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Ratih Lestarini

Herdis Herdiansyah

Tirtawening Tirtawening

Dianwidhi Michelle Pranoto

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## The Co-existence of Laws Regarding Domestic Violence Case Settlement: Rote Island, East Nusa Tenggara, Indonesia

By Ratih Lestarini<sup>1</sup>, Herdis Herdiansyah<sup>2</sup>, Tirtawening Tirtawening<sup>3</sup> and Dianwidhi Michelle Pranoto<sup>4</sup>

### Abstract

Domestic violence has long been an adversity, which many women have to endure and even accept, especially in places where patriarchy reigns. Unlike other forms of violence against women, domestic violence is particularly special because of its private and sensitive nature. In the island of Rote in East Nusa Tenggara, Indonesia, domestic violence is a serious social and cultural issue. People in Rote continue to practice their customary laws despite formal state laws that offer better justice for victims, at least from the perspective of women's rights and feminism. This article elaborates on customary laws used to settle domestic violence cases in Rote Island, East Nusa Tenggara, Indonesia. The research is structured into three parts. The first part discusses the existing formal state laws and analyzes its norms against the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), the second part highlights the culture and domestic violence in Rote Island, and the third part explores the three choices of laws used in Rote Island to resolve cases of domestic violence, within it also the discussion of how these laws coexist in that regard. Stories of these settlements were gained through qualitative research in Rote. Semi-structured interviews were conducted towards women, church leaders, *maneleo* (the head of clan who acts as a medium for parties in dispute), and *adat* (traditional cultural group) members. Focus Group Discussions (FGD) were conducted prior to the interviews to gain general knowledge of the customary practices on the island. It was found that the *belis* (dowry system) in Rote implies that women are required to obey the men because by *belis* the men have "bought" the women. The *belis* strengthens the patriarchal culture in East Nusa Tenggara in general and in Rote Island. The

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<sup>1</sup> Ratih Lestarini is a lecturer in Department of Law, Society and Development, Faculty of Law, Universitas Indonesia. Her research includes matters of access to justice regarding violence against women and children within the framework of Indonesia's national and customary laws across different cities including Malang, Padang, Kupang, Atambua, Waingapu, Rote, and Bajawa; the legal protection for women environmental activists in urban areas; and the settlement of land disputes, to name a few.

<sup>2</sup> Herdis Herdiansyah is a lecturer in School of Environmental Science, Universitas Indonesia. His research focuses on the environment and social science, systems of thinking, social conflict and environment, community engagement, and environment and human interaction.

<sup>3</sup> Tirtawening Tirtawening is a lecturer in Department of Law, Society and Development Faculty of Law, Universitas Indonesia. She has conducted numerous researches since 2007, especially on access to justice issues regarding violence against women (on domestic violence in poor communities, on marriages, and on sexual violence in education institutions) and women workers (on flight attendants of Garuda, Indonesia, and on domestic migrant workers in United Arab Emirates).

<sup>4</sup> Dianwidhi Michelle Pranoto is a student of Faculty of Law, Universitas Indonesia. Michelle, as she is known, is active in advocacy for the indigenous community of Indonesia and has volunteered for the Indigenous Peoples' Alliance of the Archipelago. She has done several researches concerning the Indonesian indigenous community, especially regarding constitutional law from the perspective of indigenous customary law. She has written several papers on agrarian conflicts involving indigenous groups, access to justice for indigenous peoples, and the implications of the Village Act to indigenous communities.

findings of this paper also show that customary law and church law are the communities' first option when it comes to resolving cases of domestic violence, although the formal state law normatively offers better protection and justice for victims.

*Keywords:* Domestic Violence; Customary Law; East Nusa Tenggara; Indonesia; Socio-Legal Studies

## **Introduction**

The number of violence against women cases documented in Indonesia can be viewed as the tip of an iceberg, but of the reported violence against women, the most frequently occurring type happens in the domestic sphere. As of 2017, there are reportedly 10,205 cases of domestic violence (Purwanti, 2017). As the most common type of violence against women, data from Indonesia's National Commission of Women Rights shows that there are 4281 physical abuse cases, 3495 sexual abuse cases, 1451 psychological abuse cases and 978 economic abuse cases (Purwanti, 2017). The data goes to show the rampant domestic violence in Indonesia.

