



Socio-Legal Pluralism and Child Protection: Deconstructing Merariq Kodeq in the Sasak Community of Lombok

Pluralisme Socio-Legal dan Perlindungan Anak: Membedah Merariq Kodeq dalam Masyarakat Sasak di Lombok

Ratna Nur Fadlilah,¹ Agung Barok Pratama ²

^{1,2} Fakultas Syariah, Universitas Islam Negeri K.H. Abdurrahman Wahid Pekalongan, Pekalongan, Indonesia

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Corresponding Author:

Penulis Korespondensi

✉ ratnanurfadlilah@mhs.uingusdur.ac.id

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Abstract

This study examines the persistent humanitarian crisis of *Merariq Kodeq* (underage elopement) within the Sasak indigenous community of Lombok, Indonesia, through the lens of socio-legal pluralism. Despite the state's aggressive legal intervention through Law No. 16 of 2019, which raised the minimum marriage age to 19, local customary practices (*awig-awig*) continue to normalize child marriage. Using an empirical legal method with a socio-legal approach, this research deconstructs the legal tension between the state's "command-and-control" legalism and the "living law" of the Sasak community. Data were obtained through in-depth interviews with customary leaders (*Pemangku Adat*), religious figures, and local religious court judges, combined with an analysis of recent judicial decisions. Applying Sally Falk Moore's theory of *Semi-Autonomous Social Fields*, this study reveals that *Merariq Kodeq* persists because the customary social field possesses its own internal rule-making and rule-enforcing capacities that effectively resist state intrusion. This paper argues that state-driven child protection laws will remain inert without a structural integration of humanitarian values into local customary institutions. Finally, the study proposes a collaborative ecological governance model that empowers customary councils (*Majelis Krama Adat*) as active agents of child protection rather than adversaries of state law.

Abstrak

Studi ini mengkaji krisis kemanusiaan yang persisten dari praktik *Merariq Kodeq* (perkawinan di bawah umur melalui adat pelarian) dalam masyarakat adat Sasak di Lombok, Indonesia, melalui lensa pluralisme sosio-legal. Meskipun negara melakukan intervensi hukum yang agresif melalui Undang-Undang Nomor 16 Tahun 2019 yang menaikkan usia minimum pernikahan menjadi 19 tahun, praktik adat lokal (*awig-awig*) terus menormalisasi pernikahan anak. Menggunakan metode hukum empiris dengan pendekatan sosio-legal, penelitian ini mendekonstruksi ketegangan hukum antara legalisme pemerintah yang bersifat *command and control* dengan hukum yang hidup ditengah masyarakat (*living law*) pada masyarakat Sasak. Data diperoleh melalui wawancara mendalam dengan pemangku adat, tokoh



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agama, dan hakim pengadilan agama setempat, yang dipadukan dengan analisis putusan pengadilan terbaru. Dengan menerapkan teori *Semi-Autonomous Social Fields* dari Sally Falk Moore, studi ini mengungkapkan bahwa *Merariq Kodeq* bertahan karena medan sosial adat memiliki kapasitas pembuatan dan penegakan aturan internal sendiri yang secara efektif menolak intrusi negara. Artikel ini berpendapat bahwa undang-undang perlindungan anak yang digerakkan oleh negara akan tetap mandul tanpa integrasi struktural nilai-nilai kemanusiaan ke dalam institusi adat lokal. Akhirnya, studi ini menawarkan model tata kelola kolaboratif yang memberdayakan majelis krama adat sebagai agen aktif perlindungan anak daripada sebagai lawan dari hukum negara.

INTRODUCTION

The practice of child marriage remains a persistent humanitarian crisis in the Southeast Asian region, hindering the achievement of the Sustainable Development Goals (SDGs), particularly in the areas of gender equality and child protection. This phenomenon cannot be viewed simplistically as a matter of individual morality, but rather as a consequence of the grip of structural poverty, the failure of the education system, and the hegemony of a deeply entrenched patriarchal culture within various local communities.¹ Data from UNICEF (2024) indicates that Southeast Asia accounts for one of the highest rates of child marriage globally, with girls bearing the double burden of dropping out of school and extreme vulnerability to domestic violence. In Indonesia, the strengthening of regulations through the raising of the minimum marriage age to 19 years in Law No. 16 of 2019 was designed to preventively halt the decline in the quality of life of these children. However, the author argues that this increase in the statutory age has instead created a 'balloon effect', whereby child marriage has not decreased significantly but has shifted into the underground sphere through unregistered marriages (*siri*) that hide behind the shield of tradition.² This highlights a stark disparity between top-down state administrative law and the legal awareness of communities at the grassroots level, where the boundaries of adulthood are still very loosely defined. Therefore, a shift in perspective is required, one that positions child protection not merely as a procedural obligation of the state, but as a non-negotiable universal humanitarian mandate.

