

Harmonization Patterns of Islamic Legal Institutions and Custom Institutions in District of Mandailing Natal

Muhamad Hasan Sebyar

STAIN Mandailing Natal, Sumatera Utara Indonesia
muhamadhasan@stain-madina.ac.id

Pagar

UIN Sumatera Utara, Indonesia
pagar@uinsu.ac.id

Sukiati Sugiono

UIN Sumatera Utara, Indonesia
sukiatisugiono@uinsu.ac.id

Abstract

The emergence of Regent Regulation Number 17 of 2021 concerning Guidelines for Settlement of Cases with Three Pillars of Government (Umaro), Religious Figures (Ulama/Religious Leaders), and Traditional Leaders of Mandailing Natal Regency shows a desire to harmonize with each other. This study aims to determine the harmonization of Islamic legal institutions and customary institutions in Mandailing Natal. The approach used in this research is the Socio Legal Approach. The legal sociology approach (socio legal approach) is used to analyze social interactions that occur between the Religious Courts and customary institutions. The results of this study indicate that the pattern of harmonization of Islamic law institutions and customary institutions in cases of dispensation of marriage consists of five patterns, namely normative patterns, functional patterns, superior patterns, partial patterns, and dynamic patterns.

Keywords: harmonization patterns, Islamic Legal Institutions, Custom Institutions

Introduction

Islamic law has coexisted for many years with customary law in Indonesia, compared to positive law. Indeed, religion and culture in Indonesia influence each other and are always interesting to study. There are at least 3 things that are always discussed, namely, first, how religious law can affect the cultural development of a society. Second, how can culture or customary law influence a society in order to accept and implement religious teachings, and third, what are the implications of their relationship to aspects of people's lives (Nurrohman et al, 2015). Harmonization of customary law and Islamic law has been going on for a long time in our homeland (Sajuti Talib, 1985). The relationship between the two is very familiar in society, especially for people who embrace Islam. This familiarity in various regions is reflected in the proverbs they issue, such as in the Acehnese language, *Hukum ngonacustom hantom cre, lagee zatangonasipeut* means Islamic law with a customary law is not can be separated because there is a very close relationship, such as the relationship between substances and the nature of an item or object. In the Minangkabau language there is a customary saying and *syara' sanda Menyanda*, the conditions for applying adat are to use: customary law and Islamic law closely support each other support, because in fact what is called adat which is truly customary is *syara'* itself (Hamka, 1970). In Sulawesi society, the term *hula-hulaa* is known *ato syaraa, syaraahula-hulaa to custom*; customary *syara'a* and *syara'* with customary joints (Kemdikbud, 2022).

Unlike the case with some western writers who at that time loudly said that the two elements between customary law and Islamic law were mutually contradictory (Saidin Ernas, 2019). This is not surprising, because they deliberately use a conflict approach in linking the two legal systems so that Indonesian society is divided and easily conquered (Laurensius Arliman, 2018). At that time the Dutch used this situation as an opportunity to weaken the position of the Indonesian people by clashing between customary law and Islamic law. One form of harmonization of customary law and Islamic law that can be used as a shared lesson is that it occurred after the Padri war in the 19th century, at that time a beautiful formulation of customary law and Islamic law was born, which was carried out by Ninik Mamak and the religious scholars in 1833 (Jakarta: Dikbud, 1945).

The formula read: "Adat Basandi Syarak, Syarak Basandi Kitabullah and Syarak Mangato Adat Mamakai". Where in terms of inheritance the Minangkabau people are divided into two, namely high inheritance and low inheritance. Then the agreement was called for to be used by judges in West Sumatra and Riau in 1968. After independence, the Minangkabau area developed an understanding that Islamic law is a complement to customary law. Therefore, if there is a dispute then what is used as a standard is the most perfect, namely Islamic law.

Issuance of Regent Regulation Number 17 of 2021 concerning Guidelines for Settlement of Cases with Three Pillars of Government (Umaro), Religious Figures (Ulama/Religious Leaders), and Traditional Leaders of Mandailing Natal Regency. shows that in the Mandailing area the same thing happened, after years of contact with Islam, Mandailing culture began to blend with Islamic teachings, so that the expression "ombar do adat dohot ugamo" (Susan Rodgers, 2005) appeared, which means "customs and religion go hand in hand" (Muhammad Syukri, 2015). Such is the relationship between religion and custom that occurs in Mandailing. Even in the majority of Islamic societies, especially today's academics, have been more advanced in saying that a custom or customary law only can apply and carried out in society if it does not conflict with Islamic law. As mentioned in the theory of *receptio a contrario* that customary law only applies if it does not conflict with Islamic law (Sajuti Talib, 1985). This is emphasized in the marriage law article 37, which postulates that the Religious Courts can make a decision by considering customary law as the basis (UU no. 1 of 1974). Customary law is used certainly not the law conflicting traditions with Islamic

law however limited to customary law that harmonizes or is in harmony with the principles of Islamic law.