Violence against women brings negative impacts to the victims and their families as well as a heavy burden on society. It often happens in intimate relationships or between perpetrators and victims that have known each other. Many victims face trauma due to severe forms of partner abuse that tend to persist over time (Krahé, 2018). A study from the United States stated that the effects of intimate partner violence are mental health conditions, including eating disorders (Bartlett, Iverson, & Mitchell, 2018). Women that had experienced physical violence from an intimate partner were almost twice as likely as women without victimization history to be infected with HIV.

In Indonesia, besides the formal law, community uses *adat* law as an alternative dispute resolution and it varies in each region. *Adat* law traditionally reflects the way of life and actions of indigenous peoples and is influenced by religious values in the local area. There are 19 areas of *adat* law in Indonesia (Prakash, 2002). This kind of law should be verified in the framework of copyright to protect its supremacy (Carugno, 2018). As the notion of legal pluralism implies, international human rights law, state law, religious law, and customary law often coexist, although they might not share each other's (legal) values (Benda-Beckmann & Benda-Beckmann, 2009).

This paper seeks to answer the questions of how effective *adat* law is with regard to resolving cases of domestic violence in Rote and whether the established formal laws in Indonesia can prevent the occurrence of domestic violence. In what follows, the results of this study are presented by first analysing the formal laws that Indonesia has regarding domestic violence and the protection the State offers to victims. The next section of this paper discusses the customs and traditions people of Rote Island uphold that may contribute to cases of domestic violence. The last part will then discuss the mechanisms of domestic violence case settlement in the local community and how customary law provides protection for victims, as well as discussing the role that customary law plays in its relation to other existing systems of law such as church law and state law.

## **Methodology**

This research employs a qualitative methodology whereby data was obtained through in-depth interviews and focus group discussion with significant informants. However, before

conducting a field study, the researchers carried out a normative legal study and literature studies to get a deeper understanding of the formal laws concerning domestic violence in Indonesia. In-depth interviews, focus group discussion, and participant observation were conducted with the intention to delve deeper into the setting and different parties' understanding regarding resolution of domestic violence cases. The research location was the Rote Ndao district of East Nusa Tenggara, Indonesia, wherein interviews and FGD was conducted throughout a span of ten months in 2017. Semi-structured interviews were conducted with two local priests, three female victims of domestic violence, two police staff and two local government staff. These semi-structured interviews allowed the researchers to gain an understanding of how the informants individually made sense of domestic violence and their perceptions of the different types of settlement for domestic violence that are offered in Rote Island.

A focus group discussion was held with twenty-five female survivors of domestic violence and five males consisting of local customary leaders (*maneleo*), priests, and staff of the local government. Through the FGD, the researchers were able to acquire rich insight into the experiences of female survivors and how they perceived their grievances as well as how the male figures perceived the women's grievances. In an FGD setting, the researchers were also able to observe the imbalance of power between the males and females through the interaction that went on between both groups. Several participant observations in relation to the victims and service institutions were also carried out throughout the research period. The researchers carried out observations in the local market, a weaving center wherein women gathered, the Women and Children Protection Unit of the Rote Resort Police, and the Women and Children Protection Agency at the District Office.

### **Legal Protection for Domestic Violence in Indonesia**

Prevention of violence against women should focus on the community in which it occurs (Harkrisnowo, 2000). Though, it should be noted, such efforts cannot be done in a short period of time and should be done gradually. Some efforts related to the community include: providing education to the community on the rights of women, the types of violence, and the availability of support services or institutions that can help the victims. In that regard, Indonesia has a specific law pertaining to the Elimination of Domestic Violence, which is Law Number 23 Year 2004. This law was created in the spirit of the CEDAW, which was ratified by Indonesia in 1984, and out of the realization that the former Indonesian legal system did not provide justice for victims of domestic violence.

According to Law Number 23 Year 2004, domestic violence is any action towards a person, especially a woman, that causes affliction or suffering physically, sexually, psychologically and/or the neglect of a household or family including threats to do something or forced to do something or the expropriation of one's liberty in a way that is against the law in the scope of the family (Article 1 Number 1). The definition of the elimination of domestic violence was also normatively defined by the law with the guarantee that is given by the State to prevent domestic violence, to *menindak*, or, directly translated, to crack down on the perpetrators of domestic violence and to protect the victims of domestic violence (Article 1 Number 2).

