Article

Adat Law, Ethics, and Human Rights in Modern Indonesia

I Ketut Ardhana [1,*] and Ni Wayan Radita Novi Puspitasari [2]

1 Department of History, Universitas Udayana, Bali 80361, Indonesia
2 Department of Political Science, Universitas Udayana, Bali 80361, Indonesia
* Correspondence: phejepsdrlipi@yahoo.com

Abstract: The fact that legal issues support local wisdom, ethics, and human rights and the way in which they operate in the nation-state are not well-understood; however, this is a significant issue. Indonesian independence, achieved on 17 August 1945, initiated substantial changes in the religious life of Indonesians. While most of Indonesia is Islamic, other religious beliefs include Hinduism and Christianity. Indonesia did not consider the Balinese a formal religious group in 1945. However, because of the Mount Agung eruption in Bali, many Balinese migrated outside the island. They lived in Lampung (Sumatra), certain places in Java, Palangkaraya (Borneo), Palu (Celebes), and other areas in the Indonesian archipelago, and have lived there for a long time. The total number of Balinese at the present day is around three million, but outside Bali, their number is 10 million. Their number increased throughout the Old Regime, the New Order, and the Reformation periods until the present time. They face many significant problems regarding the marriage and divorce laws juxtaposed with national law, as is the case with other religious communities, such as the Islamic community in Indonesia. Several important questions need to be addressed in this paper. First, what is adat law, or customary law, in Bali and outside Bali regarding the concept of Hindu Nusantara? Second, how should customary law be implemented, for example, relating to marriage and divorce issues in the building of the nation-state? Third, what is the customary law relating to the present situation of the Hindu communities in Indonesia? These are some significant questions. By using interdisciplinary approaches to customary laws, religious history, anthropology, and sociology, we expect to have a better understanding of how the Balinese customary law can become part of the formal law in modern Indonesia. By understanding these issues, it will be possible to strengthen national regulations by adopting certain values of customary law in modern Indonesia.

Keywords: adat law; ethics; religious affairs; human rights; national law

1. Introduction

Every society develops customs under natural conditions. The characteristics and patterns of customary law have experienced a long process of development in terms of their historical dynamics. The dynamics of society and culture in Indonesia have a historical link.

According to customary law in Bali, marriage is a social, cultural, religious, magical, and also legal act. Marriage has a legal impact, affecting the rights and obligations of each party. Marriage not only has an impact on obligations and rights, but it also has an administrative impact, giving authority to the state to enter one's personal arena or territory. The law determines the legitimacy and status of each party, including legal relations with third parties, such as the in-laws. Rules for the husband and wife relationship are part of the legal aspect of marriage. The context of the relationship must be clear, approved, and witnessed in relation to its validity (Wirata 2018, pp. 151–52). In this context, it is mentioned as a social act because it is a social product, and also a cultural product that binds all elements of the social life. It is associated with religious and magical aspects, because marriage involves ancestral spirits and religion. Marriage includes religious rituals, both during the wedding procession and in the household. There are several stages in

Balinese history that have governed marriage matters. Even under Dutch rule, Balinese marriage was subject to regulation.

It is surprising to learn that when Bali was under Dutch colonial rule, people regarded Balinese culture and religion as needing protection. Hinduism was the coherent force that shaped the developed traditions. There seemed to be a concern from the Dutch authorities about Balinese culture if outside forces influenced it. It was suspected that Balinese culture would decay because to the spread of Zending; the Dutch considered it to be unique, and believed they should save it from various outside influences, known as the Baliseering policy. With this policy, the Dutch government could guarantee how threats to Balinese culture could be controlled, not only regarding external cultural influences, but because of the influence of religions other than Hinduism in Bali.

However, not all ethnicities (7 ethnic groups, i.e., Java, Madurese, Timorese, Ambonese, Buginese, Sasaknese, and Sumbawanese) and religions are in the same position in relation to how the legal aspects apply in society, such as in relation to issues of religious law, marriage law, etc. In Islam, for example, these social aspects do not face legal obstacles, because we know that most of the Indonesian population adheres to Islam. Thus, the population of major religious adherents came from Islam (520.224), Catholicism (64.454), Protestant Christianity (31.397), and Hinduism (3247.283). These religious traditions seems to be developing in modern Balinese life, to this day (See also: Howe 2004).