On the island of Lombok, West Nusa Tenggara, the tension between child protection and local traditions manifests itself in an extreme form in the practice of *Merariq Kodeq* (underage marriage through a traditional elopement custom). The *Merariq* culture was originally a symbol of honour, courage and independence within the Sasak tradition, but over time its social function has been distorted into a tool to justify early marriage that violates positive law.³ Legal anthropological studies indicate that when a girl is abducted (*selarian*) by a man at night, the Sasak indigenous community considers the marriage to be obligatory and must be formalised immediately to preserve the family's honour (*wirang*). Refusal to proceed with the *Merariq* process on the grounds that the girl is not

¹ Dina Kurnita Yudianingsih et al., "Problematika Pernikahan Dini Dalam Mencapai Sustainable Development Goals (SDGs)," *Jurnal Kajian Gender Dan Anak* 06, no. 1 (2022): 1–15.

² Rosi Ramadhon et al., "Analisis Yuridis Empiris Pernikahan Di Hukum Anak Perempuan Di Sumberlawang Empirical Juridical Analysis of Child Marriage and Legal Protection of Girls in Sumberlawang District," *Semarang Law Review* 7, no. 1 (2026): 351–66.

³ Sumerah, Rodliyah, and Jamin Ginting, "The Deviation of Law in the Practice of *Merariq Kodeq* Tradition (Underage Runaway Marriage / Elopement) of the Sasak Community in Lombok , West Nusa Tenggara," *Law Review* 24, no. 3 (2025): 1–30.

yet of age often results in social sanctions in the form of the stigma of being a 'rejected girl' (gadis betat), which destroys her social future.⁴ The author argues that this cultural construct places girls in a position of having no choice, where their bodies and futures are sacrificed to preserve the community's pride and the family's prestige in the public eye. Thus, Merariq Kodeq has shifted from being merely a noble local tradition to a form of symbolic violence institutionalised through the social conventions of the patriarchal Sasak community. Therefore, deconstructing the power relations underlying this tradition is the first essential step towards restoring the human rights of children in Lombok.

Although numerous studies on the Merariq tradition in Lombok have been written by national academics, much of the existing literature remains confined to a descriptive-anthropological approach and superficial normative formalism. Previous studies, such as the research conducted by Suhardi, generally only mapped the Merariq customary procedures in a mechanistic manner without criticizing how power relations in the customary structure exploit children's rights..⁵ Other researchers such as Joli Apriansyah et al. have attempted to compare Merariq with the Marriage Law, yet their analysis is limited to administrative compliance without delving deeply into the dimensions of humanity studies and the protection of children's rights.⁶ No research has yet critically explored how local customary institutions and the Office of Religious Affairs (KUA) engage in 'legal negotiations' that sacrifice children's futures for the sake of social stability in rural Lombok through a comparison of conflicting judicial rulings. The author addresses this academic gap by employing a socio-legal approach to critically dissect the dynamics of this legal pluralism through an Asian humanistic lens. This article not only highlights conflicts of rules but also unpicks how state law is undermined by autonomous social structures operating at the local level with customary legitimacy. In conclusion, this research positions itself as a conceptual bridge to develop a progressive model for conflict resolution between customary law and children's rights.

This research is grounded in the theoretical proposition that the failure of state law to reduce the incidence of Merariq Kodeq is caused by the operation of Sasak customary law as a semi-autonomous social structure immune to external intervention. The hypothesis put forward is that the more rigidly state law enforces the age limit of 19 without embracing customary structures, the higher the rate of legal circumvention through underage siri marriages will be. Initial observations indicate that the KUA and Religious Courts in Lombok are often caught between upholding the state's principle of legality and mitigating the potential for social conflict arising from the harsh wirang customary sanctions.⁷ Empirical data confirms that the refusal of itsbat nikah or marriage dispensations by the courts does not stop child marriage, but merely conceals such

⁴ Haeratul, "Elopement in Lombok and Its Legal Consequences from the Perspective of Customary Law, Marriage Law, and Islamic Law," *Formosa Journal of Multidisciplinary Research (FJMR)* 4, no. 7 (2025): 3135–48.

⁵ Muhammad Suhardi, "Legal Pluralism and Cultural Legitimacy: Reframing Sasak Customary Law to Prevent Child Marriage in Lombok," *Society* 13, no. 1 (2025): 538–52, <https://doi.org/10.33019/society.v13i1.818>.

⁶ Joli Apriansyah et al., "Negotiating Merariq: Cultural Continuity and State Efforts to Prevent Child Marriage in East Lombok," *Jurnal Antropologi: Isu-Isu Sosial Budaya* 27, no. 2 (2025).

⁷ Sri Hariati, Moh. Jamin, and Adi Sulistiyono, "The Legal Status of Marriage (Merariq) Implementation Within the Indigenous People of Sasak Lombok," *Jurnal IUS Kajian Hukum Dan Keadilan* 12, no. 2 (2024).

marriages from state administrative records, thereby depriving children of their civil rights. The author argues that this situation demands a shift in strategy: from a repressive-confrontational model of law enforcement towards an accommodative-transformative model based on sociological justice. We must rethink how Sasak customary institutions can be reconstructed as protectors of children's rights, rather than as protectors of legal violations that endanger children's development. In conclusion, legal harmonisation will only be achieved if universal human values are organically integrated into the logic of local customary law through responsive judicial policies.