There is one main criterion in the formation of Islamic law, namely a rule that has been agreed upon reads *al 'adatu muhakamah* which means custom can be made into Islamic law, so that the customs can be applied, in essence, they are not contradictory with Islamic law (Abu Ishaq al-Syathibi). Customary law and Islamic law (*fiqh*) from the description above can be described as an effort to harmonize between the two, wherein Islamic law recognizes the existence of good customs, while in customary law can only be applied if it does not conflict with Islamic law (*fiqh*) (Izzuddin bin Abdul Salam, 1980). In societal practice it can be concluded that customary law and Islamic law (*fiqh*) has been integrated in matters relating to morals, behavior, *aqedah* and worship. Although at this time there has been an alignment of customary law and Islamic law (*fiqh*) in society. This does not mean that harmonization efforts have stopped, at this time the problem is how far the harmonization of Islamic law (besides *fiqh*) such as *qanun* and *qadla* which are part of national law can be accepted by customary law as part of Islamic law, which should apply in society and can bring positive impact on the progress of society, nation and state.

The approach used in this research is the Sociology of Law (Socio Legal Approach). The legal sociology approach (socio legal approach) is used to analyze social interactions that occur between Islamic legal institutions and customary institutions. This research is a type of empirical legal research, or research conducted in real life situations namely Islamic legal institutions and customary institutions (Soerdjono Soekanto, 2003).

Empirical research is a study method that is carried out by someone through careful investigation of a problem, so that the right solution to the problem is obtained (Supranto, 2003). The primary data used is the result of interviews from Islamic law institutions and customary institutions in the Mandailing Natal area. The process of collecting data using documentation and interview techniques. The data obtained was edited to match the various answers and then analyzed qualitatively, namely describing or explaining the data obtained to show how the pattern of harmonization of Islamic law institutions and customary institutions in Mandailing Natal.

Discussion

Harmonization can achieve compatibility while respecting the specificities of entities or jurisdictions. Harmonization implies that there is a will to come together towards a common solution to agree on comparability. However, this harmonization will not be realized without involving other higher institutions. For example, in Indonesia, harmonization will not occur without the involvement of the state. Therefore, harmonization is a joint effort or process to achieve harmony while respecting the specificities of each entity or jurisdiction, and is formed before an entity that has authority (Muhammad bin Abdul Razak, 1983).

In a legal system there is harmonization to achieve the goals of the system. To link smaller legal systems into a larger system, legal harmonization is required. For example, combining customary law and the Islamic legal system to form national law. Harmonization of law is a joint effort or process to achieve harmony between the elements forming the legal system while respecting the specificities of each entity or jurisdiction and made before an entity that has the authority to achieve said legal objectives. Thus, legal harmonization in marriage dispensation is a joint effort or process to achieve harmony between customary law, the Islamic legal system, and the national legal system in reaching a marriage dispensation decision that is recognized by the three legal systems.

First; creating consistency of laws, regulations, standards, and practices, so that the same rules will apply to more than one legal system and creating legal compliance nationally.

Second; creating solutions to various problems between ethnic groups, religions, countries and other groups so that harmony can be realized. Like the peace agreement between Mu'awiyah and Ali ra, to establish harmonious relations through tahkim, and also as expressed by amr bin ash to mu;awiyah to harmonize with the Roman empire by saying:

وقال عمرو بن العاص لمعاوية: كما بدأت الفتنة اكتب إلى قيصر الروم تعلمه أنك ترد عليه جميع من في يديك من المواءمة والمصالحة تجده سريعاً إلى ذلك راضياً بالعمو منك أسارى الروم وتسأله

The creation of agreements between religions, tribes and nations can produce a peaceful life. Thus, the second benefit of harmonization is the realization of harmony in social and state life.

Third; bridging the gap between laws and standards prevailing in society in their practical application.

Fourth; can understand each other's different laws.

Fifth; The creation of the beauty of the legal system in the state.

Sixth; mass creation *hoh my*, which contains the value of the benefits of the world and the hereafter and there is no *muḍarat* contained therein. One of the masses *ḥah 'amma* what is stamped is justice, harmonization in legal facts that are mutually understood correctly, it will produce a just law (Ahmad Hassan).