Historical records show that the religious tradition in Indonesia has roots in the structure of Indonesian society and culture, which is traced from ancient life, through classical history, to modern times. The collapse of the Hindu kingdom (c.1500) characterizes this period, followed by Islam's arrival (1500), and European influence (1596), especially in relation to the influence of Christianity (c. 1800 onwards) (Hisyam 2021, p. 199). Other religions, such as Hinduism, for example, have played an important role, especially in relation to the dynamics of classical Indonesian history, long before its entry into modern history. When Indonesia was under the traditional rule of Majapahit, Hinduism played a significant role (1293–1400). Other countries, such as Malaysia, Thailand, and the Philippines, recognized Hinduism. Helen Creese mentions this in her work entitled, *Perempuan dalam Dunia Kakawin: Perkawinan dan Seksualitas di Istana Indic Jawa dan Bali (Women of the Kekawin World: Marriage and Sexuality in the Indic Courts of Java and Bali)*, based on enactment of the Majapahit Law, which was based on Hinduism, called *Kitab Kutaramanawa Dharmasastra* (Creese 2012). The Majapahit kingdom was followed by a Dutch colonial period of over 350 years (1596 to 1945), when Dutch colonial rule influenced law, founding modern Indonesian law. Dutch law has been in modern Indonesia since Indonesian independence was achieved on 17 August 1945, until the present day. Non-Hindu religious influences seems to be more dominant in modern Indonesian law (See Reslawati 2017, pp. 184–85).

Thus, in the next episode of Indonesian history, the majority of citizens are Muslims, and the interests of the ummah are prominent. This could be seen when Indonesia declared its independence. Indonesia has various religious communities. Article 29 of the Indonesian Constitution states that every citizen has the freedom to practice their respective religion and belief. However, there are imbalances in implementing the rights possessed by every citizen. Legal issues relating to marriage, including divorce and inheritance, are a problem. Therefore, this article proposes that the nation-state needs to secure religious rights and equal status to Indonesian people—especially those belonging to the non-Muslim Hindu adherents—for achieving fairness in human dignity. There are several problems related to this area, as the Marriage Law of Islam does not align with the beliefs of the Hindu community. The discussion of this aspect is very significant in relation to the application of the law as guaranteed by the ideological basis of the Unitary State of the Republic of Indonesia (NKRI). This applies the state ideology based on Pancasila. The word Pancasila comprises the word *panca*, meaning five, and *sila*, meaning foundation or basic principles. The ideology of Pancasila became significant as the state ideology after Indonesian independence was achieved on 17 August 1945. The ideology of Pancasila is the basic ideology, comprising five significant aspects—first: belief in God, second: humanity, third:

Indonesian integration, fourth: democracy, and fifth: social justice. These five aspects of the Pancasila play a significant role in building the nation-state in modern Indonesia.

2. Significant Issues

Significant issues included in this paper are:

- First, defining Hindu religious courts and other religious community courts in Indonesia.
- Second, examining Hindu religious courts in relation to human dignity.
- Third, challenges and opportunities faced by Hindus in a multicultural society that upholds human dignity.

These are issues discussed in this paper to strengthen religions. Religions that exists in harmony with the community, nation, and state, within the framework of the Unitary State of the Republic of Indonesia, Pancasila, and the 1945 Constitution, are diverse in Indonesia.

3. The Human Dignity and The Marriage System in Bali
From the Traditional, to Dutch Colonial Perspective, to Independence

Understanding the concept of human dignity and marriage in Bali allows for the consideration of dynamics that have influenced historical developments and migrations over a long period of time. The view of human dignity in marriage has long been a concern and is included in literary traditions derived from Hindu religious values. Marriage is a major topic in the work of Helen Creese. It is said that almost all forms of marriage depicted in *kakawin* are based on intense Indian literary traditions combined with Hindu religious traditions, both in Sanskrit texts and in Kuna Javanese texts, for example, in the 10th century Mahabharata. Creese further classifies the forms of marriage systems in the Balinese manuscript "*Kakawin*". The *Kakawin* is a literary work both from the Javanese and Balinese cultural tradition, created by a poet from the old Javanese or Balinese palaces, reflecting not only philosophical values, but also other social, cultural, economic, and political aspects. This literature is from the classical Javanese and Balinese period dating from around the 1300s to the 1400s. *Kakawin* is an old Javanese poem that includes Sanskrit poetic elements. Creese's notes are given in the following Table 1 (Creese 2012, p. 98).

