

Analysis of Customary Law on the Occurrence of Divorce in the Osing Tribe of Banyuwangi

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Abstract:

The aims of this article I to analysis of customary law on the occurrency of divorce in the osing tribe of Banyuwangi. The research method used empirical research using qualitative descriptive. The result of the Marriage is a sacred bond to unite two people who have a relationship or feeling of love as a gift that must be grateful for. Kemiren Banyuwangi Village is a district that has a diverse society and has different cultures for each region and tribe, one of which is marriage traditions. The marriage tradition of the Osing tribe of Kemiren Village, Banyuwangi, includes cultural heritage from ancestors that still exists and is preserved today. Marriage in the Osing tribe is not only aimed at forming a harmonious, peaceful and peaceful household in society, but also to achieve physical and spiritual well-being. Therefore, in the Osing Tribe's traditional legal concept, marriage not only binds the married husband and wife but also strengthens the relationship between two families.

Keywords:

customary law; occurrency of divorce; the osing tribe

I. Introduction

Indonesia is a unitary country full of diversity. Indonesia consists of various cultures, regional languages, races, tribes, religions, beliefs, and so on. However, Indonesia is able to unite this diversity in accordance with the Indonesian nation's motto "Bhinneka Tunggal Ika", which means different but still one. Cultural diversity is a necessity in Indonesia. Cultural diversity in Indonesia is something that cannot be denied.

The different levels of civilization of ethnic groups and communities in Indonesia are related to the various cultures spread across various regions. Because of the diversity that exists in Indonesia, legal pluralism has emerged where there is more than one legal provision or rule in social life. However, etymologically, pluralism has many meanings, but it has the same similarity, namely recognizing all differences as reality or realities.

The goal of legal pluralism in Indonesia has the same ideals, namely justice and the benefit of the nation. There are at least five legal systems that are growing and developing in the world, namely:

1. Common Law System, this system adopted by England and former British colonies, generally joined in commonwealth countries;
2. The Civil Law system, which originates from Roman law, was adopted in Western Europe, and was brought to former colonial countries by the former colonial government;
3. Customary Law, customary law applies in Asian and African countries, customary law applies depending on the customs of each region;
4. Islamic law, Islamic law is adhered to by Muslims wherever they are;

5. Communist or socialist legal systems implemented in countries such as the Soviet Union.

In Indonesia itself, three of the five legal systems are adhered to, namely Customary law, Islamic legal system and Western law. These three laws work together to achieve the same goal, but along the way they follow the rules contained in these laws. One of the legal systems that applies in Indonesia is customary law. Customary law is a rule of human custom in community life. Since God sent man down to the face of the earth, he began his life according to the rules of customary law in his environment.

Of course, there are a lot of cultures and customs in Indonesia because of the many tribes that live in it. What is no less interesting is the customs of the Osing Tribe in Banyuwangi Regency. The Osing tribe is the original population of Banyuwangi because the Osing tribe was a people who lived during the reign of the Blambangan kingdom. Banyuwangi people usually call themselves Laros or Lare Osing. The Osing tribe itself has many customs, and almost every village has its customs.

Because Banyuwangi has a very large area, the formation of customs in each region is almost different due to different backgrounds. As is known, customary law originates from customs, namely social rules created and maintained by legal functionaries (authoritative rulers). It applies and is intended to regulate legal relations in Indonesian society (Soemadiningrat, 2002).

In the reality of indigenous communities, quite a few goals of marriage to achieve happiness and prosperity are stopped midway by factors, both internal (the husband and wife themselves) and external (factors beyond the husband and wife's capabilities). Especially in Indonesia, regarding marriage, starting from the process of carrying out the marriage, assets in the marriage, up to the legal consequences of the dissolution of the marriage, it is known that there are 3 (three) legal systems, each of which has views that are not always the same, namely western law, law Islam, and customary law (Ramulyo, 2000).