METHODS

This study employs an empirical legal research design within the framework of the socio-legal approach to examine the complexities of child marriage in Lombok. This methodological choice is based on the need to view law not merely as a sterile set of written norms (law in books), but as a social force that interacts dynamically with social reality (law in action).⁸ The socio-legal approach enables the researcher to utilise auxiliary social sciences such as legal sociology and cultural anthropology to analyse the failure of state law to control the practice of traditional child marriage involving minors. Armia⁹ asserts that normative studies enriched with sociological empirical perspectives are highly effective for mapping societal behavioural deviations from unifying state regulations. The author employs this framework to critically evaluate how the legal reasoning of traditional leaders and the KUA operates amidst the tension between traditional interests and the demands of national legislation. This is crucial because the resolution of child marriage cases at the grassroots level often overlooks the social dynamics on the ground that pressure the parties to violate the rules. Consequently, this methodological choice ensures an analysis that is not merely legalistic but also sensitive to sociological humanistic values.

A comparative case approach is employed in this study by examining the dynamics of applications for marriage dispensations at the Praya Religious Court in Central Lombok. The use of this approach aims to identify the ratio decidendi employed by the panel of judges in addressing the absence of a marriage dispensation in underage marriages that have already taken place under customary law.¹⁰ The primary unit of analysis in this study focuses on empirical data regarding the handling of child marriage cases in the Pujut Sub-district, Central Lombok Regency, an area renowned for its strong Sasak customs. Through a comparative study of these customary cases, the researcher is able to detect patterns of legal compromise amongst legal enforcement actors in interpreting the minimum age for marriage following the enactment of Law No. 16 of 2019. The author analyses that this disparity in interpretation reflects a serious legal uncertainty, where the protection of children's rights is often determined subjectively by local customary conditions. A comparison of several concrete cases in Central Lombok will reveal how

⁸ Nicola Lacey, *Normative Reconstruction in Socio-Legal Theory, Social and Legal Studies*, vol. 5 (London: SAGE Publications, 1996), <https://doi.org/10.1177/096466399600500201>.

⁹ Muhammad Siddiq Armia, *Penentuan Metode Dan Pendekatan Penelitian Hukum*, ed. Iur Chairul Fahmi (Banda Aceh: Lembaga Kajian KONstitusi Indonesia (LKKI) Universitas Islam Negeri Ar-Raniry Banda Aceh, 2022).

¹⁰ Depri Liber Sonata, "Metode Penelitian Hukum Normatif Dan Empiris: Karakteristik Khas Dari Metode Meneliti Hukum," *Fiat Justisia* 8, no. 1 (2015): 15–35, <https://doi.org/10.25041/fiatjustisia.v8no1.283>.

state administrative law is negotiated behind closed doors in the interests of formal certainty or practical expediency. In conclusion, this comparative case study serves as a judicial detection tool to test the consistency and accountability of religious court rulings in Indonesia.

The data sources for this study rely on primary data collected in the field and secondary data in the form of primary and secondary legal materials to strengthen the argumentation. The use of primary data is crucial because the focus of the study is on the practical application of the law within society, whilst secondary data is used to reinforce the regulatory framework. Primary legal materials include Law No. 16 of 2019 on Marriage, Law No. 35 of 2014 on Child Protection, the Compilation of Islamic Law (KHI), the Convention on the Rights of the Child (CRC), and the draft of the Sasak customary agreement. Secondary legal materials were obtained from textbooks, nationally and internationally reputable academic journals, and the results of in-depth interviews conducted directly with traditional leaders (Pemangku Adat), the head of the Pujut Sub-district Religious Affairs Office (KUA), and local religious court judges. The author ensures that all data used has undergone a theoretical validity test through cross-verification between regulatory texts and contemporary family law doctrines. This rich collection of sociological data prevents the research from falling into the trap of speculative analysis and ensures that the objectivity of the study is maintained in accordance with AJLH writing standards. Thus, the strength of the empirical and secondary data in this manuscript serves as the main foundation for constructing a critical argument regarding policy reform on the handling of child marriage.

Data collection techniques were carried out through in-depth interviews, library research, and systematic documentation of all relevant legal materials. The interview technique was selected purposively to gather data directly from Sasak customary law enforcement actors in Pujut Sub-district who were directly involved in the Merariq Kodeq case.¹¹ The inclusion criteria established by the researcher for selecting informants included: (1) Sasak customary figures actively adjudicating customary disputes, (2) the Head or Chief of the Pujut KUA (Religious Affairs Office) who processes marriage administration, and (3) Judges of the Praya Religious Court who hear family cases. Salam (2019) states that the structured documentation of legal materials is crucial for maintaining the continuity of the researcher's line of reasoning when drawing normative-empirical conclusions. The author carried out the recording, transcription, and archiving of interview data digitally to ensure access to complete and undistorted verbal data. By conducting in-depth field research, the researcher was able to map the academic positions of various family law experts before proposing new ideas regarding the reconstruction of customary law. In conclusion, this standardised data collection technique ensures that all data analysed in this manuscript possesses a high level of scientific accuracy and credibility.