During traditional royal rule, under the reign of Sri Kresna Kepakisan and continued by Dalem Waturenggong, from the Majapahit era circa 1343 to 1400, such marriages occurred in areas of Bali until the end of the 19th century and the early 20th century. They considered the loyalty of a woman to be more important than that of a man or her husband, as evidenced by the typical case of *Mesatya. Mesatya*, or s*ati*, is the self-burning of women at the burials of their deceased husbands in India, Java, and Bali (Creese 2012, p. 293). Early in the 20th century, before Bali fell to the Dutch, the practice of *Mesatya* was still carried out in 1902 in the Balinese palace, called Puri Denpasar. When the Dutch controlled Bali, there were changes related to marriage. Christian morality began through the formal education provided by the Dutch, by introducing ethical politics in 1901. I have explained that under the Dutch, Christian morality and human dignity regarding the Balinese people and culture emerged. In early 1901, the Dutch even explained that what distinguished the Dutch colonial power from other European nations was an ethical policy, known as ethical politics. The Dutch wanted to emphasize that their practice of imperialism differed from other forms of Western imperialism. Colonizers claimed economic benefits, but also increased human dignity within the framework of the Dutch perspective (Kuitenbrouwer 1991; see also Locher Scholten 1994).

Table 1. The Patterns of Marriage in Hindu Literature.

No.	Marriage Partners Between Males and Females	Form of Marriage	Titles of Old Javanese and Balinese Works
1	Raja Cedi designates the groom, and Rukmini designates the bride	*Mepadik* means matched, in this context. Both parents agreed to match the couple.	*Hariwangsa, Kresnayana*
2	Arjuna and Citraganda	*Mepadik* means matched, in this context. Both parents agreed to match the couple.	*Parthayana, Subadrawiwaha Kandanaandanahana*
3	Laksanakumara and Kstisundari	*Mepadik* means matched, in this context. Both parents agreed to match the couple.	*Gatotkacasraya*
4	Abimanyu and Utari	*Mepadik* means matched, in this context. Both parents agreed to match the couple.	*Abimanyuwiwaha*
5	Sutasoma and Candrawathi	*Mepadik* means matched, in this context. Both parents agreed to match the couple.	*Sutasoma*
6	Kresna and Rukmini	*Ngerorod* (*Kawin lari*) means that the bride and groom usually run away without the knowledge of their parents, who in the past, did not approve of their children's marriage.	*Hariwangsa* and *Kresnayana*
7	Abimanyu and Kstisundari	*Ngerorod* (*Kawin lari*) means that the bride and groom usually run away without the knowledge of their parents, who in the past, did not approve of their children's marriage.	*Gatotkacasraya*
8	Samba and Yajnawati	*Ngerorod* (*Kawin lari*) means that the bride and groom usually run away without the knowledge of their parents, who in the past, did not approve of their children's marriage.	*Bhomakwya*
9	Arjuna and Subadra	*Diculik* means the bride-to-be is kidnapped by her partner because she does not love him.	*Patrayana, Subadrawiwaha, Kandanaandanahana Kalyamanantaka*
10	Rama and Sita	Marriage is the choice of the bride.	*Ramayana*
11	Pandawa and Drupadi	Marriage is the choice of the bride.	*Kresnapancawiwha*
12	Aja and Indumati	Marriage is the choice of the bride.	*Sumanasantaka*
13	Arjuna and bidadari	In ancient times, marriage was carried out when a kingdom won a victory; then the kingdom that lost would give a woman as a gift to the king who won.	*Arjunawiwaha*
14	Arjuna and Ulupuy	Marriage is carried out because both partners mutually agree and love each other.	*Parthayana, Subadrawiwaha, Kandanaandanahana*
15	Bhima and Hidimbi	Marriage is carried out because both partners mutually agree and love each other.	*Kresnapancawiwha*

The table shows five cases of being matched (Number 1–5), one case of kidnapping (Number 9), three cases of choice by the bride (Number 10–12), and one case as a gift (Number 13). There are three cases of elopement (Number 6–8) and two cases with agreement between the bride and groom (Number 14–15), which seems here to pay more attention to dignity. In traditional Balinese society, the husband-wife relationship has three crucial dimensions: the relationship with the deity, the relative social status and the desired wife's husband's family, and family connection (Creese 2012, p. 128).