Without the harmony of the legal system, the law in Indonesia will be bland, and therefore few people will feel comfortable, this will endanger unity, many people will experience disputes, decency will disappear, and this will reduce the level of dissatisfaction in society. Harmony is the main characteristic in the universe and also in the state that we can study. In fact, Allah has created everything in this universe according to its level with full calculation, so the size and level of each is determined precisely. This is according to the Arabic proverb that says "لولا الوئام لهلك الانام" means "If it weren't for harmony, people would perish." If it weren't for people's harmony with each other in society, groups, companies, friendships, and countries it would be a disaster. (لولا الوئام هلك اللئام. (Were it not for harmony, decency would have perished)) (Abu Nasr Isma'il, 1987).

Harmonization can be used in all fields, Ulama use the spirit of da'wah by way of harmonization of sharia and customary laws that are popular in society. They issued a fatwa by relying on the alignment of legal decisions with the special or emergency circumstances of the respondent (Muhammad Ahmad Ismail, 2007). Harmonization is closely related to the science of *ushul fiqh* and *fiqh* principles, it is also related to the concept of *tawazun* or *washatiyah* (balance), because with balance there will be harmony. Meanwhile, in positive law harmonization of law is part of the science of law. It has a close relationship with the material for the formation of legal products and the material for the legal system (structure, substance and legal culture).

Legal harmonization is not a foreign term in terms of Islamic law and Islamic law dictionaries, but it is indeed a word that is rarely used (Buzidaah Adil). Harmonization has been implemented since Islam came during the time of the Prophet Muhammad and his companions, then continued by his successors to the present. However, the problem is that no harmonization project has ever reached completion. It is because of its harmonization nature, it is designed to combine different legal systems under the basic framework.

This is the appeal of harmonization, taking local factors into account but applying general principles to create a consistent legal framework. These generally incorporate local factors under a relatively unified framework. Today, thinkers in both the Western world and

the Islamic world have begun to study harmonization of law, because it is considered important to harmonize law according to its function (Bouchelaghem, S., 2021).

Legal harmonization in marriage dispensation decisions occurs because there is a legal basis from each legal system that allows this to happen. Without a legal basis, this harmonization will be difficult to occur. Harmonization of law in Islam has been regulated in the Al-Qur'an, Sunnah, and Ijma' and has become a certainty in this universe. Meanwhile, the Indonesian constitution also requires harmonization such as in the First Pancasila Precepts and articles 29 (2), 18B (2) of the 1945 Constitution. In the Mandailing custom there are philosophical values such as Holong and Domu, Holong is a feeling of love for others, not only for others. humans but also to the environment. Meanwhile domu is a sense of oneness, holong and domu cannot be separated because holong can give rise to domu, on the other hand, in order for the domu to stay awake, it must always be imbued with holong. The basic norms or rules related to this harmonization have been discussed and can be seen in chapter 2.

If there are basic norms of a system that do not require harmonization, harmonization of law cannot occur. Therefore, any legal system will naturally be rejected if it does not have a harmonization basis. However, this is not likely to happen. Like the legal system that was imposed in the colonial period, not only that, international law that was forced into Indonesia can also be a factor causing disharmony in the legal system. Therefore, Indonesia's sovereignty from a legal perspective must be strengthened to prevent intervention from other countries.

The pattern of harmonization of law is a pattern that produces harmonious relations in the legal system, so that this condition or pattern is often used as a general model. The pattern places more emphasis on the form of interaction of the legal system so as to produce harmonization. Harmonization of Islamic law, customary law and the national legal system does not occur in every decision. Sometimes it also occurs in all decisions but with different levels of involvement. However, they still have a pattern that is used in general. The pattern of harmonization of law in marriage dispensation decisions is the form or model used in harmonization of law in Indonesia in producing marriage dispensation decisions.

This pattern moves dynamically and is carried out repeatedly over a long period of time so as to create a good legal system relationship. Legal harmonization can create beauty in social and legal relations. A set of systems that already have system relationships and their functions work together to create harmony, some of the harmonization patterns that occur include the following:

1. Normative Harmonization Pattern

The pattern of normative harmonization occurs because of the norms or rules that apply in society. In this context, norms are guidelines for carrying out social relations in society which contain orders, prohibitions and recommendations. With the existence of norms, society can unite and a harmonious life can be realized. As an example in the marriage dispensation decision, the number of legal systems creates various kinds of diversity between understandings in society. Every legal system certainly has norms that bind and regulate within that system. For example, in the case of marlojong according to customary law they must be married immediately, in the Islamic legal system (fiqh) they must be married immediately, in positive law they must be 19 years old or have received a marriage dispensation decision.