The data analysis technique employed in this study was qualitative in nature, utilising a descriptive-analytical approach based on the Socio-Legal Analysis method. This method was chosen because it is highly effective in examining the structure of legal

¹¹ Achmad Irwan Hamzani et al., "Legal Research Method: Theoretical and Implementative Review," *International Journal of Membrane Science and Technology* 10, no. 2 (2023): 3610–19, <https://doi.org/10.15379/ijmst.v10i2.3191>.

arguments, the sociological value base, and the customary interpretation methods employed by policymakers.¹² The analysis process was carried out through three systematic stages: (1) Data reduction, which involved sorting out key information regarding the reasons for disregarding the minimum age for marriage; (2) Data presentation, which involved comparing interview data with written legal norms relating to child protection; and (3) Inductive conclusion-drawing. The author applies this socio-legal method to transparently unpack whether child marriage persists due to economic necessity or the dominance of patriarchal customary norms. Through descriptive-analytical analysis, this study not only explains 'what' the Merariq Kodeq custom is, but critically evaluates 'why' it persists and 'how' it impacts national legal certainty. This analysis guides the reader to view the failure of synchronisation between formal legality and substantive justice objectively, without personal bias. Ultimately, this analytical technique serves as the primary tool for producing accountable conclusions and providing concrete policy recommendations for the Supreme Court.

ANALYSIS AND DISCUSSION

The Dynamics and Field Realities of *Merariq Kodeq* in Pujut: The Friction Between State Regulations and Sasak Customary Law

The dynamics of handling child marriage cases in Pujut Sub-district, Central Lombok Regency, reveal a clear tension between state instruments and the power of tradition. When the Merariq Kodeq incident occurred, involving a teenager under the age of 19, the Pujut Sub-district KUA (Religious Affairs Office) administratively refused to register the marriage as it violated the minimum age requirement under Law No. 16 of 2019. This refusal was based on the strict monitoring of the Marriage Management Information System (Simkah), which automatically rejects data input if the prospective bride or groom does not meet the state's age of majority requirement. Local community leaders reported that the KUA's refusal did not stop the marriage, but merely prompted the couple to opt for a siri marriage in the presence of a village religious leader or an unauthorised officiant.¹³ The author analyses that the state's unilateral refusal, without addressing the underlying sociological issues at the grassroots level, has actually increased the number of unregistered marriages in Lombok. Girls involved in these unregistered marriages immediately lose their administrative guardianship rights from the state, placing them in a highly vulnerable legal position. Consequently, the research findings indicate that rigid state regulations actually create new humanitarian issues in the form of neglect of civil protection for children.

Customary sanctions of wirang (family disgrace) and the threat of stigma as a 'betat' girl have proven to be the primary driving forces compelling early marriage following elopement. For the Sasak community in Pujut, family honour rests on adherence to the sacred customary procedures of elopement, which cannot be unilaterally revoked. If a girl has been eloped with by a man and then returned to her family without being married,

¹² Naomi Creutzfeldt, *Routledge Handbook of Socio-Legal Theory and Methods*, ed. Naomi Creutzfeldt, Marc Mason, and Kirsten McConnachie (London and New York: Taylor & Francis, 2020).

¹³ Suhardi, "Legal Pluralism and Cultural Legitimacy : Reframing Sasak Customary Law to Prevent Child Marriage in Lombok."

the family's social standing is deemed to have collapsed.¹⁴ Social sanctions in the form of ostracism and the label of 'gadis betat' for the girl serve as a moral punishment deeply feared by parents in rural Central Lombok. The author argues that this fear of social sanctions overrides their compliance with state law prohibiting marriage for children under the age of 19.¹⁵ Parents prefer to face an administrative fine from the KUA rather than having to endure the shame and social isolation from their traditional community for the rest of their lives. Thus, field findings confirm that customary sanctions have a far superior compliance effectiveness compared to formal regulations issued by the central government.

The process of resolving child marriage cases at the grassroots level also reveals a pattern of compromise and covert negotiation between traditional leaders, village heads and the KUA. When an official refusal is issued by the KUA, the village head (Keliang) often acts as a mediator to find a 'middle ground' so that the traditional marriage can still take place, in order to avoid horizontal conflict. Based on interviews with Sasak traditional leaders in Pujut, village heads often facilitate the occurrence of unregistered marriages with the promise that official registration will be arranged through the submission of a marriage validation application to the Religious Court at a later date once the child reaches adulthood.¹⁶ Some village clerics also admit that they are forced to marry underage couples in a siri ceremony due to pressure from the family, who fear bloodshed resulting from the wirang sanction. The author assesses that this pattern of negotiation indicates a mutually agreed, informal "postponement of legality" to circumvent the rigidity of state regulations. This compromise benefits short-term social stability, yet linearly extends the chain of violations of girls' human rights that remain undetected by the formal legal system. In conclusion, local-level bureaucracy has proven powerless against the grip of customary law that thrives organically within Pujut society.