With limited human resources of the Netherlands in the colony, the Dutch hoped that implementing an ethical policy would lead to a skilled human workforce, which would be reliable in government bureaucracy. It is not surprising that this occurred after the fall of the Balinese kingdom in 1906–1908, known as the Badung *puputan*. *Puputan* comes from the word *puput*, referring to the Balinese struggle against the Dutch colonial power until the end. The education given later, especially to Balinese nobles, seemed to have an impact in that non-aristocrats also received a Dutch education. This drives the understanding that a Dutch education, including the study of ethical politics, also influenced increasing understanding of the human dignity of the Balinese. In fact, the Dutch introduced the *Baliseering* policy, which was a government policy to maintain Balinese traditions and culture amidst the onslaught of modernization. There are two aspects that need to be considered in relation to how human dignity developed in Bali. First, among Balinese, there were two groups, the noble group, who supported *Bali Adnjana*, and the general

group, known as *Surjakanta*, which developed in the 1920s ([Bagus 1974](#)). Both Balinese community groups played a role in maintaining Balinese culture. Outside of Balinese culture and Hinduism, we know that the influence of Muslim Javanese and Madurese people has strengthened the multicultural society in Bali.

In the 17th and 18th centuries, there was an influence of the influx of Bugis, who followed Islam, who had migrated to Bali. We find Bugis who embrace Islam in North Bali, because the capital of Bali was formerly in Singaraja (North Bali), which became a destination for immigrants. The effect of Islamic groups on the nation is intense in Java, as well as the influence of Balinese Islamic parties, which later became known in Bali as Muhammadiyah, in Singaraja in 1934 ([Ardhana 1986](#)). This becomes very interesting when considering that the more intense development of Islam seems to influence legal issues. In 1945, Islam received a more proportional weight, especially in relation to issues of religious ethics considered by the Indonesian government.

4. The Human Dignity in Bali at the Time of Independence

I have explained that Muslim community groups play an intense role in Indonesian culture, as the majority group when Indonesia became independent. In fact, when they became independent in the Indonesian constitutional structure, community groups already had the power to regulate the lives of their people. In Islamic religious courts, for example, there are two major organizations, Muhammadiyah and Nahdlatul Ulama. The Muhammadiyah group considers its group a purification group, while the Nahdlatul Ulama group considers itself to be tolerant of local traditions and customs.

The total number of Balinese people who were Hindu (1950s) was around 2.5 million, representing 500.000 heads of families ([Kaler 1983](#), pp. 4). Balinese had a different culture, different from the majority of the Indonesian population, who are Muslims, especially concerning rituals or religious ceremonies regarding the marriage system. There are certain flexibilities based on their adat (local customary laws and Hindu religion). According to the *Manawa Dharma Castra*:

> *Idhanim dharma pramananyaha*
>
> *Wedo kiklo dharmamulam*
>
> *Smrticile ca tadwidam*
>
> *Acaraccaiwa sadhunam*
>
> *Atmanastustirewa ca*
>
> The whole scriptures (*Vedic Cruti*) are the first source of the law,
>
> then of it the *smrti* and the praise worthy behaviour (*Cila*) as well as
>
> the customs (events) that fullfill the desires of
>
> the highest conscience (*atmanastusti*).

This means that we can do more to improve our understanding of certain concepts regarding the principal foundation, form, and characteristics of Hindu institutions, amongst other religious institutions, such as *Majelis Ulama Indonesia* (MUI), and *Dewan Gereja Indonesia*. The MUI organized any religious issues related to the Muslims, and the DGI related to the adherents who are Christians. They still have their function related to the religious activities of both Muslim and Christian adherents. Through these efforts, other institutions would recognize the Hindu existence through administrative notes or *Catatan Sipil*. The central government could consider Balinese as *cultuurvolks*. In addition, it is important to note that the Balinese have to maintain their rights regarding the concept of *swadharma bernegara* (it is compulsory to dedicate the self to the state); this concept is relates to the marriage act or *Undang-Undang Perkawinan* ([Kaler 1983](#), p. 3).