The scope of the household or family, or *rumah tangga* in Indonesian, in this law is specified to be comprised of the husband, the wife, children, anyone staying at home who has familial relations to the previous three due to blood ties, marriage, rearing, and fostering, and/or anyone who works as a helper to the household and lives there (Article 2 Number 1). The subjects

of domestic violence are not limited to the husband and wife but also extend to the children, housemaids, and anyone living in the household with familial relations. The extension of subjects to include housemaids is advancement in the jurisprudence and should be appreciated for it gives certainty to housemaids who are treated violently by their employer.

Domestic violence, according to the Elimination of Domestic Violence Law, has been formulated into four forms, and each is specified to hold terminal sanctions. Most of the forms fall into the category of standard offence, except for light offences that can only be handled if they were reported. Terminal sanctions for domestic violence offences are in the form of prison or amercement. The table below shows the forms of domestic violence, their definitions, and the terminal sanction that applies to them according to Law Number 23 Year 2004 or the Elimination of Domestic Violence Act.

**Table 1. Definitions of the Forms of Domestic Violence and the Terminal Sanctions According to the Elimination of Domestic Violence Law (Source: Wulandari, 2014)**

Forms of Domestic Violence	Definition	Terminal Sanction	
Physical Violence	Any action resulting in pain, sickness or serious injury to a person.	In the scope of the household (Art. 44.1)	Prison of maximum 5 years or amercement of maximum 15 million Rupiah (approx. USD 1,000)
		Causes sickness or serious injury (Art. 44.2)	Prison of maximum 10 years or amercement of maximum 30 million Rupiah (approx. USD 2,000)
		Causes death (Art. 44.3)	Prison of maximum 15 years or amercement of maximum 45 million Rupiah (approx. USD 3,000)
		Committed by a husband towards a wife or vice-versa and does not cause injury or hindrance	Prison of maximum 4 months or amercement of maximum 5

		to work or do daily activities (Art. 44.4)	million Rupiah (approx. USD 350)
Psychological Violence	Any action resulting in fear, loss of confidence, loss of ability to take action, helplessness and/or serious psychological injury to a person.	In the scope of the household (Art. 45.1)	Prison of maximum 3 years or amercement of maximum 9 million Rupiah (approx. USD 600)
		Committed by a husband towards a wife or vice-versa and does not cause injury or hindrance to work or do daily activities (Art. 45.2)	Prison of maximum 4 months or amercement of maximum 3 million Rupiah (approx. USD 200)
Sexual Violence	Any action that falls into the category of forced sex, forced sex in an unusual way and/or is disliked, forced sex with a person for commercial purposes and/or a particular intent, that involves: forced sex towards a person living in the household, forced sex with a person living in the household with commercial purposes and/or a particular intent.	In the scope of the household (Art. 46)	Prison of maximum 12 months or amercement of maximum 36 million Rupiah (approx. USD 2,400)
		Forced a person living in the household to have sex with another person for commercial purposes or a particular intent (Art. 47)	Prison minimum of 4 years and maximum of 15 years or amercement minimum of 12 million Rupiah maximum of 300 million Rupiah (approx. minimum of USD 1,000 and maximum of USD 20,000)
		Causes harm to the victim with no hope of healing at all, causes inability to think or psychiatric disorder at least	Prison minimum of 5 years and maximum of 20 years or amercement minimum of 25

		consecutively for 4 weeks or sporadically for a year or causes the death of a fetus inside the womb or causes inability for the sexual organs to function (Art. 48)	million Rupiah maximum of 500 million Rupiah (approx. minimum of USD 1,700 and maximum of USD 33,000)
Household Neglect	An action that neglects a person within the scope of the household, although the law that applies to the subject or because of a certain agreement or by contract, he/she has a duty to provide for, care for or look after the person. Neglect also applies to anyone who causes economic dependency by limiting and/or prohibiting the victim to work inside or outside the household, and thus making the victim under his/her control.	Neglecting a person within the scope of the household although he/she carries the duty to provide for, care for and look after by the law that applies, by agreement or by contract (Art. 49a)	Prison maximum of 3 years or amercement maximum of 15 million Rupiah (approx. USD 1,000)
		Neglecting a person within the scope of the household that causes economic dependency by limiting and/or prohibiting the victim to work inside or outside the household, and thus making the victim under his/her control (Art. 49b)	Prison maximum of 3 years or amercement maximum of 15 million Rupiah (approx. USD 1,000)

Considering neglect of household as a form of domestic violence is up for debate but should be perceived as quite a breakthrough in the development of feminist jurisprudence in Indonesia. Some limitations of the law include its vague and ambiguous definitions of the forms of domestic violence, as it is unclear from the law how one is considered, for example, “to have lost the ability to take action” (Article 7). Another limitation is that the law does not regulate the State’s responsibility to care for victims of domestic violence. For example, in cases of neglect, if the head of the family were imprisoned, the question to be asked is who would continue to economically care for the family; the bigger question becomes whether imprisonment and amercement are effective means of eliminating domestic violence.

