

Piti Maranggangu Tradition in Sumba Customary Society in Indonesia From the Prespective of Marriage Law Number 1 of 1974



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ABSTRACT: The purpose of this study is to determine and examine the tradition of *Piti Maranggangu* seen from the prespective of Law Number 1 of 1974 concerning marriage. The research uses normative research methods that examine customary law norms and Indonesian marriage law norms using a case study approach. The data source in this research is secondary data in the form of primary legal material in the form of customary law of Sumba marriage and Law Number 1 of 1974. The result shows that some issues the *piti maranggangu* tradition in Sumba seen from the perspective of Law Number 1 of 1974 concerning Marriage is contrary to Article 2 concerning the validity of marriage, contrary to Articles 6 and 7 concerning the conditions of marriage. Because the provisions in Law No.1 of 1974 are mandatory, the provisions of customary law in *piti maranggangu* are invalid and have no legal force. Moreover, the practice of *piti maranggangu*, which is 'coercive' towards prospective brides, violates women's human rights. In order for the practice of *piti maranggangu* not to conflict with Law No.1 of 1974, there needs to be guidance and supervision so that in the future the practice of *piti maranggangu* is adjusted to Law No.1 of 1974, such as age limits, agreement, and recording.

KEYWORDS: Piti Maranggangu tradition, indigenous people, Sumba tribe, marriage law.

I. INTRODUCTION

Indonesia is a country of diverse ethnicities, languages, customs, cultures and religions. Each tribe has a distinctive culture that is different from one another. To unite the pluralistic ethnic groups, Indonesia has the motto *Bhineka Tunggal Ika*, which means different but still united in one. One tribal culture that can be different from others is the marriage custom. They also have a self-created law called customary law. Customary law is a law born from the traditions of the local community, meaning that customary law is a law that lives and develops in accordance with the dynamics that occur in society¹.

Marriage is essentially a close and emotionally sacred relationship between a man and a woman with the aim of continuing offspring. The marriage relationship in Indonesian customary society is not only considered a personal affair of husband and wife, but also a matter of the customary community or tribe concerned. The implementation of marriage, for example, must be carried out based on the customs set by the tribe concerned. The rules set by the tribe concerned in marriage play a role as an instrument to control marital relations within the local indigenous community.

Sumba traditional marriage in East Nusa Tenggara Province until now adheres to the patrilineal family system, where all rules are determined according to male lineage. There are marriage customs that are still enforced in the Sumba tribal community, namely the tradition of *kawin tangkap* or *Piti maranggangu*². In the *piti maranggangu* tradition, a woman is abducted by force to be married to a Sumbanese man.

The Piti maranggangu tradition has been passed down from generation to generation and is still practiced today by several tribes on the island of Sumba, namely the Kodi tribe and the Wawewa tribe. According to the traditional history of the Sumbanese indigenous people, the tradition of *Piti maranggangu* is carried out by a man who comes from a wealthy family, who wants a woman he likes to take as a wife. The process is only carried out with an agreement between the two sides of the family,

¹ Hilman Hadikusuma, 2003, *Hukum Waris Adat*, Bandung: Citra Aditya Bakti, p. 77

² Rambu Susanti Mila Maramba, Safrin Salam, Rambu Hada Indah, Pajaru Lombu, 2022, "Piti Maranggangu (Kawin Tangkap) dalam Prespektif Hukum", *Jurnal Ilmu Hukum, Perundang-Undangan dan Pranata Sosial*, Vol.7 No.1 , p.47. <https://jurnal.ar-raniry.ac.id/index.php/Justisia/article/viewFile/12869/pdf>.

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both the male family and the female family, without asking for prior consent from the woman who is to be made a wife. This mutual agreement is the strong basis for the implementation of the *Piti kawin tangkap* tradition or *Piti maranggangu*.