In Bali, there are several known levels of society, called soroh. Conditions or prohibitions of marriage which include endogamy (marriage in one's own environment) or exogamy (marriage with other citizens), does not appear to exist. Here, marriage in a

citizenry environment, for example, both participants being from the Pasek group or both being Kemenuh, or between citizens of different groups, is not prohibited.

In Bali, the community is more pleased with marriages that occur endogamously (in the same vein). However, this is not in relation to family ties, provided that they are not too close. Marriage in Bali has two categories:

Gamia or discordant. This marriage is not prohibited. However, if this marriage occurs in a way that is unkind (amanasi awaknia priawak), especially if it is difficult to prevent, a congratulation ceremony for the spouse (dibayuh) compliments it before the ratification ceremony.

Agamia marriage occurs when a man marries a woman who is a grandmother or bihi-level cousin, once or twice removed (grandmother/aunt dimisan or dimindon). Then, there is the notion that family ties closer than that are not considered gamia anymore. In relation to a man, there is a higher gradation (uncle with niece dimisan or dimindon), considered an ideal marriage, known as Prtabu Ngemban putra, and is common in Bali.

Gamia Gamana marriage is that between people who have familial bonds closer than those mentioned above, both from the female or pre-religious side and from the male or purusa side. Such marriages are prohibited, and the Balinese traditional community tries to prevent them from happening. This concept is "amanasi rat", according to the elderly. It was frowned up upon in the Hindu kingdom in the past, when the person concerned was subject to punishment or "kelebok ring segara". This happens to people with family ties at the biological level, friends "in ia or dinyama", step-ties, and adoptive ties. This includes cementa relationships (because of marriage) (son-in-law with in-laws, for example). Regarding brothers-in-law, there are differences between one region and another. In Karangasem, East Bali, for example, a man is prohibited from marrying his sister-in-law (his brother's widow). However, in other areas, this is what they encourage (Kaler 1983, p. 10).

Balinese people, who are predominantly Hindu, seem to have unique experiences compared to other communities, even though all Indonesians have entered the period of independence. Among Hindus in Bali, there is still fragmentation, with followers of the Shiva Buddhist-Hindu, religion, Buddhist religion, Tirtha religion, or Shiva-Hindu religion, etc. Five years after independence, on 31 December 1950, I Gusti Ananda Kusuma founded an organization known as the Hindu Religious Council (Ardhana et al. 2019, p. 29). A year later, in 1952, a Hindu Religious Institution (PAHB) deepened the knowledge of Hindu philosophy related to implementing Hindu religious rituals.

5. Hindu Law and Human Dignity: Negotiation and Practices

When Indonesia became an independent nation on 17 August 1945, Indonesians practiced human dignity. Indonesia mandated this in the articles of the Constitution of the Unitary State of the Republic of Indonesia. The Indonesian people, free from Dutch colonialism, opened up new opportunities as an independent nation. This stems, of course, from the desire of the Masjumi Party to establish an Islamic state. However, the 1945 Constitution could guarantee the existence not only of Muslim groups, but could embrace the interests of all people with religious beliefs outside of Islam.

This marked a new era in improving the bureaucratic structure of government in Indonesia. For this reason, Indonesia formed various agencies to facilitate the interests of the state and religious community groups for all the Indonesian people in modern Indonesian. This includes the Office of the Ministry of Religion of the Republic of Indonesia in Jakarta. Events overwhelmed the agency in the form of various problems that have arisen in Jakarta as the new capital city of the Republic of Indonesia. Social and political capital from the Muslim community provided an opportunity for Islamic religious courts before other religious groups. Meanwhile, in 1951, in Singaraja Bali, a government structure for religious matters, was formed at the Nusa Tenggara Provincial Office or the Provincial Religious Affairs Office (KUAP). The focus of the KUAP was religious efforts, religious information, and religious education.

