



Implementation of customary law values in a traditional marriage of the Timorese in realizing laws based on local wisdom

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ABSTRACT

Customary law is one of the legal systems recognized for its existence empirically in terms of the legal dogmatics approach and the legal, sociological approach. The customary law of marriage in the Timorese tribe is one of the ancestral cultural products of the people of the Timorese tribe that must be maintained and appropriately maintained to preserve the continuity of noble cultural values as local wisdom in building laws based on local knowledge. The Timorese marriage ceremony contains values and norms that must be understood by the Timorese people, looking at several aspects related to the conditions of the times that always move towards modern and advanced changes so that cultural values that can build laws based on local wisdom are not eroded. This research is a type of normative legal research using the sociology of legal history and legal anthropology approach to find and reveal the values of customary law as a product of community culture which contains local wisdom values. Based on research on traditional marriage in the Timorese tribe of Tetaf Village, there are four stages and eight values that harmonize with each other in the values contained in the customary marriage procedures of the Tetaf community, which should be an aspired legal construction, in building laws based on local wisdom to maintain, restore, and preserve local customs and culture which are the basis for achieving human welfare, with positive customary law values.

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1. INTRODUCTION

The languages, dances, and customs of each tribe in Indonesia are very diverse. This diversity can help national development and can also help local governments (Wulansari, 2014). One of the diversity can be reflected in the marriage process (Lastuti Abubakar, 2013), a very significant event because it is related to the value system of human life. Marriage is a sacred duty for man to promote good and beneficial inheritance for the wider community. This matter has been implied and expressed in the marriage ceremony (Wang, 2019).

The noble values set by parents and passed down from generation to generation form various traditional ceremonial traditions that prevail in multiple regions (Syahbandir, 2010). The purpose of the traditional marriage ceremony is to get welfare and happiness later (Young & Billings, 2020). Because social science is developing, many people are negligent and do not follow

traditions. As a result, people lack an understanding of ceremonies. This traditional ceremony with noble values is feared to gradually disappear because foreign cultural values are not following Indonesian culture (Arliman, 2018). The purpose and understanding of the community about marriage customs are very important for its implementation (Webber et al., 2020).

Traditional and religious ceremonies are usually performed to support marriage. Ceremonies are activities or actions regulated by community customs or laws related to various events that commonly occur immunity. In other words, traditional ceremonies are party activities that are rearranged according to community laws following the event (Sabardi, 2014). Each ethnic group or community group will have unique rituals that differ from the ceremonies; values and rules usually determine how to do it (Hoffmann, 2019).

Timorese marriages are unique in that they are conducted privately and are marked by correspondence between a man and a woman (Mentovich et al., 2023). However, all family members have agreed to do so, starting with the introduction event and continuing to the marriage stage. Timorese marriages are unique in that they maintain hereditary customs or customs (Nugroho, 2016). One of the issues driving the study is that customs and marriage ceremonies will never change in a cultural society, even though they have evolved and space. Second, customs and marriages are part of an enduring with many values and standards governing everyone's behavior (Bochmann, 2023).

Customary law has broad research areas in the Indonesian legal system, including government and constitution, civil law, and criminal law (delik adat) (Risna Nurrohmah, 2021). Regarding legal dogmatics and sociology of law (Berman, 2020), it is one of the empirically recognition regarding systems. To maintain the continuity of noble cultural values as local wisdom loaded with messages of virtue (Santoso, 2016), customary marriage law in the Timorese is one of the ancestral cultural products of the Timorese people that must be maintained and maintained properly (Woodson & Parker, 2021).

The theoretical and practical implications of this research are that the values and procedures of customary marriage must be preserved and maintained for future generations to know and reveal the whole process, mindset and human behavior in connection with the customary marriage procedures of the Tetaf community which are used as local wisdom, positive customary law values regarding customary marriage procedures so that the government of South Central Timor Regency needs to make regulations as a legal umbrella in order to preserve cultural values as a form of national identity and it is necessary to make a Regional Regulation on the Promotion of Culture, as a form of implementation of Law Number 5 of 2017 concerning the Promotion of Culture.

In the Timorese marriage ceremony, some values and customs must be understood. The Timorese people's values and traditions must consider aspects related to the development of the times that continue to move towards modernity and progress (Balint & Tomlins, 2019). The researchers conducted research titled "Implementation of customary law values in customary marriages of Timorese Tribes to realize laws based on local wisdom."