The fact is that *Piti Maranggangu* tradition is practically incompatible with the customs that should be regulated. In the implementation, *Piti Maranggangu* is currently considered similar to kidnapping and humiliating women. Women victims of *Piti Maranggangu* will be pulled, grabbed and forcibly taken to the perpetrator's house when they are "kidnapped"³. Victims are often subjected to sexual harassment, including sexual touching by the kidnapper. In fact, after arriving at the man's house, female victims of arranged marriages would immediately be put in a room with the perpetrator and incited to immediately agree to his proposal. In some cases, the perpetrator even rapes the victim to get her to agree. This practice places and treats women as targets of negotiation or objects of desire, not as subjects who are independent and free to make choices in their lives. Victims also experience wounds stemming from sexual, physical, psychological, social and spiritual acts of violence. This creates new problems, as *Piti Maranggangu* tradition often turns into organized violence perpetrated by the men against the women⁴. Based on data from the Women's and Children's Solidarity Institute, 16 cases of *Piti Maranggangu* have been recorded from 2013 to 2023 in the districts of West Sumba, Southwest Sumba and Central Sumba⁵. From this data, the average victim of arranged marriage is 13-30 years old.

Sumba's culture, which prioritizes harmony and relationships between families, does not solve the problem of Sumba's culture, which prioritizes harmony and relationships between families, does not solve the problem of *Piti Maranggangu* legally⁶. While, Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019 determines that a marriage is valid if it is carried out based on the religious law of each bride and groom and is registered. Furthermore, Article 6 paragraph 2 stipulates that Marriage must be based on the consent of the bride and groom. Then, Article 7(1) Law Number 1 of 1974 as amended by Law Number 16 of 2019 states that marriage is only permitted if the man and woman have reached the age of 19 years. This study aims to examine the validity and fulfillment of the *Piti Maranggangu* requirements from the perspective of Law Number 1 of 1974.

II. METHODS

This research uses a normative legal research method⁷, that examines the legal norms of customary and state marriage and the theory of the applicability of state law. The data is in the form of primary legal material, namely the provisions of the Piti Maranggangu customary law. Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019, as well as secondary legal materials in the form of theories about the validity of customary law when it conflicts with state law. The analysis uses qualitative analysis to answer two issues, namely the validity and fulfillment of the requirements of catch marriage in terms of Law No.1 of 1974. The approach used is a case study. By using a case approach, this paper seeks to examine the practice of catch marriage that occurs in the Sumba community and conclude based on the analyzed case as a case study for similar cases that may occur in the future.

III. LITERATURE REVIEW

A. Tradition Marriage Captured by the Indigenous People of Sumba

Sumba has a very very rich and diverse culture, including the tradition of *Piti Maranggangu*. The tradition is motivated by the patrilineal family system adopted by the Sumba tribe⁸, a family system that depicts the superiority of men over women⁹.

Piti Maranggangu is still practiced by the people of Sumba tribe in East Nusa Tenggara¹⁰. In this tradition, a man 'catch up' the woman he wants to be his wife during a meeting that usually takes place in a public place. The tradition of capture marriage is

³ Martha Mardiani et al, 2020, Pandangan Paham Feminisme Radikal Terhadap Perkawinan Piti Maranggangu dalam Adat Perkawinan Sumba Timur di Dameka Katikutana Selatan Kabupaten Sumba Tengah, *Teologi STT Sangkakala*, p. 87-98.

⁴ Endang Sumiarni dan Anny Retnowati, 2017, *Kebijakan Hukum untuk Mengatasi Penyeludupan Hukum Studi Pada Perkawinan sebagai Modus Menghindari Pidana dalam Kasus Persetubuhan dan Kekerasan Seksual Terhadap Anak*, Yogyakarta: Cahaya Atma Pustaka, p.162.

⁵ Yufengki Bria. "Sopan Catat 20 Kasus Kawin Tangkap di NTT pada 2013-2023". Detikbali.com. <https://www.detik.com/bali/nusra/d-6925171/sopan-catat-20-kasus-kawin-tangkap-di-ntt-pada-2013-2023>. Accessed at 2 Desember 2023.

⁶ Kapitta U.H, 1976, Masyarakat Sumba dan Adat Istiadatnya, *Panitia Penerbit Naskah-Naskah Kebudayaan Daerah Sumba Dewan Pesnata Layanan Gereja*, p.124-125

⁷ Mahmud, Peter. (2011). *Penelitian Hukum*. Jakarta: Kencana Prenada Media Group.

⁸ Elanda Welhelmina Doko, I Made Suwetra, & Diah Gayatri Sudibya. 2021. Tradisi Kawin Tangkap (Piti Rambang) Suku Sumba Di Nusa Tenggara Timur. *Jurnal Konstruksi Hukum*. Vol. 2, No. 3. p. 656-660. <https://www.ejournal.warmadewa.ac.id/index.php/jukonhum>. DOI:http://doi.org/10.22225/jkh.2.3.3674.656-660.