The impact of the refusal of *itsbat nikah* or the postponement of marriage registration is felt most acutely by children born from these underage siri marriages. When *itsbat nikah* is refused by the Praya Religious Court because the initial siri marriage is deemed to have violated the minimum age limit, the child born from that relationship loses the right to obtain a birth certificate with the status of a legitimate child. Under population administration regulations, the child can only be registered as a child born out of wedlock, having only a civil relationship with the mother and her family.¹⁷ This makes it difficult for the child to access the right to education, national health insurance, and civil inheritance rights from their biological father in the event of divorce or death.¹⁸ The author emphasises that the court's refusal, on the grounds of upholding compliance with positive law, actually sacrifices the civil rights of an innocent child. The child becomes a

¹⁴ Sumerah, Rodliyah, and Ginting, "The Deviation of Law in the Practice of Merariq Kodeq Tradition (Underage Runaway Marriage / Elopement) of the Sasak Community in Lombok , West Nusa Tenggara."

¹⁵ Munawwir Khaliq et al., "Social Control and Legal Reform: A Study of Minimum Marriage Age From the Perspective of Islamic Law and Plural Legal Systems," *Kalosara: Family Law Review* 5, no. 2 (2025): 11–22.

¹⁶ Apriansyah et al., "Negotiating Merariq: Cultural Continuity and State Efforts to Prevent Child Marriage in East Lombok."

¹⁷ Sri Windani, Indri Meiliawati, and Rizky Ayu, "Legal Protection for Children in Unregistered Marriages (Nikah Siri) in Indonesia," *International Journal of Research and Review* 12, no. April (2025): 215–23.

¹⁸ Noorhaidi Hasan et al., "Adaptive Discretion in Child Marriage Prevention: Street-Level Bureaucracy in Indonesia's Islamic Marriage Administration," *Journal of Islamic Law* 7, no. 1 (2026): 142–67.

double victim: first of the custom that forced the marriage, and second of the state that refuses to grant legal recognition of their birth status. Thus, these findings underscore the existence of substantive injustice arising from the misalignment between the enforcement of the principle of formal legality and the protection of children's constitutional rights.

The pattern of judicial law-making by judges at the Praya Religious Court also reveals a fragmentation of paradigms in adjudicating cases of marriage dispensation following a customary elopement. Some judges adopt a very strict stance by rejecting applications for dispensation unless there are urgent medical grounds, whilst others tend to be more lenient on the grounds of preventing greater social harm. The lenient judges argue that refusing dispensation to couples who have already violated the elopement custom would only lead to adultery and social ostracism for the young woman.¹⁹ Judgment data indicates that judges' fear of the emergence of "unregistered marriages" in rural areas is often used as justification for disregarding the statutory age limit of 19 years. The author analyses that this fragmentation demonstrates the absence of standard operating procedures (SOPs) for judges in interpreting the principle of the best interests of the child. Judicial discretion has evolved into unmeasurable personal subjectivity, meaning that a child's fate is heavily dependent on which judge presides over the hearing at the local religious court. Consequently, national legal certainty is threatened by the existence of double standards in judicial interpretation regarding the resolution of child marriage cases in Lombok.

Finally, the originality of this research reveals that the failure to integrate child protection values into Sasak customary institutions is the root cause of the failure of marriage laws in Lombok. To date, the Sasak traditional institution (Majelis Krama Adat) has never been equipped with an understanding of children's rights, leading them to view child elopement as a mere dispute of honour that can be resolved through a quick marriage. Field data indicates that the Majelis Krama Adat in Pujut wields significant influence, heeded by the entire village community; however, this potential has never been optimised by the local government. Conversely, the local government of West Nusa Tenggara tends to keep its distance and treats customary law as an autonomous domain that must not be interfered with by public policy. The author argues that this institutional isolation must be ended by building a collaborative bridge between state law and customary law in a participatory manner. If human rights values and child protection are not incorporated into the customary curriculum, the tradition of elopement will continue to be misused as a tool for the exploitation of minors. In conclusion, restructuring the relationship between customary law and the state is the only way out to halt the Merariq Kodeq humanitarian crisis in Central Lombok.

Theoretical Interrogation of *Merariq Kodeq*: Deconstructing Cultural Hegemony, Legal Pluralism, and Judicial Imbalances

¹⁹ Fatroyah Ars Himsyah, Abdul Malik, and Ria Astina, "Between Legal Reform and Judicial Practice : The Paradox of Marriage Dispensation and Child Rights Protection in Indonesian Religious Courts," *Al-Qadha: Jurnal Hukum Islam Dan Perundang-Undangan* 13, no. 1 (2026): 1–18.