2. RESEARCH METHOD

This research is a type of normative legal research (socio-legal study) that sees law as a social phenomenon that appears not only as a written legal norm but also as an interaction between society and legal institutions. This research uses the sociology of legal history and legal anthropology to discover and uncover the values of customary law as a cultural product of society. This research was conducted in South Central Timor District. In the customary marriage procedures of the Timorese tribe in Tetaf Village, Kuantana District, there are four stages in traditional marriage, and there are values in it that can build local wisdom values as cultural products in the field of Customary Law in a broad sense and especially about local wisdom.

Data analysis is carried out descriptively qualitatively, namely providing an overview of research findings, also evaluative, namely researchers using legal theory provide justification for data findings, and prescriptive, namely researchers provide an assessment according to the formal requirements that should be

3. RESULTS AND DISCUSSIONS

Customary marriage procedures of the Timorese tribe in Tetaf Village, Kuanatana District, South Central Timor Regency

One of the most important things in human life is marriage because, through it, energy builds a household that is inseparable from the role of two people of different sexes (husband and wife) in it who will pass on to the next generation (Mandasari, 2014). After marriage, a man and a woman become husband and wife outwardly and mentally. Marriage is considered valid if it is carried out according to the religious laws and beliefs of each person because marriage is good if it is carried out according to the laws of one's religion and belief marriage cannot be considered a violation of the rules according to national law because the government has other rules that must be followed (Rato, 2000).

Timorese people must understand the principles of the Timorese marriage ceremony. The principles forest tribe in Tetaf Village consists of four stages, which include principles and rules that must be understood and understood by the Timorese people. Marriages are usually performed following fully adopted religious laws and regulations. Therefore, the traditional ceremony following Tetaf people combines nature, characteristics, beliefs, and religions that support each other to form a cultured society.

Traditional marriages in Tetaf Village are unique in that they begin with correspondence between the families of both parties, which forms the phase of introduction between different family members. In the life of the people of Tetaf Village, the introduction of phasestomary marriage procedures(Rato, 2015b), namely:

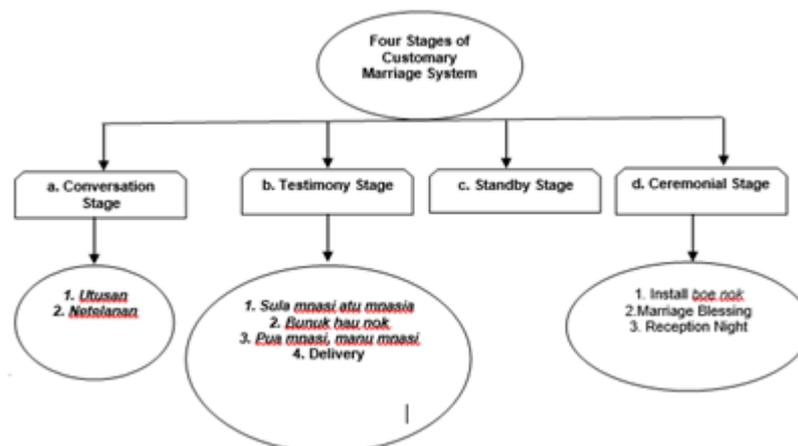


Figure 1. Four stages of customary marriage system

a. Stage of conversation

This discussion stage is between the party with the right to a man and the prospective besan. In this stage of n, there are two elements, namely: a) Utusan is a messenger, usually a man who understands local information and is good at speaking rhymes (Naton) in the vernacular, going to the woman's house to find out if the girl to be married is old enough for marriage. The wedding will take place soon if the two like each other and match each other. b) Netelanan, At this point, the messenger conveys the intention of the party who wants to ask for the girl to her parents by bringing a betel nut holder to the girl's house and placing it on the table to ask for information directly from her parents. The betel nut contained banknotes, and the netelanan also asked, "Does the daughter have any?" Otherwise, the girl's family will have to take the money stored there, but if the girl already has one, the family does not need to take the funds held there(Marhaeni, n.d.).

b. Testimony Stage

At this stage, several parties, including relatives, neighborhood leaders, or elders in the neighborhood, will witness conversations that will be continued through events such as the following: a) Sula Mnasi atu mnasia, or to ask is to continue the previous conversation. The male

parents openly stated that they wanted to marry off their son to a daughter or adopt her as a daughter-in-law. When marrying for the wedding, the male family must pay attention to various luggage. The baggage of the man's side consisted of five to seven betel holders, each equipped with all sorts of clothes used by the girl. The *Ok Totes* (betel nut place) consists of: Betel nut place where belis money is stored, ten young betel nuts—young areca nut or dried areca nut, but do not split it because it shows that the girl is still a virgin, the betel leaves below are neatly arranged and tied with pandan leaves/banana leaves, a betel holder called *Ok Totes*, a betel nut holder containing silver or paper money, couple bridal attire, a handkerchief that has been given perfume, bridal jewelry and cosmetics.