As based on Article 38 of Law no. 1 of 1974 concerning Marriage, states that the termination of marital relations can be due to death, divorce, and a court decision (Hadikusuma, 2007). The dissolution of a marriage due to death is the final process in carrying out human nature. However, the dissolution of a marriage due to divorce and a court decision is a sought cause (Djamali, 2002).

In traditional communities, a marriage can break up because it is caused by 2 (two) factors, namely death and divorce. The reasons for divorce are generally the same as Law No. 1 of 1974, but the terms are different, namely adultery, not providing support, abuse, physical or health defects, and disputes. In developing circumstances, the dissolution of a marriage does not only depend on the fulfillment of the reasons according to the customary community, but due to the dominant influence of the National Marriage Law, in a divorce, the continuation is required to be registered in the Religious Court.

The wedding was also a significant event and received full attention and participation from the spirits of the ancestors of both parties. When a husband and wife live in one community, they are subject to Islamic teachings and the rules that apply to local community customs (Hadikusuma, 2003). Customary law can be defined as a custom, which generally applies in the community concerned and is unwritten, but customary law applies in each region. Many areas in Indonesia still uphold customary law, one of which is Kemiren Village, Glagah District, Banyuwangi Regency.

II. Review of Literature

2.1 Divorces According to Laws and Regulations

The urgency of legitimizing the law on divorce is considered clear evidence of the state's concern and intention to show its loyalty to the realization of the development and welfare of society, especially in the area of family issues. Departing from this, the birth of the 1974 Law on Marriage was later considered the basis for divorce law in Indonesia, which was adapted to the needs of society's legal consumption, and then adopted in the practice of divorce in the court.

Law Number 1 of 1974 concerning marriage contains the primary substance of divorce law in Indonesia. Articles 38 to 41 of Law Number 1 of 1974 concerning marriage, Article 38 explains that divorce can occur for several reasons. Article 39 explains that according to regulations, a legal divorce can only be carried out in front of a court. Article 40 describes the confirmation of divorce lawsuit procedures. Meanwhile, Article 41 explains the consequences of breaking up a marriage.

The 1974 Law as the legal basis for divorce issues was clarified with the ratification of Articles 14 to Article 36 in the Government Regulation of the Republic of Indonesia Number 9 of 1975, regarding the implementation of divorce as contained in the 1974 Law. Civil law is contained in Article 199.

2.2 Legal Basis for Divorce According to Islam

Islam has mandated that marriage be carried out forever, filled with affection and mutual love. Islam also forbids marriage whose purpose is for a specific time only to release lust (Mukhtar, 2017). The Sharia that Islam built upon takes much work to realize. In domestic life, there may be misunderstandings between husband and wife, one or both of them will not carry out their obligations, they will not trust each other and so on.

Disharmony in the household is caused by the perception and vision of the two of them not being able to unite anymore. Sometimes situations like this can be overcome and resolved, so that the relationship between husband and wife is good again. However, sometimes it cannot be fixed or reconciled. Sometimes it even causes hatred and prolonged arguments. When the marriage bond can no longer be maintained, the household they build no longer provides a sense of peace for the husband and wife. Islam regulates procedures for resolving such a situation called talaq or divorce.

Divorce provisions are based on the Qur'an and al-Hadith, as follows:

O Prophet, if you divorce your wives then you should divorce them when they can (face) their (reasonable) iddah (QS al-Thalaq: 65).

The meaning of the verse above explains that if divorce must be taken as an alternative or last resort, then Allah will provide sufficient grace to each husband and wife. Even though the relationship between husband and wife has ended in divorce, Islam still provides a way back if both parties want it, provided that the divorce is not *ba'in kubro*.

If the two divorces, then Allah will provide sufficiency for each of them from the abundance of His grace. Moreover, Allah is all-encompassing (His bounty) and all-wise. (An-Nisa, verse 130).