It should be noted that the Convention on the Elimination of All Forms of Discrimination Against Women does not contain an article specifically on domestic violence. As an issue of discrimination against women, it took around twelve years after the CEDAW for violence against

women to be put under the spotlight of General Recommendations 19. Although states are not fully obliged to comply to General Recommendations 19 (Englehart, 2014), the Elimination of Domestic Violence Law in Indonesia showed that there has been compliance. Furthermore, in 2015 the Ministry of Women Empowerment and Child Protection created a regulation on the System of Women Empowerment and Child Protection, with which the Ministry established the Integrated Women and Children Empowerment Service Centre or P2TP2A. Through the Ministerial Regulation, it was made compulsory for every Province, District or City in Indonesia to have a P2TP2A. This shows further compliance to General Recommendations 19 especially numbers 5, 9, and 24. It can be seen then that although the positive law may not be ideal, the efforts that have been made to comply with CEDAW and its General Recommendations are quite sufficient as they create an obligation for the law enforcement apparatus to resolve cases of domestic violence and for the society to care for victims. With that being said, there is an immense need for synchronization between the substance of legislation and judicial institutional structures (Waller, Palmer, & Chappell, 2014).

### **Culture and Violence Against Women in East Nusa Tenggara**

Women's position in the social structure of Rote Island is pictured within the characteristics attributed to men and women. Men are required to be hard because of their role as the head of the family that consequently results in them bearing the responsibility of the family's education and actions. In the context of education, hitting a child or a wife is allowed and, in that sense, it may not be interpreted negatively. Because hitting is perceived as a means of education, eventually it becomes an institutionalized culture that must be exercised to maintain the solidity of the family. On top of that, the characteristic of being hard or fierce is also used to portray the physical abilities of men as providers for their households. The word cruel or harsh is understood as a trait of men that is depicted by their responsibility in keeping the family safe from danger. The trait ferocious is manifested in the heavy responsibilities that are endowed upon men by their families. The barren land of Rote Island makes it difficult to obtain household needs and forces men to compete with others for access to any available resources.

The people of Rote, on the other hand, portray women as having gentle, soft, and light traits. Gentle points to the features of women as housewives who are responsible for taking care of the children and the husband with tenderness. The trait soft, on the other hand, is perceived from the type of work that women, as housewives, do, such as cooking, cleaning, and weaving, which are considered to be soft work. Light refers to the pressure of daily living that is put on women in comparison to the heavy burden carried by men in Rote. In contrast to men, who have to perform their duties in the public sphere, women's duties are perceived to be lighter because she only has to perform domestically. All they are thought to be responsible for is to keep the household in good condition.

The description of traits that people in Rote attribute to men and women shows that women are positioned lower than men in their social structure. Attributions as such also illustrate the cultural values they hold, which are closely linked to the patriarchal culture that interprets women as physically weak and thus only capable of domestic roles. As associating traits with gender portrays society's expectations, it can be induced that the roles of men are valued more than those of women, which then contributes to the dynamics of the relationship in the household. Power disparity between a husband and wife exists because of the perception that men as heads of families



are superior to the wives. As a result of social construction, those concepts of gender eventually create myths, and discrimination towards women flourishes.

The expected roles are not always in line with reality because in reality women carry a much heavier burden than men in performing their duties. Generally, the economy of a family in Rote relies on processed crops, specifically the process of turning the *aren* fruit or *arenpalm* into sugar. In that process, the husbands are only responsible for picking the fruit and bringing it home. The significant process of transforming the fruit into palm sugar is the wives' duty. The process is lengthy and exhausting and involves washing the fruit, boiling it by first creating fire with firewood that the wives themselves have to look for, and molding the sugar. A palm sugar seller in a traditional market in Rote said that it is also the wives who are responsible for distribution and sales. They have to sell the products to the market and compete with other women who sell the same product. The burdens and responsibilities that wives in Rote bear are not only within the household but also in the public sphere as a provider. Although in reality women are bearing heavier burdens than men, they are still sociologically put below men.