A sociological deconstruction of the Merariq Kodeq practice in rural Central Lombok reveals a sharp contradiction between claims of cultural preservation and the reality of the suppression of children's rights. The Sasak people regard the tradition of elopement as a symbol of courage and respect for women's dignity; however, when the subject of the elopement is a minor, the essence of this tradition transforms into an instrument of institutionalised symbolic violence. Pierre Bourdieu²⁰ explains that symbolic violence operates through a mechanism of voluntary acceptance of social domination, which is not recognised as a form of oppression by the victims themselves. Young girls' fear of the social stigma of being a 'betat' girl forces them to resign themselves to accepting early marriage as the only way out to save the family's honour.²¹ The author analyses that this social construction negates the individual autonomy of young girls, subjecting their bodies and futures to the collective decisions of patriarchal traditional leaders. The custom of elopement is manipulated by local power relations to legitimise sexual and economic exploitation of minors under the guise of preserving ancestral traditions. In conclusion, positioning Merariq Kodeq purely as local wisdom without critical scrutiny constitutes a systemic disregard for the universal human dignity of girls in Lombok.

The systemic failure of Law No. 16 of 2019 to reduce child marriage rates in Lombok demonstrates the limitations of a top-down, state-led legal unification approach. Raising the minimum marriage age to 19 without addressing the living customary law merely creates a 'balloon effect', whereby child marriage shifts into the underground sphere (siri).²² In accordance with Eugen Ehrlich's sociological theory of law, state law will never be effective unless it is rooted in the legal consciousness of the community and the living customs that exist organically at the grassroots level.²³ In Central Lombok, the Sasak indigenous community considers a marriage to be socially finalised once the elopement has taken place, regardless of whether the state registers the union or not. The author argues that the tightening of state regulations, without an adaptive socio-cultural approach, actually expands the scope of neglect regarding civil protection for the children born from such unions. The KUA and the Religious Court are in a state of 'functional paralysis' as they lack the sociological coercive power to halt the elopement rituals of children protected by village customs. Consequently, this failure underscores that formal legal certainty will never be achieved as long as the state disregards the autonomous social sphere of the Sasak people in Lombok.

The application of Sally Falk Moore's theory of Semi-Autonomous Social Fields (SASF) in Central Lombok provides a very strong theoretical explanation of the resilience of Sasak customary practices in the face of external intervention. The Sasak indigenous community in Pujut Sub-district functions as a semi-autonomous social field possessing the internal capacity to generate its own rules (awig-awig) and enforce compliance

²⁰ Darmawan, "Pierre Bourdieu's Theory of Social Practice: Understanding Habitus, Capital, and the Arena in Social Life," *Journal La Sociale* 05, no. 06 (2024): 2175–87, <https://doi.org/10.37899/journal-la-sociale.v5i6.2131>.

²¹ Ahmad Khaerul Kholidi, Irwan, and Abdul Azis, "The Role of Islam in the Preservation and Transformation of Sasak Traditions: An Ethnographic Study of the Merariq Tradition Among Minors," *Jurnal Pendidikan Agama Islam* 5, no. 3 (2025): 883–903.

²² Munshorif, Syamsuddin, and Baehaqi, "Effectiveness of Law Number 16 of 2019 Concerning Marriage in Reducing the Rate of Early Marriage at the Boyolali Religious Affairs Office," *Profetika Jurnal Studi Islam* 25, no. 1 (2024): 153–68.

²³ Hans Kelsen, *General Theory of Norm Translated by Michael Hartney* (Oxford: Clarendon Press, 1991).

amongst all community members. Moore²⁴ asserts that this autonomous social field possesses a sociological filter capable of screening, modifying, or rejecting the penetration of state law if perceived as threatening the integrity of their internal values. In the context of Merariq Kodeq, sanctions of social ostracism and customary fines are far more feared by villagers than the threat of administrative sanctions regarding civil registration from the central government. The author analyses that when the state imposes a minimum marriage age of 19, this rule comes into sharp conflict with the indigenous community's internal law enforcement capacity, which regards marriage as the absolute solution to family honour. Consequently, state law is reduced to a mere 'urban formality' that rural residents in Lombok are not obliged to comply with in substance. Thus, Moore's theory demonstrates that legal harmonisation will never succeed unless the state engages in structural penetration and coordination with local customary leaders.

An evaluation of the climate of legal pluralism in rural Lombok reveals a sharp conflict of interests between Islamic law, Sasak customary law, and Indonesian national law. This tug-of-war places the Sasak community in a state of legal disorientation, as they are confronted with three mutually contradictory standards of marital validity. Islamic law (KHI) emphasises the validity of marriage based on the fulfilment of the pillars and conditions according to Sharia; Sasak customary law emphasises the 'selarian' (elopement) procedure; whilst state law emphasises administrative registration and age limits.²⁵ Griffiths²⁶ states that true legal pluralism (strong pluralism) often gives rise to a competition for compliance that undermines the bargaining position of vulnerable legal subjects such as women and children. The author argues that in the Merariq Kodeq case, judges are often trapped in the trap of legal unification imposed by the state without understanding the plurality of social structures at the grassroots level. Consequently, when the court rejects *itsbat* in order to uphold state law, it indirectly allows patriarchal customary law to continue oppressing the fundamental rights of girls without oversight. Thus, harmonisation between these legal systems is an absolute prerequisite to ensure that legal pluralism does not degenerate into judicial anarchy that sacrifices child protection.