⁹ Kuper.A & Kuper.J. 2005. *The Social Science Encyclopedia*. Seond Edition. London: Roudledge.

¹⁰ Supra note 8.

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usually practiced by wealthy families. According to Marapu's teachings, this process can be done with the consent of the parents of the male and female parties. The woman who becomes *palaingidimawini* or prospective bride is a woman who was valued in the past because the man who will marry her comes from a wealthy family and will give *belis* or a dowry very large¹¹. Before being picked up, the women who will be 'captured' will be dressed up in traditional clothes complete with ivory bracelets and various jewelry accessories.

The Piti Maranggangu process is carried out in the following stages¹².

- 1) The search stage, where the woman's family looks for their 'kidnapped' daughter who is at the man's house.
- 2) The shame-closing stage, where the male family sends a customary spokesperson to the female family's house to inform the female family that their daughter is at the male family's house with a horse and a machete, which are handed over to the female family as a sign of the female family's shame that their daughter has been 'kidnapped'.
- 3) The stage of entering asking, is the stage after introduction which means formalizing and binding the family relationship between the man and woman by prohibiting the woman from having relations with other men, because there has been an agreement from both parties united through custom.
- 4) The customary mat stage, where the male party comes and hands over *belis* or dowry which has been mutually agreed upon which means that the male family has proposed to the women. The women in this stage the male party brings animals, machetes and gold to be brought to the woman's house and from the woman's family gives cloth/sarung, and animals as a sign of agreement on the amount of dowry or *belis*.
- 5) The religious stage is the stage where both the man and the woman are already religious, because most of the Sumbanese people still adhere to the local *moruyu*. The religious stage is immediately carried out because it is related to the dowry that must be paid to the women.

If this custom is already in place, there are no more problems between the two families and women are treated with honor according to Sumbanese tradition, so there is no element of coercion from the male to the female¹³. During this process, there are series of rituals and ceremonies performed, including traditional dances, chants, and tributes to ancestors. This tradition reflects deep cultural symbolism¹⁴.

B. The Legality and Conditions of Marriage according to Law Number 1 Year 1974 concerning Marriage

Article 2 of Law Number 1 of 1974 concerning Marriage regulates the validity of marriage, namely if it is carried out based on the laws of each religion and belief of the prospective bride and groom, and must be registered based on applicable laws and regulations. Based on Article 2 of Law Number 1 of 1974 concerning marriage, there are 2 types of conditions for the validity of marriage, namely material requirements and formal requirements. Material conditions are conditions that are born and attached to each person who performs marriage. This requirement is often referred to as a subjective requirement. Meanwhile, formal requirements are procedures for carrying out marriage according to religious law and related laws and regulations. These requirements are also referred to as objective requirements.

Other provisions in Law Number 1 Year 1974 that must be considered by both prospective brides and grooms before entering into marriage are the terms of agreement and the age requirement. Article 6(1) states that marriage must be based on the consent of the prospective bride and groom. Furthermore, Article 6(2) stipulates that in order to enter into marriage a person who has not reached the age of 21 (twenty-one) years of age must obtain the permission of both parents. Article 7(1) Law No.1 of 1974 as amended by Law No.16 of 2019 provides that marriage is only permitted if the prospective groom and bride reach the age of 19 (nineteen) years. Marriages that violate the provisions of Article 2 are invalid. Meanwhile, marriages that do not meet the provisions of the agreement or age requirements can be prevented or canceled. this is regulated in the provisions of articles 13 and 22 of Law Number 1 of 1974.

C. The Principle of the Applicability of Customary Law to State Law

In addition to written laws made by the state, Indonesia also recognizes the source of customary law, or *adatrecht*, which was first introduced by Snouk Hurgronje and later used by van Vollenhoven who is considered the inventor of customary law in Indonesia¹⁵. Customary law is the original law of the Indonesian people. The position of customary law in the Indonesian legal system is quite strong because it is recognized in the 1945 Constitution of the Republic of Indonesia. Article 18B(2) of the

¹¹ Astrid Budi Ati. Tinjauan Kriminologis Budaya Nusa Tenggara Barat Tradisi Kawin Tangkap (Piti Rambang. Jurnal Fundamental. Vol.10(1). p.81-96.

https://www.academia.edu/en/55888562/Tinjauan_Kriminologis_Budaya_Nusa_Tenggara_Barat_Tradisi_Kawin_Tangkap_Piti_Rambang

¹² Supra note 8.