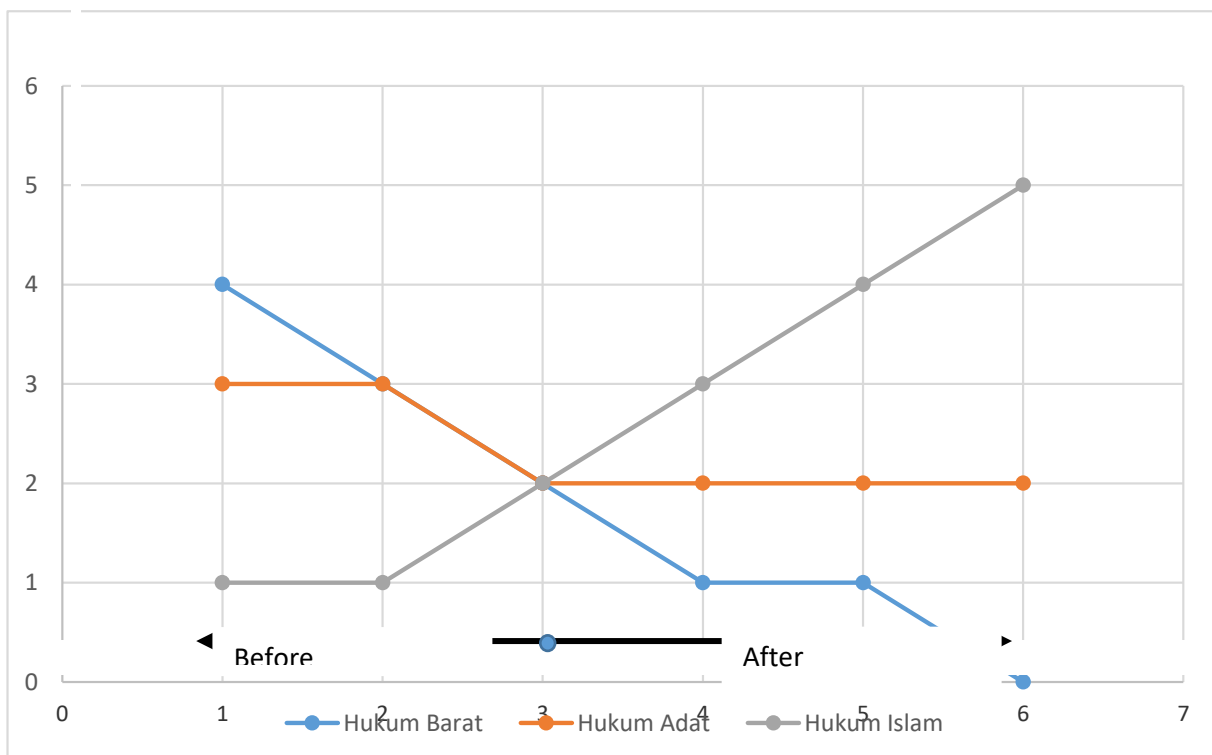
Normative harmonization is the harmonization of norms or rules that exist and apply in society. In the decision on the dispensation of marriage, we can see that there are 3 norms at once that harmonize with each other, namely customary norms (marlojong), religious norms and state legal norms. The state as a larger system provides space for the Islamic legal system and customary law to carry out normative harmonization. The space given by the state

depends entirely on the will of customary law and Islamic law to involve themselves in harmony.

Normative harmonization can occur in laws that are qath'i and zanni. Regarding marriage law, there are qath'i matters in Islamic law, in this regard, harmonization supports qath'i matters to remain in place, however, on the other hand, regarding matters that are zanni in Islamic law, it opens opportunities for the state to stipulate them. such as age of marriage. However, even though the state has set an age limit of 19 years, the state still provides dispensations to open opportunities for other legal events to occur in society. For people who don't care about this, they will usually do 'marriage under the hand'.