When the Ministry of Religion was established, it was to be controlled by Muslim groups. It struggled to accept new religions, other than Islam, in 1952. There was indeed an assumption that Balinese people who embraced Hinduism did not embrace religion, but were believers (Ardhana et al. 2019, p. 33). Therefore, several important requirements existed. Hindus had official adherents, possessed a holy book, had a prophet, gained international recognition, and the adherents were not limited to only one ethnic group, such as the Balinese ethnic group. With the demands put forward by Muslim and Christian groups, Hindus met some of the demanded requirements in Indonesia. The Indonesian state recognized the Hindu religion in1959. This means that the acknowledgement of Hinduism came over 10 years after Indonesian independence, which was achieved on 17 August 1945.

However, this provincial office of religious affairs only dealt with adherents of the Islamic faith in matters relating to pilgrimage, marriage, divorce, and reconciliation. The Balinese community, which is Hindu, had no place at the provincial level regarding religious affairs. This seems quite ironic, especially in relation to human dignity. Dignity was for all religious adherents in Indonesia. Therefore, the Bali government Council submitted a proposal to the Provisional People's Representative Council. Its purpose was to establish a Regional Autonomous Religion Office of Bali, with a letter dated 14 November 1952, number 14/4/115. The primary aim was to fight for Hinduism within the Provincial Office of Religious Affairs. This effort lasted from 1952 to 1954, but was unsuccessful. Because of the non-acceptance of Hinduism in the office of the religious affairs, in 1954, the regional government of Bali created a regulation for the autonomous religion of Bali. After its establishment, it was proposed to the Ministry of Religion of the Republic of Indonesia in Jakarta. Jakarta rejected it.

The situation was unstable. The aggravation among Hindu intellectuals involved the ambiguous recognition of Hinduism in Bali. Bali's government did not recognize the national office of regional religious affairs in Bali. Any officials who adhered to Hinduism were not allowed to conduct activities in the regional office of religious affairs in Bali, so the regulation of regional religious affairs was not effective. For example, the summons for Muslims regarding pilgrimage (Haji) and talak were ineffectively dealt with (Ardhana et al. 2019, p. 33). The ideals proposed to reduce the struggle of the Hindus only succeeded in 1958. Balinese Hinduism became part of the Ministry of Religion of the Republic of Indonesia. Hindus in Bali received attention and received the same administrative services as other religions in Indonesia. The Republic of Indonesia recognized Balinese Hinduism in 1958. With this recognition, the Ministry of Religion of the republic of Indonesia established the Hindu Section Bureau in 1958. This meant giving status to the Bali Hindu Bureau in the Ministry of Religion of the Republic of Indonesia. This was strengthened by issuing MPRS Decree No. 27 in Session IV, and in 1986, it was upgraded to a Directorate (Gosa 1986, p. 21; Ardhana et al. 2019, pp. 15, 38).

However, there are internal and external obstacles, especially in relation to establishing a Hindu religious court, which does not yet exist in Indonesia. External barriers include political and juridical barriers. Political obstacles, for example, relate to the problem that there is no political will to establish a Hindu religious court. The number of Hindus in the DPR is not sufficient. Legal politics in Indonesia does not support a Hindu religious court in Indonesia. Regarding judicial obstacles, especially in relation to the space required for Hindu religious courts, the topic is less clear. This is because of the Special Judicial Law, especially article 18, the Law on Advocates, article 2 paragraph (1) and its explanation, and the Law on Religious Courts Article 1 point 1. Other internal obstacles include the lack of understanding of Hindus regarding the competence of Hindu religious courts, as well as Hindus who do not support Hindu religious courts (Gelgel et al. 2015, p. 260).

In addition, this applies to the idea of *Moksartham Jagadhita ya ca iti dharma*, or *dharma* philosophy, the highest value of truth in Hindu law. It is important to note that, according to historical records, Hindus in Indonesia once had a Hindu religious court. This was from the time of the Hindu kingdom, through the era of the Dutch East Indies and the era of

independence, up to the issuing of Law Number 1/drt/1951. According to the Perda Bali, on 12 July 1951, due to Number 11/DPRD, marriage between men of lower ranks and women of higher ranks was abolished, which is known as the criminal *Asu Pundung* and *Alangkahi Karang Hulu*. In some places in Bali, weddings such as these are arranged with an "*amati wangi*" ceremony first, before the wedding ceremony itself, to provide peace of mind.