Two families exchange betel nuts at the netelanan woman's family house (specifically for eating, not *Ok Totes* or *Ok Tuke* brought by the male family) and eat together. The girl's parents began to ask the male family what would be desirable. The male family figuratively expressed a desire to take the fertile betel and areca nut seeds in this house. The parents' answer is usually 3-4 days after the afternoon remembrance. The two families ate a simple meal and then went home.

The male family went home and left the betel place *Ok Totes* and *Ok Tuke* at the woman's house. Usually immediately answered whether the application is accepted or not. The application is rejected if *ok totes* and *ok tuke* are sent home in complete condition. If the proposal is accepted and shows that the woman's family got it honestly, the girl is still a virgin. The symbol for women who are virgins is usually in *Ok Totes with* betel leaves arranged reciprocally, and the nut should be the wrapping one. If the filled areca nut is no longer petal, then the betel nut woman is no longer a virgin. This whole process is known by the traditional head as a symbol of inauguration so that it is known to the public. b) *Bunuk hau nok* (raising wood leaves), After the woman answers the proposal, the man gives the woman several items as a sign that they are about to get married. Both brides are forbidden to have relationships with other people because they already have a partner. Therefore, wood leaves are raised as a sign of prohibition.

The word *bunuk hau nok* is that men show love to women by giving items such as clothes, rings, or necklaces. Women show love by riding *bunuk* with cell input (*maau*) and *Saku siri* (*aul mama*) with the aim that both men and women take care of each other from each other and among themselves. Items that are signs of death must be worn while waiting for the wedding. c) *Pua mnasi, manu mnasi* (old beaver, old series), this stage is usually carried out after *the hau nok bunuk*. After carrying out the process of hosting and binding each other, the next event is that both women and men give appreciation to each other's parents. *Pua mnasi, manu mnasi*, where men and women give each other awards to parents and families through silver money, rupiah (paper money), blankets, sarong, shirt, and kebaya. The amount of goods requested by the woman is not targeted but based on what has been prepared by the male family, only when the woman's family reciprocates this gift with an amount close to what has been given by the male family with the same amount of goods.

In this stage, the family from the male side carries out the gift *okomama* or a thank you note to the woman's family, including several *okomama* that is: *Oe maputu, ai malala* (hot water, hot fire), *uki oen, laku oen* (banana water, sweet potato water), *afok mate, ma asaeb mate* (bamboo to fetch water and wood to roast), *tuku mnuke* (*atukus mnuke* brother of sister), *tukut nanaf* (*atoin amaf* = brother of mother), *tuku mnasi* (*atoin amaf mnasi* = eldest brother of mother), *peut of oemataf* (bamboo tree, spring=ancestor). d) Delivery, what is meant by delivery is that the parents of the male side give items in the form of gold rings, a set of women's clothing, jewelry, and a place for the areca nut series.

c. Standby Stage

At this stage, all families, from the bride and groom who have the event, invite cousins and relatives to family meetings and form a party committee to carry out activities before and after the party.

d. Ceremonial Stage

This stage has several elements: a) *Pasang boe nok* (pitching a tent), at this stage, the people of Tetaf Village always show a close sense of social solidarity by always helping every day to help work at the party venue. Both mothers, fathers and young people always participate. b)