¹³ Supra note 8.

¹⁴ Dian Kemala, 2022, "Tradisi Kawin Tangkap Sumba dan Prespektif Undang-Undang RI Nomor 1 Tahun 1974 Tentang Perkawinan", *Law Jurnal*, Vol.2 No.2, p.110.

¹⁵ E.Sundari & M.G Endng Suiarni. 2015. Politik Hukum dan tata Hukum Indonesia. Yogyakarta: Cahaaya Atma Pustaka. P.57.

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Constitution of the Republic of Indonesia 1945 states that the State recognizes and respects the unity of customary law communities and their traditional rights as long as they are still alive and by the development of society and in conformity the principles of the Unitary State of the Republic of Indonesia, which is regulated by the law. Hence, the limitation is that customary law must not contradict the principle of a unitary state.

In theory, if customary law contradicts with legislation that is compelling, the legislation applies. For instance, the provision of the validity of marriage that should be accorded to each religion and belief based on Article 2 paragraph (1) of Law Number 1 Year 1974 concerning Marriage, is compelling. If there are people who perform marriages based on customary law only, then the provisions of Law Number 1 of 1974 concerning Marriage apply. Another example, one of the conditions for the validity of an agreement is that there must be an agreement as stipulated in Article 1320 BW. If there is an agreement that is not based on an agreement, then the agreement is invalid. On the other hand, if customary law conflicts with legislation that is regulating or complementary (*anvullend recht*), customary law prevails. For example, BW mentions various agreements, but if the parties make their own agreement, the agreement made by the parties applies, because the various agreements in B.W. are only regulating in nature¹⁶.

Customary marriage law regulates marriage procedures based on customary law that can still apply to Indigenous Peoples. However, when it comes to the validity of marriage and the conditions of marriage, Adat law must be subject to the marriage law made by the state, namely Law Number 1 Year 1974.

IV. RESULT AND DISCUSSION

Three issues in *piti maranggangu* are interesting to study from the perspective of Law No.1 of 1974. First, the registration of the marriage. Theodore found that the tradition of *piti maranggangu*, which is still practiced in Sumba tribal communities, is often carried out without being registered at the Civil Registry office or Religious Affairs office¹⁷. The husband and wife of the Piti Maranggangu marriage thus do not have a Marriage certificate. This is contrary to the provisions of Article 2 paragraph 2 of Law No.1 of 1974, which stipulates that marriages must be registered. The provisions of Article 2 of Law No.1 of 1974 are compelling in nature, they must be complied with. Thus, the unregistered marriage of *Piti Maranggangu* is invalid, even though there are religious marriage procedures in the fifth stage as stated by Doko et al¹⁸, as also required in Article 2 paragraph 1 of Law Number 1 of 1974.

The second issue of *Piti Maranggangu's* marriage is the involvement of the parent or guardian. Article 6 paragraph (2) of Law No.1 of 1974 concerning Marriage Law requires that to enter into marriage, a person who has not reached the age of twenty-one years of age must obtain the permission of both parents. Based on Bria report¹⁹, *piti maranggangu* in Sumba mostly occur to women with 13-20 years age. The prospective bride is thus on average under 21 years old so there must be permission from parents or guardians. In the practice, there is often no involvement of the guardian²⁰. The condition violates the requirement of marriage as stipulated in Article 6(2) of Law No. 1974. Furthermore, the age of 13 years-18 years between a boy and a girl in a *piti maranggangu* marriage is contrary to Article 7 paragraph (1) of Law Number 1 of 1974 as amended by Law Number 16 of 2019 that stipulates a new age requirement for men and women who wish to enter into marriage, which is 19 years old. Because these provisions are coercive in nature, they must be obeyed, so *Piti Maranggangu's* marriage to a 13-20 year old girl without parental or guardian consent is invalid. The marriage can be canceled. In addition, it was found in the field that as a result of the tradition of catch marriage in Sumba, early divorce occurred due to the physical and psychological immaturity of both parties²¹.