In Bali, *kaingin*, the right to marry, cannot be prohibited by the rights that parents have regarding their children, known as "*warang rights*". If there is a violation of these rights related to the prosecution, *melegandang, mrekeneng*, and *mrekunung* is a punishable criminal act. Marrying someone who is already married is not encouraged. However, it is not forbidden for a man who is still married to remarry. Polygamy prohibition does not exist, and there is no limit to the number of wives that a man can marry (Kaler 1983, pp. 10–11). The judicial foundation is that there is room for Hindu religious courts. It is stipulated in article 1 paragraph (3) of the 1945 NRI Constitution, which states that Indonesia is a country of law; article 2 paragraph (1) of Law No. 1 of 1974, concerning marriage; and article 2 of Law No. 48 of 2009, concerning judicial power. These articles are national, applying to every citizen. Thus, this reduces pre-existing customary or local regulations and upholds religion. In the past, it was possible to have marriages that comprised a social contract. In such cases, people were married only by a Civil Registry deed. However, with this law, religious provisions have a reasonable place. This is under the presumption that marriage is valid if carried out according to the laws of the relevant religions and beliefs. The definition of law in the sacred book of Vedic Hinduism is *rta* and *dharma*. *Dharma*, for example, is more accurately defined as sacred rules. In the *Manawa Dharmasastra*, the word dharma is used to mean the law that governs human life towards goodness. Dharma is the elaborator. Dharma is the elaboration of *rta* into regulations that apply to human behaviour. This is to create order and justice in society, besides human dignity (human dignity based on Hindu religious tradition). Besides this, Gelgel et al. (2015, p. 27) notes that *rta* and *dharma* are macro conceptions of Hindu law. Both regulate human interaction in order to align people's lives with the natural environment for the creation of a peaceful, safe, just, and prosperous life. This applies to the concept of the dharma philosophy of truth and supreme value in Hindu law. It is important to note that according to historical records, Hindus in Indonesia have had Hindu religious courts from the time of the Hindu kingdom, through the era of the Dutch East Indies and the era of independence, up to issuing Law Number 1/drt/1951. The juridical basis is that there is room for a Hindu religious court, as regulated in article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that Indonesia is a state of law; article 2 paragraph (1) of Law no. 1 of 1974, concerning marriage; and article 2 of Law no. 48 of 2009, concerning the power of the judiciary.

Besides philosophical, historical and juridical foundations, a Hindu religious court in Indonesia also has a sociological basis. There are still family law problems and violations of the order of religious life for Hindus that are not accommodated in the general court. What religious and traditional leaders in Bali want is very clearly encompassed by the Great Pesamuham Parisada Hindu Dharma Indonesia, dated 2 March 1990, number 01/KJep./II/PAPHDI/1990, and the results of the Great Order of the Main Assembly of Pakraman Village, number 050/Kep/Psm-1/MDP Bali/III/2006, 3 March 2006 (See Gelgel et al. 2015, pp. 259–60).

Therefore, politically, Hindus must continue to face struggles in establishing a Hindu religious court. At least, it could represent the Hindu Law in the national law of the modern Indonesian state. One such struggle takes the form of conducting a formal legal inventory and obtaining materials related to law enforcement in Indonesia. In addition, it is necessary to review laws that do not support Hindu law and to compile Hindu law as a source of material for Hindu religious courts. The role of the Balinese people is important, because these individuals possess courage and can build themselves (Gde Aryantha Soethama 2004, p. 174). Thus, clearly, increasing public awareness of Hindus is necessary to raise perceptions of Hindu law and Hindu religious courts in Indonesia. The Parisada Hindu Dharma Indonesia

is recognized by the Republic or only at the Bali regional level, namely increasing the devotion and role of Hindus in society, the nation, and the state (See: Articles of Association of Parisada Hindu Dharma Indonesia 2021: on duties and functions, Article 11 c).

6. Conclusions

In summary, the needs of Hindus in Bali for equal respect and human dignity require attention. There have been various problems in applying equality and fairness to human rights. From a Balinese perspective, there is an absence of resolution through the courts. Therefore, the problems that exist in Balinese society are expected to be resolved outside the courts in these regions. This is seen in the way in which a court verdict regarding family issues is uncomfortable. The courts are of the view that a court verdict hints that the disputing party has lost their family spirit.