In the context of a state, the normative development of Islamic law has increased from time to time when compared to the customary system which has been static or declined after independence. This is because the foundation of Islamic law is very strong, for example regarding the relationship between Islamic law and customary law there is a rule of al-adatu muhakamah. This rule becomes a bridge for the relationship between Islamic law and customary law in marriage dispensation decisions. The development of normative harmonization from time to time can be described as follows; When drawn in the form of a vein diagram from time to time is as follows;

Gambar 5.1 Grafik Pengaruh Sistem Hukum di Indonesia



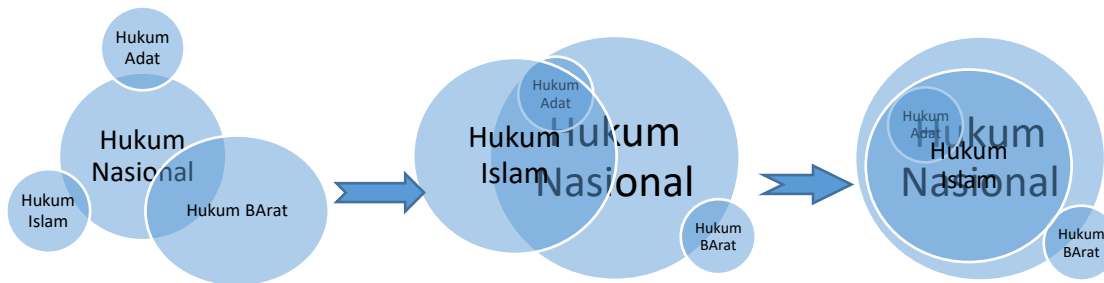


Figure 5.2 Venn Diagram of the Rules of the Legal System in Indonesia

From these two figures we can find that Islamic law continues to experience an increase in National Law. Thus, after the existence of Islamic law continues to develop, in the future total harmonization will occur on all fronts. This is because the Islamic legal system is *syumuliyah* in nature and has a strong legal basis in terms of sources, methods and intellectual legacy.

Islamic law has developed so rapidly because it moves in two directions at once, namely on the one hand it becomes a new source of law to be formed, on the other hand it legalizes positive law that has become Islamic law because it brings problems and does not conflict with Islamic law.

2. Functional Harmonization Patterns

Functional harmonization occurs because there are certain functions in customary law, the Islamic legal system and the national legal system. By prioritizing the functions of each party in the system, harmonization can be formed. For example, in the customary system, the *hatobangon* carries out its duties to defend customary law that applies in society, meanwhile, judges in the Religious Courts carry out their function of harmonizing the Islamic legal system, customary law, and the positive legal system in their decisions. The state seeks to create fair laws according to the values that live in society. If all systems play a role according to their respective functions, it will create harmonization within the state.

Customary law says that customary law is a decision of customary functionalists. Therefore custom is dynamic. Customs can change according to needs, but must obtain approval from customary functionalists in a deliberation (Pandapotan Nasution, 2005). The nature of customary law is unwritten law, which applies and is implemented and obeyed because it has been running continuously and can be accepted by the community. This nature makes customary law change over time. This encourages customary law to harmonize with other laws, if functionally it cannot meet the legal needs of the community.

Functional harmonization is not easy and full of challenges, even to the point of violent attacks by the community, both physical and supernatural. One of the cases that has occurred is that experienced by Mr. Aman (Head of KUA Hutabargot), he said:

"Once it happened in my community that I married a husband and wife who had divorced one divorce in court, after that the local community visited me for trial because they thought that the husband and wife had been divorced three times, so they could not be married directly"

Regarding this functional harmonization, we received information from the KUA Kec. Sorik Valley of Merapi as follows:

"So, yesterday we had an event at a hotel in Medan for only 2 days, so the speaker said that an MoU would be made with the Court, Dukcapil, and the Health Service, from the Regional Office it would only go down, if from the KUA it was not optimal."

Institutions that have the same functional can work together in dealing with the issue of marriage dispensation. This is what is currently under process, although now the harmonization has just occurred because of the judge's will. as stated by ex. Head of PA Panyabungan Mr. Yunadi:

"One of the things we take into consideration is the marlojong custom, because we explore the values that live in society. Apart from that, here (at my new assignment) I am currently working with the Regional Government, the Women's Empowerment and Child Protection Service, the Social Service, the Manpower Office, the Health Service to resolve dispensation and post-appointment problems. Hopefully his efforts will be realized soon. Don't let after the dispensation then divorce and this happens here (new place of assignment)" (Yunadi, 2021).

Thus, it can be concluded that several institutions can carry out functional harmonization between the Religious Court which has the function of deciding applications for marriage dispensation, KUA which provides religious understanding to the community, the Education Office related to Child Education Problems, the Manpower Office related to preparation for work skills, the Health Service and Family Planning related to Health. Children, as well as the Social Service which guarantees social assistance in the community.