The third issue that needs to be analyzed is the agreement between the bride and groom. In their research, Doko et al found²², that official procedures, namely the agreement of the female candidates, are often ignored. *Piti maranggangu* practice begins with the male party first capturing or taking the female party by force and then a traditional procession is carried out. The captured woman is already in the power of the man, so no agreement or consent is needed whether she agrees to be taken or not. Mardiani et al also found that²³, *Piti Maranggangu* is currently considered similar to kidnapping and humiliating women. This condition is contrary to the conditions of marriage as stipulated in Article 6 paragraph (1) of Law Number 1 of 1974 which determines that a marriage must be based on the consent of the prospective bride and groom. In fact, there are often cases of *Piti Maranggangu* where the woman does not agree to the marriage. In the short term, the marriage still takes place because both families have

¹⁶ Supra note 15.

¹⁷ Alexander Theodore dkk, 2021, Praktik Kawin Tangkap di Sumba ditinjau dari Prespektif Hukum Hak Asasi Manusia, *Jurnal Kertha Negara*, Vol 9 No 9, p.720-730.

¹⁸ Supra Note 8.

¹⁹ Supra Note 5.

²⁰ Supra Note 8.

²¹ Supra note 14.

²² Supra note 8.

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agreed. The lack of consent on the part of the bride-to-be from the perspective of customary law is considered normal because that is how the piti maranggangu customary marriage ceremony is conducted. Meanwhile, from the perspective of Law No.4 of 1974, of course the lack of consent, as Dewi et al also concluded²⁴, violates state law.

In this implementation, the tradition of *piti maranggangu*, which is carried out with coercion and disapproval from the woman, has contradicted the purpose of marriage itself. Based on the Marriage Law, the purpose of marriage is to unite a man and a woman as husband and wife in one mind to create a family (home) that is full of love and happiness and lasts forever. Coercion of women will not create a happy family. Based on the provisions of Article 6 paragraph (1) of Law Number 1 of 1974 concerning Marriage, the condition of marriage is to provide guarantees so that forced marriage does not occur in a society. So, related to the matter of marriage rights, it is left to each person to be able to determine their life choices. This choice must be made freely without coercion from any party²⁵.

What was conveyed by Mardiani et al shows that the cultural tradition of piti maranggangu in indigenous Sumba society shows the dominance of men in society. This dominance in the case of violence presented by Mardiani et al is a form of violence that takes refuge behind cultural traditions. This phenomenon also shows that women in Indonesia are still vulnerable to violence.

Based on the explanation related to *piti maranggangu* marriage of the Sumba traditional community, it is in contradiction with several provisions in law No.1 of 1974. As provided at Articles 13 and 22 of Law No.1 of 1974, marriages that do not meet the provisions of the agreement or age requirements can be prevented or canceled.

Based on the principle of the applicability of customary law to state law, the practice of customary law *piti maranggangu* which is not registered, there is no parental consent, and the absence of consent from the prospective bride is contrary to state marriage law which is compelling or must be obeyed.

CONCLUSIONS

Based on the results of the previous analysis, in some issues the piti maranggangu tradition in Sumba seen from the perspective of Law Number 1 of 1974 concerning Marriage is contrary to Article 2 concerning the validity of marriage, contrary to Articles 6 and 7 concerning the conditions of marriage. Because the provisions in Law No.1 of 1974 are mandatory, the provisions of customary law in piti maranggangu are invalid and have no legal force. Moreover, the practice of piti maranggangu, which is 'coercive' towards prospective brides, violates women's human rights.

In order for the for the practice of piti maranggangu not to conflict with Law No.1 of 1974, there needs to be guidance and supervision so that in the future the practice of piti maranggangu is adjusted to Law No.1 of 1974, such as age limits, agreement, and recording.

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²⁴ Sonny Dewi dkk, 2018, *Perkawinan Bawah Umur di Indonesia Beserta Perbandingan Usia Perkawinan dan Praktik Perkawinan Bawah Umur di Beberapa Negara*, Bandung: Refika Aditama, p.1.

²⁵ Nasriah Kadir, 2015, "Adat Perkawinan Masyarakat Bugis dalam Prespektif UU No.1 Tahun 1974 Tentang Perkawinan di Desa Doping Kecamatan Penrang Kabupaten Wajo, *Journal UNM*, p.55-70.

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