We have seen this dynamic throughout history. Under the mandate of the 1945 Constitution based on Pancasila, the Hindu community has its own director general. This figure can take care of the problems related to Hindu religious practice in Indonesia. However, there is one more thing that needs to be considered regarding the possibility of a Hindu judicial system, which is that Hindus be granted such a body when facing marital problems, not only between Hindus, but also with others. This is where a sense of justice is needed, allowing followers of one religion to be recognized as having the same position as followers of other religions. In this context, we need goodwill from all parties to realize a Hindu judiciary system in Indonesia.

References

Ardhana, I Ketut. 1986. "Perkembangan Muhammadiyah di Bali", 1934–1968. Unpublished Thesis, Universitas Gadjah Mada, Yogyakarta, Indonesia.

Ardhana, I Ketut, I Putu Gede Suwitha, and Yekti Maunati, eds. 2019. *Towards Modern Hinduism in Bali: A Brief History of the Parisada Hindu Dharma Indonesia (PHDI)*. Denpasar: Pustaka Larasan.

Aryantha Soethama, I Gde. 2004. Potret Masa Depan: Prediksi, Skenario, dan Rekomendasi Pembangunan Bali. In *Bali Menuju Jagadhita: Aneka Perspektif*. Denpasar: Pustaka Bali Post.

Bagus, I Gusti Ngurah. 1974. *Pertentangan Kasta dalam Bentuk Baru dalam Masyarakat Bali*. Denpasar: Faculty of Letters Udayana University.

Creese, Helen. 2012. *Perempuan dalam Dunia Kakawin: Perkawinan dan Seksualitas di Istana Indic Jawa dan Bali*. Denpasar: Pustaka Larasan.

Gelgel, I Putu, Wayan P. Windia, and Ida Bagus Anom Sukartha. 2015. *Peradilan Agama Hindu di Indonesia: Landasan, Hambatan dan Strateginya*. Denpasar: Udayana University Press.

Gosa, I Made. 1986. Peranan Parisada Hindu Dharma dalam Perkembangan Agama Hindu di Bali, 1958–1985. Unpublished Thesis, Fakultas Sastra Universitas Udayana, Denpasar, Indonesian.

Hisyam, Muhammad, ed. 2021. *Globalisasi dan Transformasi Sosial Budaya: Pengalaman Indonesia*. Jakarta: Kompas Penerbit Buku.

Howe, Leo. 2004. Hinduism, Identity and Social Conflict: The Sai Baba Movement in Bali. In *Hinduism in Modern Indonesia: A Minority Religion between Local, National and Global Interests*. Edited by Martin Ramstedt. London: Routledge Curzon.

Kaler, I Gusti Ketut. 1983. *Cudamani: Pewiwahan/Perkawinan dalam Masyarakat Hindu di Bali*. Denpasar: Bali Agung.

Kuitenbrouwer, Maarten. 1991. *The Nederlands and the Rise of Modern Capitalism: Colonies and Foreign Policy, 1870–1902*. New York: St. Martin's Press.

Locher Scholten, Elsbeth. 1994. *Sumatraans Sultanaat en Koloniale Staat*. Leiden: KITLV Uitgeverij.

Parisada Hindu Dharma Indonesia. 2021. *Hasil-Hasil Mahasabha XII Parisada Hindu Dharma Indonesia. Jakarta, Indonesia, October 28–31*. Jakarta: Parisada Hindu Dharma Indonesia Pusat.

Reslawati. 2017. Hindu di Bali: Keseimbangan Hidup melalui Agama, Budaya dan Adat, (Studi Pada Klan Pura Keluarga di Pura Kawitan Dalem Pande-Majapahit di Denpasar. In *Dimensi Tradisional dan Spiritual Agama Hindu*. Edited by I Nyoman Yoga Segara. Jakarta: Puslitbang Bimas Agama dan Layanan Keagamaan Badan Litbang dan Diklat Kementerian Agama RI.

Wirata, Ketut. 2018. *Tradisi Desa Bali Kuna: Perspektif Hukum Adat Bali*. Yogyakarta: Ruas Media.