Women in Rote become even more vulnerable to domestic violence because of the *belis* tradition. In Rote culture, *belis* is dowry that has to be paid by the groom's family when he proposes. This dowry is perceived to be a form of appreciation to the family of the bride because the groom's family will take one of its daughters away. *Belis* varies in form; in the olden days it would be in the form of some valued or even sacred object or livestock such as oxen, goats, sheep, or cows. The gift of dowry depends on the capability of the groom's family to provide such objects. If *belis* is in the form of livestock, the more expensive the *belis* is and subsequently the stronger the husband's position against the wife is. The tradition of paying *belis* has a spiritual significance of preserving solidarity and good relationships between families. According to the local priest in Rote, it is believed that there is a void in the cosmos because one family member has been taken away spiritually. This void must be replaced or filled with *belis* to avoid imbalance that, according to the belief, would cause misfortune.

Nowadays, however, *belis* has been adapted to the modern ways of living and is valued materialistically. *Belis* is perceived as merely a price that grooms' families pay to buy the brides, a transaction between families. The effect is that the higher the amount of *belis* the grooms pay, the more dominant their position against the brides become. Because the grooms feel they have bought their brides, subconsciously, and perhaps consciously, they feel that they have authority over them. Culturally, women who have been proposed to are demanded to accept the treatment of their husband as a consequence of accepting *belis*. If a wife asks for divorce, she must first return all the *belis* she had received, which is almost impossible.

Often the parents have to pawn or sell nearly everything they have for *belis*, such as family treasures, land, and buffalo. For example, in East Sumba, one of the provinces in East Nusa Tenggara, grooms' families usually offer eight buffaloes, gold or ivory bracelets, and a gold or silver brooch in the shape of a uterus, as a symbol of fertility. Brides' families offer the highly prized Sumba *kain ikat*, or hand-woven ceremonial cloth. In Sikka, Flores, elephant tusks are a part of the *belis*, which is passed on in families for generations as *pusaka* (heirlooms) and in the olden days was perceived to be sacred (Webb, 1989). In East Sumba, the process of marriage is called *ambil orang* (people taking) or proposal ceremony. In this ceremony, the groom's family goes to bride's family by giving *belis*. On the other side, the bride's family are also required to give back in the form of *kombu* cloth, *sarong* weaving and pigs. The amount that the women received and gave should be balanced. An imbalance in the amount of *belis* is perceived to be inappropriate and can even become the reason for a conflict in the household.

From the description above, it can be concluded that structurally women in Rote hold a subordinate position to men. This can be seen from the duties women have that are not in sync to the traits attributed to them by the society. However, the extra duties that they have to perform are not socially recognized. It is the women's duty to take care of the household, and if they do not perform their duties properly, their husbands can be violent towards them, and the practice is legal according to the community (Krob & Steffen, 2015). The fact that, for the purpose of education, husbands are justified for hitting their wives illustrates clearly that men hold a higher position than women. Women's structural position in the Rote society continues to degrade, as *belis* is perceived as a trading mechanism and is only valued for money. This shift in the value behind *belis* enhances the dominance that men have over women in a familial relation. Submission to husbands is manifested in cultural values that demand women to accept open-heartedly the treatments they have to endure as wives. This practice confirms that the basic causes of violence are social and cultural norms (Uzun & Uzunboylu, 2015). The patriarchal norm assumes the superiority of men over women (Stacey & Connell, 1988). The predisposition of women as being the second sex in Rote is the underlying cause of high rates of domestic violence that go on in the island.

### **Settlement for Domestic Violence: Adat, Church and State Law and Forum**

There are two mechanisms of domestic violence case resolution in Rote Island. The first is a formal legal mechanism involving state judicial institutions. The second is of an informal nature where the society itself, using customary law and traditions, resolves the cases.

#### *Settlement Using State Law*

Resolution of domestic violence cases using state law involves reporting the case to the police. Reports to the police can be submitted by the victims themselves or by anyone who witnessed the violence. Generally, a member of the family makes a verbal report to the unit in the police station responsible for taking public reports or complaints. Because the criminal offences of domestic violence are sensitive in nature, victims should be treated with special care. For that reason, the Women and Children Protection Unit (WCPU) was created in the police force. This unit is available in the Rote Resort Police Station in consideration of the high rates of domestic violence around the area.