3. Superior Harmonization Pattern

Harmonization is superior because it occurs at two levels, namely the body that is wider in scope and the body that is its member. The Religious Courts determine the extent to which harmonization occurs when deciding cases of marriage dispensation. The final decision is the responsibility of the Religious Courts. Judges can also ignore customary law if other considerations are sufficient. Harmonization occurs more easily if a higher institution initiates or opens up opportunities for other legal systems to carry out harmonization. If there is a mandatory state order, harmonization can run optimally. If it is only sunnah, it will be abandoned more.

If deemed necessary, the judge will ask for recommendations from traditional leaders as one of the materials for consideration. This is done continuously so that currently all cases caused by marlojong always use recommendations or certificates from local hatobangon (traditional leaders). The creation of legal consistency regarding marriage dispensation because marlojong makes this standard recognized and also applies to more than one legal system. Even though it is good enough, harmonization like this cannot run optimally, this is because the Religious Courts cannot find out data on child marriages due to marlojong that actually occur in society. On the other hand, the public can find out about several cases that were resolved in court. This is the weakness of the superior Pattern, Besides that, the superior pattern does not want government agencies of the same level to take an active role in preventing child marriage. For example, in article 15 point d of Perma No. 5 of 2019 it states that in examining a child who is applying for a marriage dispensation, the judge may ask for recommendations from a psychologist or doctor/midwife, professional social worker, social

welfare worker, integrated service center for women and children protection (P2TP2A), Indonesian/regional child protection commission (KPAI/KPAD).

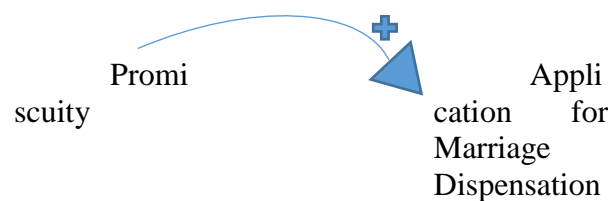
The word "can ask for recommendations" makes the judge free to choose whether to involve the institution or not, so many decisions do not involve the Office of Manpower, P2TP2A, Health Service (often asked for recommendations), Social Service, and Education Office. It is conceivable if we agree that the impact of child marriage is enormous, but these institutions are not involved. In fact, to reduce the impact of child marriage we need joint performance from various government agencies, as shown below;

From the pattern diagram above, it can be concluded that in order to reduce the impact of child marriage, government institutions provide assistance to children who engage in child marriage. Thus, the Religious Courts need to cooperate with these government institutions, and vice versa. To reduce the impact of dropping out of school, you can work with the Education Office. To reduce the social impact, you can cooperate with the Social Service. To reduce the economic impact, you can cooperate with the Department of Manpower. To reduce the impact of family resilience, you can work with P2TP2A. To reduce the psychological and health impacts of children, you can cooperate with the Health Office.

Regarding this collaboration, we received information from the KUA Kec. Sorik Valley of Merapi as follows:

"So, yesterday we had an event at a hotel in Medan for only 2 days, so the speaker said that an MoU would be made with the Court, Dukcapil, and the Health Service, from the Regional Office it would only go down, if from the KUA it was not optimal."

In addition, in preventing child marriage, collaboration with community leaders and other institutions is also needed. As we know from the previous discussion, the reasons for applying for a marriage dispensation at the Panyabungan Religious Court were caused by marriage, fear of violating Islamic law, pregnancy, and breaking a virgin. These reasons are actually motivated by a big reason which is the main factor in the increase in requests for dissolution of marriage at the Panyabungan Religious Court, namely free association (dating at an early age). He didn't see villages or towns, all of them were massively attacked. Rich people or poor people, educated families or not, many of their children have to get married and ask for dispensation from marriage due to pregnancy or breaking of virgins caused by promiscuity, namely early courtship. Nevertheless, high economic level and higher education have more family resilience related to the promiscuity of their children. Thus this problem can be described as follows:



One of the effects of promiscuity is an increase in requests for dispensation from marriage. From the problem of promiscuity, we will draw a circle pattern diagram. This circle pattern diagram aims to reconstruct events to overcome problems related to promiscuity. The following is a diagram of the circle pattern of the problem:

From this figure, we can see that an increase in the level of promiscuity indicates a decrease in the level of concern for parents/guardians. The main cause of promiscuity is the declining concern of parents/guardians, the concern of parents/guardians is very much needed by children so that they can avoid various problems, such as in improving children's achievements (Sugih Panuntun, 2013). and also other problems such as promiscuity. Increased parental/guardian care also increases parental/guardian coaching and guidance so as

to generate motivation and correct behavior. Increased concern for parents/guardians causes parental/guardian control over children to also increase.