The arguments regarding divorce contained in the Al-Quran were further strengthened by the hadith of Rasulullah SAW, which was then used as the basis for divorce law in the form of a hadith, one of the most famous hadiths narrated by Imam Abu Daud: We (Abu Daud) got the story from Kasir bin Ubaid; Kasir bin Ubaid told by Mohammed bin Khalid from Muhammad bin Khalid from Mu'arrif in Washil from Muharib bin Ditsar; from Ibn Umar from the Prophet SAW who said: "The halal matter that Allah hates most is divorce."

Asbab al-Wurud according to the most valid history, this hadith is related to the incident of Abdullah bin Umar who married a woman he loved. However, his father, Umar bin Khattab, did not like his son marrying the woman. Abdullah also complained about this to the Prophet SAW. The Prophet SAW prayed for Abdullah and said, "Yes, Abdullah, divorce your wife!" Finally, Abdullah divorced his wife.

Syarah hadith according to al-Asqallani in Fath al-Bari, juz 10, p. 447, explains that a hated divorce is a divorce that occurs for no apparent reason. According to al-Khattabi, in "Aun al-Ma'bud Syarh Sunan Abi Daud, juz 6, p. 226, explains the meaning of hating divorce because something causes the divorce, such as lousy treatment and lack of compatibility. So what is hated is not divorce itself, but other things that cause divorce. Allah himself allows divorce. The Prophet also divorced several of his wives, although he reconciled some of them.

Indonesian Muslims are not only the majority group in Indonesia but also the largest group of Muslims in the world. Islamic law occupies a very strategic position not only for Indonesian Muslims but for the Islamic world in general and at the same time also occupies a strategic position in the Indonesian legal system. Law enforcement officials or the public. For this reason, the basic idea of the Compilation of Islamic Law (a national legal system frame) emerged to bridge the application of Islamic law in Indonesia.

The emergence of the Compilation of Islamic Law, for most Muslims then, was a special gift because it took the form of regulations that could mediate differences of opinion among Religious Court judges. With the power of the Impres which is still debatable to this day, the Compilation of Islamic Law has become the most meaningful reference for judges and justice seekers in resolving issues surrounding divorce contained in Articles 113 to Article 162 of Impres Number 1 of 1991, 25 which of course have several substantive differences with the substance of divorce regulations in positive law. This is because the substance of the Compilation of Islamic Law explains divorce completely and comprehensively for followers of the Islamic religion in Indonesia.

2.3 Customary Law

Customary law as a legal system has its own pattern in resolving disputes. Customary law has a distinctive and unique character when compared to other legal systems. Customary law is born and grows from society, so that its existence is unified and cannot be separated from society. Customary law has strong relevance to the character, values and dynamics that develop in indigenous communities. Thus, customary law is a phenomenological juristic form of customary law communities.

Some definitions of customary law given by legal scholars are as follows:

According to Prof. Dr. Supomo SH in his essay "some notes on the position of customary law", defines customary law as law that is not written in legislative regulations (unstatutory law) including living regulations which, although not stipulated by the authorities,

are nevertheless obeyed and supported by people based on the belief that these regulations have the force of law.

According to Dr. Sukanto in his book "Reviewing Indonesian Customary Law" defines customary law as a complex of customs, most of which are not written down, not codified and are coercive, have sanctions, so have legal consequences. From the two definitions of customary law explained by the two legal experts above, it can be concluded that customary law is an unwritten law made by the local community and mutually agreed upon by the community, and has legal force which has sanctions for violators.

III. Research Methods

This research is a type of empirical research using qualitative descriptive. Based on the problem, this research is classified as qualitative descriptive research, meaning that this research attempts to describe, record, analyze and interpret what is researched, through observation, interviews and studying documentation. This research uses a sociological approach. The sociological approach is an approach used to describe the state of society complete with structures, layers and various other interrelated social phenomena. The author uses anthropology and religion to review and analyze problems using qualitative descriptive.