The WCPU is one of the working units in the police force whose focus is on handling cases of violence against women and children. Another function of the WCPU as a part of a law enforcement institution, according to the Criminal Procedural Law, is to carry out investigations to obtain data or evidence relating to a criminal act. In handling cases, the WCPU works together with the Integrated Women and Children Empowerment Service Centre, or the P2TP2A, at the district level. Cases of violence that the WCPU handles are mostly cases of physical violence committed by a husband against his wife, such as hitting, up to other forms of torture that continue to recur.

A persuasive approach is applied when handling cases of domestic violence. In that matter, the WCPU starts by giving the opportunity for both parties to mediate, but mediation is only an option if the victim is not in a dangerous condition. According to the Head of the WCPU in Rote, using mediation as an alternative dispute resolution in the police force is based on the severity of the victim's physical injury. For the purpose of mediation, the WCPU asks the head of the clan called *maneleo* to take part in resolving cases of domestic violence. *Maneleo* is a customary leader that each clan in Rote has. In this case, both parties and their families are asked to meet and are

pushed to reconcile by the support of the *maneleo* from both sides. The WCPU also asks P2TP2A to get involved by attending to the victims when deemed necessary. During mediation, the WCPU asks about both parties' thoughts and knowledge on the perpetrator's treatment towards the victim and pursues the perpetrator's promise to not commit the crime again. To guarantee that there will not be repeated episodes of domestic violence, the WCPU asks both parties to make a written agreement. With a written agreement, the case will not be brought to further legal processes and has been settled outside of court.

On the other hand, formal mechanisms of dispute settlement, involving the state judiciary, are perceived by the WCPU to be successful in resolving cases of domestic violence because of the perpetrator's avowal and their perception of harmony. Harmony in a household is measured by the visitations of the wife to prison, for example, if she brings her husband food and if both look intimate during the visit. However, the fear of formal mechanisms of domestic violence settlement lies in the probability that imprisonment will not result in harmony but rather divorce, which will worsen the victim's position as she will be indebted to her husband and her husband's family for the *belis* her family had received.

### *Settlement of Domestic Violence Using the Customary Law of Rote*

The new decentralisation laws in Indonesia since the Soeharto era enabled village people as cultural collectivises to return to their village's *adat*, an example of the return of (collective) cultural rights to a group of people (Bräuchler, 2010). The term "*adat* community" (*masyarakat adat*), or "*adat* law community" (*masyarakat hukum adat*), bears connotations of autonomy (Bedner & Van Huis, 2008). Local customs (*adat istiadat*) are a form of authority based on original autonomy (*otonomi asli*). At the same time, however, the *adat* community needs to be acknowledged and respected by the government, and the way it runs its governmental affairs has to align with national law.

Ethnographic and socio-political research suggested that *adat* law shapes many aspects of family life in Indonesia (Bowen, 2001; Davies, 2003; Grace, 2004; Sillander, 2004; Davidson & Henley, 2007), and that differences in *adat* customs have historically been associated with ethnic differences in family-related behaviour (Blackburn & Bessell, 1997). Thus, while traditional norms for marriage behaviour exist in many settings, in Indonesia these norms are formalized in a meaningful way, providing a unique opportunity to measure norms as distinct from both observed behaviour and simple group classification. The term *adat* broadly refers to customs, traditions, rules, or practices that guide social life and decision-making in Indonesian communities (Davies, 2003; Taylor, 2003; Davidson & Henley, 2007). These ethnicity-based legal systems outline obligations and expectations for social and economic relationships, including marriage, inheritance, land-holding, and dispute resolution.

*Adat* is notable for its simultaneous authority and fluidity (Hooker 1978; Sillander 2004). For example, Sillander (2004) found that most Bentians, an ethnic group on Borneo, claim *adat* as an important source of authority to resolve conflicts or to determine social obligations. *Adat* legal systems remain in Indonesian village life even though the state has promoted a homogeneous village structure to overcome many *adat*-based structures (Kato, 1989) and even though Islamic law has grown in importance (Grace, 2004). This three-way tension between *adat*, state, and religious legal systems emerged during the colonial period and remains relevant today (Spyer, 1996; Bowen, 2001; Davies, 2003; Sillander, 2004; Davidson & Henley, 2007). Researchers have observed that in places where the *desa* (government) structure is conflicting with the reality of the

local *adat* structure, *adat* can still persist as a source of identity, authority, and adjudication (Davies, 2003; Kato, 1989).