If at the family and community level they are unable to deal with the problems that occur and can endanger the nation in the future, in addition to these two institutions, the role of the highest institution, namely the state, through government agencies is also needed to carry out social control. Increasing parental/guardian care and control over children can be carried out with maximum collaboration and harmonization between government institutions, community institutions, and family institutions. One of the benefits is that requests for dispensation from marriage will decrease, while other benefits are far more numerous and can increase the progress of the nation.

The original law of harmonization is something that is obligatory and a necessity in the universe, but if this harmonization is made into something that is considered permissible or sunnah, the consequences in social life can be fatal. As the Arabic proverb says "لولا الوئام لهلك الانام" means "If it weren't for harmony, people would perish." And also اللئام (Were it not for harmony, decency would have perished) (Abu Nasr Isma'I, 1987).

Therefore, this harmonization should not use the word "can" but "must". This is so that harmonization can run in all directions not only if the judge so wishes, but every time there is a marriage dispensation application, all other relevant institutions can automatically find out the marriage dispensation application data. Thus, the impact of child marriage can be minimized.

The harmonization of the functions and roles of government and society represented by customary law institutions and other Islamic legal institutions to achieve their welfare is the next feature of a modern democratic state today.

Harmonization of relations between law enforcement agencies is carried out in the construction of a democratic rule of law within the framework of the development of a national legal system. All efforts to organize and strengthen the national legal system must be carried out in an atmosphere that is free from apolitical pressures and free from unconstructive emotions.

There needs to be synchronization and harmonization of laws and regulations related to law enforcement so that regulatory inconsistencies do not occur which will later lead to confusion in its application.

The issue of conflict of authority, for example, can be understood as the result of a lack of synchronization and harmonization of laws and regulations related to law enforcement, resulting in overlapping authorities (exes de pouvoir). This conflict of authority is unlikely to occur if there is synchronization and harmonization of laws and regulations through in-depth research or study activities, so that the authority that arises from a regulation can be accounted for theoretically and juridically.

Legal professional capacity affects the level of implementation of legal functions in society, especially in a society that is in the process of being transformed from an autocratic, bureaucratic society to a democratic society based on law. In a democratic society based on law, the function of law is not only as a means to create order and resolve disputes rationally and institutionally, but more than that law has a constructive function of organizing and regulating shared life so that it is harmonious, in the implementation of renewal and development. guiding star in the administration of social, national and state life that is democratic and socially just.

4. Partial Harmonization Pattern

Legal harmonization in marriage dispensation decisions is not comprehensive but partial, because it does not seek to create a single legal authority over a particular subject. This is because steps to harmonize the law are only as necessary (Oregon: Hart Publishing,

2006). For example, if the application for a marriage dispensation is caused by factors other than marlojong, then customary law will not be involved there. This means that harmonization only occurs in certain matters or partially, in reality in its application it is only partial within partial, therefore it is necessary to harmonize as a whole within partial. For example related to certain problems need attention, cooperation, and be carried out thoroughly even if it is in partial terms. Factors causing child marriage and the resulting impacts must be discussed together, thus the regulations related to dispensation of marriage will be comprehensive so that judges in giving decisions on dispensation of marriage will be maximized.

The existence of comprehensive harmonization can assist the government in efforts to streamline regulations, this can minimize institutional egocentrism due to partial understanding. Therefore, the formation of regulations related to a problem should be carried out jointly with other institutions that have related tasks, visions and missions. Thus the harmonization created is not partial but overall harmonization.

Government policies formulated in the form of laws give the government a legitimacy. This legitimacy is needed by the government and its apparatus to strengthen their policy positions when dealing with the public, so they need regulatory material in the form of laws. From this opinion it can also be seen that laws are needed to regulate the public interest. The government carries out its function to serve the public interest, so the laws that are formed must provide broad benefits for the community.

In order to avoid partial harmonization, attention is needed from the stage of the process of forming laws and regulations. If all involved institutions can be involved, then this can be an important means of maintaining a synergistic relationship between government agencies and between citizens and the government to realize shared goals in a dynamic, orderly and orderly manner.

Legal development must be clear and comprehensive, covering all elements from planning, legislation, dissemination and the legal culture of society. Legal development must begin with the most basic thoughts, namely legal development must include principles, norms, institutions, processes and their enforcement without ignoring legal culture; in the context of legal harmonization, a legislative mechanism that is more systematic, comprehensive and holistic is needed; consistency in the regulatory hierarchy culminating in the constitution; service to national interests as a pillar for achieving legal objectives, namely the creation of justice and order within the framework of a welfare state.