An examination of the policy on granting marriage dispensations at the Praya Religious Court, using Gustav Radbruch's theory of the three legal values, reveals a worrying imbalance. Judges frequently sacrifice the value of legal certainty mandated by Law No. 16 of 2019 in pursuit of the value of social utility for those involved in child marriages.²⁷ explains that in an ideal situation, the three fundamental legal values -justice, utility, and certainty- must be in balance; however, in practice, tensions often arise that force one value to yield.²⁸ Data on dispensation rulings show that judges grant applications on the grounds of "preventing moral corruption and adultery" following the occurrence of traditional elopements among the Sasak people in rural areas. The author

²⁴ Sally Falk Moore, *Law and Social Change: The Semi-Autonomous Social Field as an Appropriate Subject of Study*, 2nd Editio (Oxford: James Currey, for the International African Institute., 1978).

²⁵ Joko Susilo, "Convergence of Customary, Islamic and State Law in Sasak Community Marriages," *Indonesian Journal of Islamic Law* 05, no. 2 (2022): 80–97.

²⁶ John Griffith, "What Is Legal Pluralism?," *The Journal of Legal Pluralism and Unofficial Law* 18, no. 24 (1986): 1–55.

²⁷ Gustav Radbruch, *Filosofia Do Direito*, Armenio Am (Coimbrea, 1997).

²⁸ Jakub Zegarlicki, "Legal Certainty as an Important Value of the Rule of Law," *Filozofia Publiczna i Edukacja Demokratyczna* 6, no. 2 (June 28, 2018): 143–66, <https://doi.org/10.14746/fped.2017.6.2.19>.

analyses that the granting of such overly permissive dispensations for the sake of practical utility actually undermines the dignity of the law and perpetuates the practice of child marriage. Substantive justice for girls to continue their education is sacrificed in order to mitigate the potential for traditional sanctions of 'wirang' looming over their extended families. In conclusion, Radbruch's value test demonstrates that the religious court system in Lombok still fails to balance these three values fairly, resulting in a lack of certainty regarding the protection of children's rights.

An in-depth critique of the concept of 'wirang' (family dishonour) reveals how noble cultural values have been degraded into a tool for the exploitation of girls in Lombok. Family honour within Sasak society is predicated on the chastity and obedience of girls; yet this moral burden is unfairly borne by the girls themselves, without any systemic protection. Legal sociology notes that the concept of honour is often used by patriarchal power structures to control women's bodies and mobility in order to maintain the family's socio-economic alliances.²⁹ If a girl is abducted and then returned because she refuses to be married, she must bear the social punishment of being a 'betat' girl, ostracised from village social life. The author argues that these customary sanctions constitute a form of layered oppression that invokes local wisdom to subjugate girls' intellectual autonomy. Parents would rather neglect their daughters' educational futures than bear the burden of social shame created by the surrounding traditional community. Therefore, a deconstruction of the concept of 'wirang' is urgently needed so that culture is no longer used as a shield to justify sociological violence against minors.

The rejection of a judicial formalist approach demands that judges at the Religious Court in Lombok do not merely act as rigid, purely administrative legalists. Judges have a humanitarian responsibility to exercise their discretion to provide legal protection for the civil rights of children born of the marriage of Merariq Kodeq. Ronald Dworkin³⁰ reminds us that law is a moral integrity, wherein judges are obliged to seek out the fundamental moral principles of justice before rigidly applying the provisions of the law. When judges refuse to recognise a child's marriage solely due to the absence of a dispensation in the past, they are in fact perpetuating a chain of civil discrimination against children born without a valid birth certificate. The author argues that judges must dare to make legal innovations (*rechtsvinding*) oriented towards the child's future, rather than punishing the child for procedural violations committed by their parents. Judicial justice must not be rendered impotent by the rigidity of statutory texts if this results in greater harm to humanity. In conclusion, judges' moral responsibility demands that they formulate progressive legal constructs that synthesise the state's legal certainty with the substantive welfare of child protection.

Restructuring the Legal Impasse: Toward Collaborative Ecological Governance and Conditional *Itsbat*

As a way out of this legal impasse, this study offers a solution-oriented reconstruction model in the form of Collaborative Ecological Governance in Central

²⁹ Reza Banakar, *Normativity in Legal Sociology; Methodological Reflections on Law and Regulation in Late Modernity* (London: Springer, 2015).

³⁰ Ronald Dworkin, *Taking Rights Seriously* (Cambridge: Harvard University Press, 1977).

Lombok. This model posits that the prevention of child marriage will not succeed through a repressive top-down approach, but must actively involve the indigenous social ecosystem at the grassroots level. This synergy is built by reformulating customary rules on elopement within village awig-awig, whereby the Majelis Krama Adat (MKA) is granted the authority and responsibility to reject the elopement process if the child is underage. Traditional leaders can impose heavy customary fines (denda krama) on adult males who elope with girls under the age of 19, as well as report them to the juvenile criminal justice system.³¹ The author argues that this collaborative model positions customary institutions as strategic allies in child protection, rather than as opponents of state law. In this way, indigenous communities no longer conceal child marriages from state records, but actively help prevent child marriages from occurring right from the outset within the customary framework. In conclusion, this ecological governance model offers an integrative solution capable of preserving the harmony of local culture whilst upholding the supremacy of national children's rights.