Although formal laws in Indonesia guarantee women protection, customary law is still perceived as part of the national legal system. The difficulty that arises is to determine the solution when laws within a state are in conflict and, in particular, the impact that occurs when personal laws violate principles of equality, such as the *belis* case in East Nusa, Tenggara. Normative social theories evaluate institutions on the basis of whether they are free from domination, meet needs, and provide conditions of emancipation that can overcome justice as understood by modern traditions. This is because broader normative social theories require cultural criticism and socialization in addition to formal rights criticism and distribution patterns (McCarthy & Benhabib, 1988). *Belis* culture must be criticized if it is disadvantageous for women. Legal understanding and legal reform can help reform this culture in order to provide protection for women.

However, the people of Rote perceive domestic violence to be very private; thus, although there are state laws that offer better protection for victims, the community tends to opt for settlement through customary law. The church institution in Rote plays a major role in domestic violence settlement because it is not only seen as a religious institution but has been given the role of settling problems of its congregation. Any cases of domestic violence must be settled within the family prior reporting it to outside parties, including church institutions. The dispute settlement involves family members and people who are considered as wise men. The purpose of the settlement is to mend the disharmony in the family caused by domestic violence, and customarily, reporting the husband to the police will definitely hinder this purpose. The mechanism established by the people is considered to be more effective in settling domestic violence given the private nature of the case.

The involvement of church starts when the victim and her family confide in the priest. After hearing the case, the priest will ask the conflicting parties to come to a meeting in the church. The priest will also involve a female figure of the church and act as a mediator using a religious approach. The role of the female figure is important because she holds an important position in the neighbourhood of the conflicting parties. The violence that usually occurs is physical violence through hitting. Most of the time, the reason for hitting a wife is that she is thought to have made a mistake when talking to her husband when he has just arrived home. When he arrives home half drunk, as it is normal in the Rote society for men to drink alcohol in public spheres, the wives usually pose questions that the husbands perceive as irrelevant or asked at the wrong time. Questioning as a form of the wives' protest against their husbands' behavior is perceived by the society as a mistake, even by women activists in the local church. Every circumstance, every condition or action that came from the husband's side should be responded to by the wives with patience and caution. This is the expectation society demands out of wives, and thus, if domestic violence occurs, the wives are believed to have contributed to the incidents because of their transgressive behavior. This train of thought has also proven to be true in other parts of Indonesia such as in Makassar, Sulawesi (Parker & Dales, 2014).

According to local customary law, reconciliation is achieved if the parties, especially the husband as the perpetrator, made a vow in front of everyone involved in the reconciliation process to not repeat any violence. The wife should accept the vow and also vow to be more obedient and less demanding of her husband. The reconciliation process is sealed by a handshake and a kiss between the husband and wife. Harmony is considered to be restored in the household and is marked by the return of the wife to the house. Even though the reconciliation process was

conducted privately, it does not come unnoticed by the people in the neighbourhood. After the reconciliation process, the neighbours and members of the congregation will watch secretly to see whether the household stays harmonious or becomes violent again. At this stage, society plays the role of social control. They will make sure that domestic violence never happens again, and if it recurs, the neighbours and members of congregation will report the condition to the family and church. Social control driven from local wisdom (informal social control) comes to an end if the perpetrator can no longer be controlled. This happens when domestic violence recurs. The family and church will report the case to the police to be processed legally. In this situation, formal social control is deemed more effective.

Some people in Rote also use customary dispute resolution mechanisms without involving the church. Resolution of domestic violence merely through *adat* involves the *maneleo* (the head of clan) as a medium. *Maneleo* is also found in other parts of East Nusa Tenggara, such as in Ro'e, Manggarai where they are called *tua golo*. *Maneleo* is responsible for 18 clans, and his role is to adhere to the customary law in the dispute settlement between his clan members. The role of *maneleo* is not only to handle cases involving *adat* but also to govern the village. In cases of domestic violence, the wife's family will complain to her *maneleo*, who will then contact the *maneleo* of male family. Both *maneleos* and each of the parties will discuss the cases until an agreement is reached. The wife returning to her husband's household marks this reconciliation.

