enforcement

A more flexible and adaptive approach is needed in law enforcement that takes into account the social and cultural context of the Sasak community. This means that state law must not only be applied rigidly, but must be flexible enough to accommodate the principles of customary and Islamic law, especially when there is no fundamental conflict with the principles of justice and equality upheld by national law.

5. Active Community Participation in Legal Formation

Encouraging the active participation of the Sasak community in the process of forming laws and policies is critical. The public must be given the opportunity to express their views and needs regarding regulations that affect their daily lives. In this way, the policies created will be more relevant and well received by the community, reducing the potential for legal conflicts and

increasing the community's sense of ownership and involvement in the laws that govern their lives.

These recommendations aim to support the development of a legal framework in Indonesia that is not only fair and inclusive but also takes into account the unique social and cultural context of each ethnic group, especially in an increasingly global and multicultural context.

Conclusion

The conclusion of this study shows that the interaction between customary law, Islamic law and state law in the Sasak community on Lombok Island illustrates a complex dynamic of interlegality in the context of marriage. These three legal systems, although often different in their approaches and principles, are intertwined in social practices that affirm the cultural identity and legal needs of communities. Sasak traditional marriage practices, especially the merarik ritual, not only show a deep defense of traditional values but also their adaptation to the influence of Islam and state law. This research reveals how the Sasak people actively navigate the tensions between the three legal systems to achieve a harmonization that allows them to maintain traditions while meeting the demands of modernization and broader legal standards.

Through descriptive qualitative methods involving in-depth interviews, participant observation, and documentation studies, this research succeeded in providing an in-depth picture of how the Sasak people interact with and among the applicable legal systems. The research results emphasize the importance of creative dialogue and adaptation in legal practice, which not only results in a better understanding of interlegality in Lombok but also provides valuable insights for the development of legal policy in Indonesia. Recommendations for further harmonization and the creation of mediation mechanisms point the way towards more effective legal integration, which respects cultural diversity while ensuring justice and equality before the law. Thus, this research helps articulate how policies that are sensitive to multicultural and pluralistic contexts can be directed to support social and legal needs in Indonesia.

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