Marriage Blessing, in the Tetaf community, the marriage ceremony cannot be separated from the Christian religious beliefs adopted, so it is always carried out in the Church by paying attention to the prosumer and its implementation because the number of Christians in the Tetaf community is so high so that every marriage ceremony will be regulated based on Christian worship procedures. After the blessing service, the bride and groom are confirmed as husband and wife in the marriage blessing ceremony. At this stage, it is the culmination of the entire Timorese marriage ceremony. So the bride and all the family go home together to the bride's house for the reception, which will continue in the evening. c) Reception Night, the culmination of the Timorese marriage ceremony is the wedding blessing, in which all social and religious elements are united. The reception night was held with the following events: Welcoming guest the invitation consists of individual guests and groups. Individual guests come personally or per head of household. Group invitees are guests who come in large numbers and bring gifts, such as money or animals. This stage shows the greatness and excitement of the wedding, Eat Together customary values and mutual respect are highly valued in Timorese society. Guests are usually welcome to grab food in advance to show mutual respect when eating together; as the saying goes, "Say guests are king". Not only during the wedding ceremony, guests are welcome to eat first, but in everyday life, things like this are also applied, Free Events in this section, all the series of wedding reception events have ended. The free event began with bonet dancing and dancing together as an opener. This free event will last all night to entertain happy families and increase the sense of brotherhood and literacy among family members.

The values contained in the customary marriage procedures of the Timorese tribe in Tetaf Village, Kuanana District, South Central Timor Regency

The value in customary law serves as a basis for standing and achieving the goal. From deal ends in value, e.g., fraternity value(Liunokas, 2020). In customary law, both the rationale, process/procedure and objectives are based on the value of mutual assistance so that, in the end, it produces brotherhood(Neonnub Idaroyani, n.d.). In customary law, there is not only one value, namely brotherhood but many values are contained in it. The researcher made a concise scheme that departs from the idea of value crystallization based on experiences experienced by ancestors, which will end up in norms that are used as guidelines for someone in behavior (Rato, 2015a).

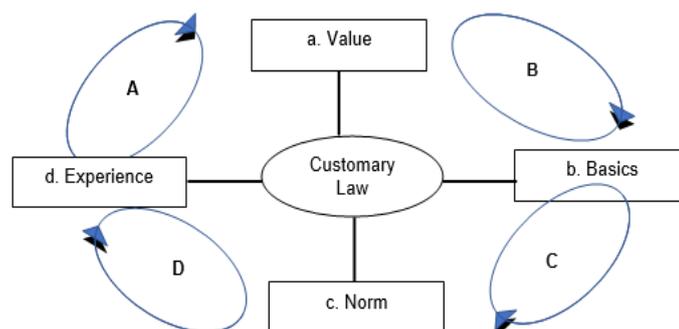


Figure 2. Crystallization of customary law values

Based on the scheme above, the following explanation is presented (Rato, 2008), which is as follows: a) The process of crystallizing the value of the experience that the ancestors, the nobles, have experienced for tens, hundreds, even millions of years. In this process, the old good experiences are retained, and form values, but some changes change to form new deals. From this value is considered useful, then it will be maintained by the ancestors or diluted, socialized to posterity and preserved by posterity. b) Values are too abstract to be realized, so they cannot be applied. It must first be derived, derived, or developed into several principles. These principles then become a basis for forming legal norms; in other words, these principles are translated into several positive legal standards. c) Principles are more concrete than values. Although somewhat more substantial than value, the guide is still considered too abstract to apply. Therefore the principle is

derived or developed into some norm or rule. This rule serves as a guideline for community members in behavior. d) Norms are used as guidelines for a person to behave. These behaviors gradually become experiences. And so on. This process takes place simultaneously to form the circumference of the spiral.

Thus the dynamic motion of customary law, the old and useless, is replaced with the new (Betty & Nusarasriya, 2020), like the flow of river water that continues to flow without stopping from time to time or the waves of the ocean that continues to roll tirelessly. Therefore, socio-cultural dynamics become a reference and orientation of studies in dynamic customary law, always following its members' mindset, life needs and life experiences (Rato, 1991). Looking at the marriage ceremony of the Tetaf community, some values are manifested in the form of solidarity; these values are as follows:

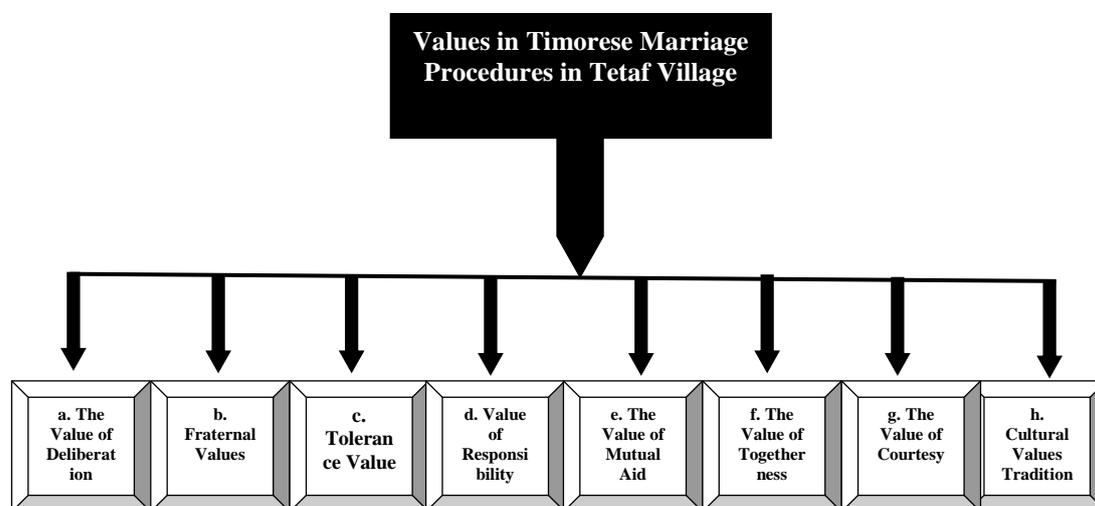


Figure 3. Solidarity values

a. The Value of Deliberation

Every Indonesian citizen has the right to voice their opinion, and the country's system of government is democratic. In addition, its system of government has a structure that indicates the position and responsibility of each (Marsianus Ampat et al., 2023). In the same way, democratic societies in Timor typically have a community structure centered on indigenous figures who serve as regulators, developers, and defenders of values. Therefore, there are differences in uniformity and similarity of importance of the geographical environment.

The deliberation system known to the people of Tetaf Village comes from the decision-making process of the elders. The final decision is a consensus, mutual agreement, or joint decision. Deliberation is a social element in many rural communities worldwide, including in Indonesia.

In reality, Koenjaraningrat's opinion can be found in Timorese marriage ceremonies (Lobo et al., n.d.). Extended family deliberation has always taken precedence in Timor when making decisions. The extended family gathered to discuss wedding preparations, guests, tent making, and processions.

b. Fraternal Values

Timorese society is very fraternal based. The marriage ceremony is the most visible in the local culture. The social ties of the Timor community form a fraternal organization. Marriages between relatives, tribes, or clans create bonds of brotherhood in Timorese society. The sense of bloodline bonding also increases the importance of brotherhood. Relatives, tribespeople, or families who marry generate a sense of brotherhood in Timorese society. A sense of belonging will arise, although they are not blood-related.

c. The Value of Religious Tolerance

Religious tolerance has been practiced in Timorese society, even though most of the population is Christian (Rachmadhani, 2014). Religious tolerance is a component of mutual respect and life balance between religions. With religious tolerance, life will always be calm and harmonious. Timorese marriage ceremonies involve Christians and Muslims. This ceremony points to the family holding a special banquet for adherents of Islam or other invited religions. When parents attend Thanksgiving services, and all activities are carried out according to Christian teachings, it shows tolerance between Timorese people (Soumena, 2012). In addition, Muslim guests who participated in the Thanksgiving event were also asked to give messages and advice. Such things can foster people's tolerance and sense of responsibility towards society and God.

d. Value of Responsibility

The responsibility still lives on in Timorese society. The responsibility referred to here is to know how to return the goods that have been received. Items that have been accepted must be returned with a sense of responsibility. In addition, the bride and groom's families usually thank all the families who participated in the wedding committee to show their sense of responsibility.

Giving betel nut with money and shawls to all the organizers and people who have worked hard to make the wedding successful is a way to show gratitude. The cooperation between the family and the marriage committee exemplifies the value of responsibility inherent among the Timorese. Returning borrowed goods is proof of collaboration (Stefanus Don Rade, 2022). For the committee after the wedding day is over, the committee gathers to dismantle the tent and immediately return borrowed items, such as dismantling decorations in the aisle and in the bridal chamber, rearranging the rented tent, sound system, kitchen utensils, chairs and others.

e. The Value of Mutual Aid

In rural communities, the value of mutual aid seems to be deeply rooted in Timorese life; The basis of help is the feeling of need that exists in the souls of citizens. The Tetaf people like to help in solidarity with the Timorese people, although they are not fully helpful in all aspects.