Conflict resolution through customary law that is facilitated by the church is perceived to be more effective for the victim. Although there are no guarantees that the perpetrator will not repeat his mistake, protection of the victim from further violence is felt to be more substantial. People outside of the family, such as neighbours, especially the women members of the same local church as the victim, secretly watch over the condition of the victim. These women truly perform the social control function in their community; they are the ones overseeing whether the victim continues to be treated violently. If in the days to come domestic violence in that household persists, the local church will advise the victim's family to report to the police, being aware of the worse consequences that might lead to divorce.

As domestic violence is contingent upon the marriage institution that is unseparated from *adat* or customary law, the means of settling the issue will be different from one place to another, especially in such a plural country like Indonesia. A mere formal set of laws, created by the Indonesian government in an attempt to accommodate both international and national aspirations in regards to domestic violence, will almost always fall short of the local conception of justice as it differs from one place to another. In that sense, it becomes impossible for formal laws to stand on their own in resolving cases of domestic violence. The coexistence of informal and formal laws in Rote gives women victims of domestic violence the options they need to obtain justice on their terms. In the search for justice and harmony, the practice of domestic violence settlement in Rote Island shows that there is a reproduction of law when local, customary, and religious laws are confronted by the implementation of international and national laws.

The coexistence of *adat*, church, and state law in regard to domestic violence in Rote Island gives women victims a choice of laws in their search for justice. Structurally and institutionally, the coexistence of domestic violence resolution mechanisms attempts to provide women more than one way of achieving justice, as they also acknowledge that the three systems of law are based on different ideologies. In that sense, women victims of domestic violence in Rote Island are given the opportunity to weigh the benefits of each system and choose which mechanism they perceive is best. In practice, often times *adat* law and church law are victims' first choices and state law is only resorted to when deemed to be more advantageous to the situation. This disposition is found

in many communities where customary law coexists with state law and other types of law, such as in the Kurdish community in the UK, where state law is followed when perceived to be expedient or indispensable (Tas, 2014). However, through the survivors' accounts of domestic violence resolution, it can be deduced that all three mechanisms are normatively insufficient to provide protection for victims. Even in cases where victims resort straight to state law operating on the basis of the Elimination of Domestic Violence Law, it is still proven that the *maneleos* are involved throughout the process and the legal certainty that state law offers often does not come through. This is due to the patriarchal values that are deeply embedded into the society to the extent that the practice of state law is also affected by cultural values wherein *maneleos* are involved. As male figures who are highly respected and heard, every conclusion they make binds the conflicting parties, and, for the most part, these decisions tend to victim-blame and thus strengthen the perpetrator's position.

## Conclusion

Protective regulation for women, as legislated through the Elimination of Domestic Violence Law, has specifically recognized the forms of domestic violence that are prohibited as well as the different methods of settlement that promote harmony in the household. Although, in that regard, the regulation has been constructed very well, there are still limitations to the law, such as the boundaries of physical violence and neglect and the post-ruling supervision of the protection of victims, that have not been sufficiently formulated. A community should go through great measures to protect victims to prevent recurrence of violence. Laws that have been made are considered to be ineffective when the law enforcement institutions do not have a decent understanding of gender and violence against women. In terms of the customs and traditions, the social structure of people in Rote becomes a factor that affects the high rates of domestic violence. Furthermore, constructions of gender and traditions in Rote Island structurally and systematically embed the patriarchal culture that puts women in a vulnerable position to become victims of domestic violence.

Regarding settling cases of domestic violence, it can be seen from the people of Rote that there is a clear and tacit connection between customary law, church law and state law. When customary and church law are deemed insufficient or have failed to provide justice or protection to victims, consciously the community resorts to state law in hope of certainty. In that sense, the three coexisting laws in Rote Island serve as substitutes for each other, a substitution that happens when one fails to bring the justice pursued yet still an interchangeable mechanism that does not provide legal certainty to victims. The potential of repeated domestic violence is still a major concern because of the patriarchal values that continue to dominate the society even when settlement exercises formal state law. A coexistence of laws on the resolution of domestic violence in Rote Island is exemplary as it offers victims alternatives in their search for justice. Nevertheless, the essential duty abstracted from the situation in Rote Island is to uproot every patriarchal custom and tradition so heavily embedded within the society, as they hinder legal practice that proffers justice for women victims of domestic violence.

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