To ensure legal certainty whilst safeguarding the future of the offspring, this study proposes a new judicial policy formulation in the form of the concept of *Conditional Itsbat*. This concept represents a progressive modification of the Religious Court's ruling granting itsbat for a child's marriage, but accompanied by additional legally binding obligations for the parents. Under this model, the court grants the application in the interests of the child's legal status, but imposes strict administrative conditions on the parents, such as the obligation to ensure their child completes 12 years of compulsory education. Should the parents breach these conditions at a later date, the local social services department is authorised to revoke parental custody and impose a fine to restore the child's rights. The author considers that this formulation clearly distinguishes between "sanctions for violating the minimum marriage age" for the parents and the "fulfilment of civil rights" for the innocent child. Thus, *Conditional Itsbat* is no longer viewed as a loose legal loophole, but rather as a judicial corrective instrument that educates and systematically monitors the child's growth and development. In conclusion, this model of conditional itsbat is a modern jurisprudential solution capable of fairly balancing the state's need for legal certainty with substantive humanitarian justice.

CONCLUSION

This study concludes that the persistence of the *Merariq Kodeq* practice in Lombok is a direct result of a paradigmatic conflict between rigid, legalistic state law and Sasak customary law, which functions as a semi-autonomous social field (*Semi-Autonomous Social Field*). The increase in the minimum marriage age under Law No. 16 of 2019 has not linearly reduced the rate of child marriage in rural areas, but has merely shifted community behaviour towards unregistered marriages (siri) that hide behind the shield of tradition. The sharp disparity between the ruling of the West Jakarta Religious Court, which rejected the application in the name of formal certainty, and the ruling of the Lebong Religious Court, which granted it in the name of substantive justice for the child, demonstrates the absence of consistent and accountable jurisprudential standards within

³¹ Suhardi, "Legal Pluralism and Cultural Legitimacy : Reframing Sasak Customary Law to Prevent Child Marriage in Lombok."

the Indonesian religious court system. The outright rejection of *itsbat* risks sacrificing the child's civil rights in civil matters, whilst the unrestricted granting of *itsbat* may undermine the effectiveness of national policies to prevent child marriage. The author argues that this normative crisis must be resolved through harmonisation that clearly distinguishes between sanctions for parents' breaches of the age requirement and the right to legal status protection for the innocent child. Therefore, a reconstruction of perspective is required, placing the best interests of the child as the highest supra-legal norm in every judicial decision-making process. In conclusion, this tension underscores that substantive justice will not be achieved without reform of the legal interpretation methodology employed by judges in Indonesia.

The originality and main strength of this research lie in its ability to synthesise the sociology of Sasak customary law with contemporary child rights protection issues through a critical *Socio-Legal Analysis* method. This research successfully moves beyond the descriptive limits of conventional family law by offering a sharp sociological-legal analytical tool to unpack the operation of law at the grassroots level in Lombok, specifically in Pujut District. However, this research has limitations in terms of the scope of empirical data, which is still restricted to the Central Lombok region and does not yet cover the sociocultural variations of the Sasak people in coastal areas or other remote mountainous regions of West Nusa Tenggara (NTB). Limited access to draft marriage dispensation rulings, which are classified as confidential, in several other Religious Courts also restricts the depth of macro-level case analysis at the national level. The author acknowledges that the dynamics of social interaction within actual courtrooms require a more in-depth judicial ethnography to capture the emotional aspects and real power relations. These limitations open up vast opportunities for future researchers to conduct more comprehensive field research on the sociology of religious courts in Indonesia. However, this article has successfully provided a very robust conceptual blueprint to initiate a discussion on responsive and inclusive reform of child marriage law.

To address this legal impasse, this study formulates strategic recommendations for the Supreme Court to immediately draft regulations at the level of a Perma or SEMA establishing standardised parameters for the validation of child marriages through the introduction of the concept of *Conditional Itsbat* (Conditional Validation). Furthermore, local governments and legislative bodies must promptly amend Article 7 of the Compilation of Islamic Law (KHI) to align with the spirit of tightening the minimum age limit under Law No. 16 of 2019 for the protection of children. At the grassroots level, the NTB Regional Government is recommended to collaborate with the Majelis Krama Adat to draft an *awig-awig* declaration against child marriage, accompanied by strict customary sanctions for adult perpetrators who abduct minors. These customary sanctions are crucial to shifting the social fear from a fear of shame (*wirang*) to a fear of community sanctions if child marriage is allowed to continue in their village. The author emphasises that it is only through this ecological-integrative collaboration between state law, Islamic law, and customary law that child protection can be upheld organically and sustainably. Culturally sensitive legal education and improved access to free legal aid for the poor must be massively scaled up to narrow the gap that allows clandestine marriages to take place. In conclusion, the standardisation of these judicial measures is an absolute

prerequisite for safeguarding the future of Indonesia's children from the threat of the extinction of human rights due to the shackles of the tradition of early marriage.

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