5. Dynamic Harmonization Pattern

Harmonization is dynamic, in the sense that harmonization instruments are aimed at change, in particular improving and establishing consistent conditions for the operation of legal principles (Vogenauer, S and Weatherill, S, 2006). If done continuously, this can create a way out of various problems between tribes, religions, countries and other groups so that harmony can be realized.

In accordance with the function of the state to prosper its nation (welfare state), the government is also required to make improvements in conducting public services, so that the application of Information Technology (IT) within the scope of the government system (e-government) is also an important part of responding to a form of modern democratic state that can harmonize the roles and interests of the state (state), society (civil society) and markets (markets). As a result of globalization with its free trade interests, the government is required to improve its nation's information and communication infrastructure (National Information Infrastructure) so that its civilization is not left behind by the civilizations of nations in the world in the future.

From the description above it can be concluded that the pattern of harmonization of normative and functional law must be continuously improved, meanwhile for the Superior-Partial-Dynamic pattern it would be better if it was implemented and improved into Superior-Extensive-Dynamic. It is hoped that what will happen in the future is the creation of *maslahah ammah*, which contains the benefits of the world and the hereafter and there is no harm contained in it. One of the *maslahah 'ammah* that is branded is justice, harmonization in legal facts that are mutually understood correctly and will produce a just law.

Conclusion

The pattern of harmonization between Islamic legal institutions and customary institutions in the implementation of marriage dispensation consists of normative patterns, functional patterns, superior patterns, partial patterns, and dynamic patterns.

First; the pattern of normative harmonization, namely the harmonization of norms or rules that exist and apply in society. Like it or not, Islamic law is substantially expanding in society and the state, from the classical *fiqh* understanding to other legal products, namely *qanun* and *qadla*, Islamic law in substance continues to develop and acquire all regulations towards Islamic legal regulations as a whole.

Second; the pattern of functional harmonization that occurs because there are similarities in certain functions in customary law, the Islamic legal system and the national legal system. This occurs between the Religious Courts which have the function of deciding applications for marriage dispensation, KUA which provides religious understanding to the community, the Education Office related to Child Education Problems, the Manpower Office related to work skills preparation, the Health and Family Planning Service related to Children's Health, and the Social Service which guarantees social assistance in the community.

Third; the Superior harmonization pattern occurs between agencies that have a broader scope of duties and bodies that become other bodies that have narrower duties. The Religious Courts determine the extent to which harmonization occurs when deciding cases of marriage dispensation. The final decision is the responsibility of the Religious Courts. Judges can also ignore customary law if other considerations are sufficient. If deemed necessary, the judge will ask for recommendations from traditional leaders as one of the materials for consideration. This is done continuously so that currently all cases caused by *marlojong* always use recommendations or certificates from local *hatobangon* (traditional leaders). The creation of legal consistency regarding marriage dispensation because *marlojong* makes this standard recognized and also applies to more than one legal system. Even though it is good enough, harmonization like this cannot run optimally, this is because the Religious Courts cannot find out data on child marriages due to *marlojong* that actually occur in society.

Fourth; Partial harmonization pattern. Legal harmonization in marriage dispensation decisions is not comprehensive but partial, because it does not seek to create a single legal authority over a particular subject. This is because steps to harmonize the law are only as necessary. For example, if the application for a marriage dispensation is caused by factors other than *marlojong*, then customary law will not be involved there. This means that harmonization only occurs on certain things or partially, therefore it needs harmonization as a whole. That is related to certain problems that need attention, cooperation, and be carried out as a whole.

Fifth; dynamic harmonization pattern, the meaning of harmonization instruments aims at change, in particular improving and establishing consistent conditions for the consistent operation of legal principles. If done continuously, this can create a way out of various problems between tribes, religions, countries and other groups so that harmony can be realized. In accordance with the function of the state to prosper the nation (welfare state), the

government is also required to make improvements in conducting public services, so that the application of Information Technology (IT) within the scope of the government system (e-government) is also an important part of answering a problem. the form of a modern democratic state that can harmonize the roles and interests of the state, society and the market. As a result of globalization with its free trade interests, the government is required to improve the nation's information and communication infrastructure (National Information Infrastructure) so that its civilization is not left behind by the civilizations of nations in the world in the future. From the description above, it can be concluded that the pattern of legal harmonization used is a superior-partial-dynamic pattern. It will be even better if this harmonization pattern is improved to become superior-extensive-dynamic, so what will happen in the future is the creation of *maslahah ammah*, which contains worldly benefits. and the Hereafter and there is no harm in it. One of the *maslahah 'ammah* that is branded is justice, harmonization in legal facts that are mutually understood correctly and will produce a just law.

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