One of the values of gotong royong that can be drawn from this Timorese marriage ceremony is that the local community does not know their social status when working together. We often see the principal working in the kitchen, the teacher slicing onions, and the county clerk serving drinks. Men also do not know social status, as do women. In addition, a very strong mutual aid value possessed by the Timorese people is to prepare food. To illustrate, when cooking requires firewood, the people involved take over to draw water or take firewood to cook.

f. The Value of Togetherness

Togetherness is very important for the Tetaf community of the Timorese tribe in marriage ceremonies. These values can be found in every process of the marriage ceremony. The Tetaf people in the Timorese tribe always gather together to tell stories every night to create an atmosphere of happiness, proving the importance of togetherness. This event is usually referred to in the Timorese language as "mete", which means the activity of staying up together at night in a wedding tent accompanied by musical accompaniment, both from traditional gongs and dance music played through sound. This kind of togetherness was not only among the families at that time, but the togetherness was shown to relatives and others. We can already conclude that the value of togetherness in marriage ceremonies is prioritized to entertain the family.

g. Value Manners

In the marriage ceremony, the Tetaf people of the Timorese tribe highly value manners. This value is shown in every marriage ceremony, especially during the marriage stage, where people usually use subtle words to ensure that what is conveyed is well received and does not offend others. In addition, be polite by serving betel nuts to guests and family to communicate with Timorese people. Among Timorese, entertaining guests at home and events such as weddings are customary. Politeness is marked by presenting a place of betel nut with a slightly bent body and invitation with rhythm.

h. Cultural Values

Culture always brings something different and unique because culture is usually a human product that unwittingly becomes a customs or civilization. This is often seen in ceremonies because people typically say what they think or want, and their thoughts and actions eventually become traditions. Eating betel nuts, given to children and the elderly, is one of the cultures reflected at this wedding event. Because Timorese believes that betel nut is one of the typical village foods that are not good if eaten separately, but if eaten together, it will taste good. Therefore, they must unite with each other. In addition to betel nut, *sopi* (liquor) is another culture that has been attached to the Timorese tribe. Like betel nut, *sopi* is also used for important occasions like weddings. In addition to being used as a complementary tool for important events, Timorese adults usually drink *sopi* to relieve stress.

Over time, the people of Tetaf Village experienced changes in their customary marriage procedures. Some examples of such changes are: Clothing wedding blessing time, welcoming guest no longer serves betel nut but can be replaced with snacks such as snacks, reception is carried out by renting buildings and hotels to conduct wedding receptions.

In the development of life that continues as far as the 21st century, it can be seen as a reality from the old to the new, namely national and modern and even postmodern and global, that the law always changes following the direction of changing times concerning, among others, mindsets such as values, principles and norms as a result of social construction. The cosmology of local communities lays down the values that animate the enactment of local laws. The legal norms that live in society to have force should not conflict with society's cosmology. The main value in the cosmology of marriage of the Tetaf people is harmony. Based on how it works, balance in the values contained in the customary marriage procedures of the Tetaf community should be constructed as an aspired law (*ius constituendum*) in building regulations that are based on local wisdom to maintain, restore, and preserve local customs and cultures that are the basis for achieving human welfare.

4. CONCLUSION

The influence of customary law values as a source of local wisdom, with procedures and values crystallized in it in traditional marriages of the Timorese tribe, who see that the validity of the marriage is not only from the laws and regulations, namely Law Number 1 of 1974 Article 2 paragraphs 1 and 2 but the validity of marriage for the indigenous people of Tetaf village must be carried out before nature, God, and others witnessed by all members of relatives, neighbors, friends, and members of the community. Such marriages are marked by ceremonies, namely processions from the groom's house to the bride's house or vice versa, as an announcement that there has been a social event and a legal event, namely marriage; in other words, cultural pluralism results in law enforcement. The advice given is the values and customs of marriage must be maintained and maintained for future generations to know and express at length the mindset and behavior of humans concerning the customary marriage procedures of the Tetaf people, which are used as local wisdom, positive customary law values regarding regular marriage procedures so that the South Central Timor Regency government needs to make regulations as a legal umbrella to preserve cultural values as a manifestation of national identity and a Regional Regulation on the Promotion of Culture was made to implement Law Number 5 of 2017 concerning the Promotion of Culture. This research is limited to the scope of marriage law by exploring local wisdom, the hope is that in the future the values of customary law that become local wisdom can be used in the preparation of future legislation in order to achieve the objectives of the existence of marriage law itself, such as reducing cases of domestic violence, divorce and neglect.

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