IV. Result and Discussion

The culture of marriage and its rules that apply to a society or a nation cannot be separated from the influence of the culture and environment in which the society is located and the social interactions of its people. It is influenced by knowledge, experience, beliefs and religion held by the community concerned. Among Indigenous communities where the principle of kinship based on hereditary (genealogical) ties is still strong, marriage is a life value to be able to continue offspring, maintain the genealogy and social position of the person concerned. Apart from that, there are times when a marriage is a means of repairing kinship relations that have become distant or broken, it is a suggestion for approach and reconciliation between relatives and likewise the marriage is related to the inheritance of position and wealth. A marriage that is carried out alone without the intervention of parents, family and relatives, in the opinion of the Indigenous community, is a marriage that is contrary to Customary Law.

Marriage is a sacred bond that unites two people who have a relationship or feelings of love as a gift that should be grateful for (Aprilia, 2010). Marriage is also one of Indonesia's cultural riches. Therefore, every tribe and society in Indonesia has different characteristics and has its majesty, uniqueness, and beauty. Marriage concerns not only the bride and groom, but also the parents of both parties, siblings or relatives, even all family members on both sides of the bride and groom. In customary law, marriage is not only an essential event for living individuals, but marriage is also a significant event for the spirits and ancestors of both parties. Marriage aims to maintain good health and continue the offspring because offspring is vital in household harmony.

The survival of a society is guaranteed in marriage. Theoretically, marriage law is part of family law. However, in terms of legal studies, marriage can stand alone. Moreover, customary law is substantively related to each other. Marriage and family according to customary law have a solid relationship, not merely the relationship between a man and a woman. Still, marriage is the implementation of God's commands which are institutionalized in society to form a household within family ties (Salman, 2002). Marriage according to Osing Customary Law in Banyuwangi

has a meaning that is guided by cosmology, namely the human view of the universe, where nature is made the object of law (macrocosm) and humans are made the subject of law (microcosm). The Osing Indigenous People consider marriage to have four meanings: religious, economic, social, and legal.

Anthropologically, marriage is part of the human life cycle, *cakranggilingan*. Sociologically, marriage is a social phenomenon that changes a person's legal status. Legal status after marriage varies from the status of a virgin or immature girl to a social stage with a new legal status, namely husband for men and wife for women. The status of husband and wife continues to change when they both have children, so that both are called father to the husband and mother to the wife. In general, families and associations want a marriage to last. However, the reality is that not all marriages can last forever. Some situations and conditions cause marriages to end, such as family or partnership interests and personal problems, as reasons for divorce. The essence of divorce is when harmony is no longer found in the marriage.

As discussed in the previous chapter, things closely related to marriage law include divorce, because it is impossible for a divorce to occur without a marriage event being preceded by it. Even though divorce is not desirable, divorce is something that may happen. Therefore, divorce is also regulated in a regulation. Not only the state in its formal law but society also cares about divorce, so even divorce in customary law also has its own rules. Religious justice and customary justice are two fundamental things in society. Religious justice is considered a product of the state as the implementer of Law No. I of 1974 concerning marriage as a result of unification, while the customary court is a community apparatus that implements customary law. Even though the formal rules above emphasize that divorce must be carried out in front of a court session, the phenomenon in people's lives is that divorce is still carried out outside the religious court session. By resolving divorce cases through customary law mechanisms, in the eyes of the community, they have received the recognition that they are divorced. Therefore, they do not take this case to the Religious Courts. Events or occurrences of parties (husband/wife) who have divorced through customary law mechanisms (local wisdom) then go to the Religious Court to ask for validation or legalization of their divorce, if viewed from a positive legal perspective it may be a little different, because the Religious Court does not have the competence to legalize a divorce that has been resolved according to Customary Law (local wisdom). In customary law, relatives and the community generally want a marriage once solemnized to last forever. However, circumstances can arise where the interests of relatives and society require the marriage to be dissolved, in addition to this, things that are personal in nature are considered by society as reasons for divorce (Djamil, 1981).

The people of Kemiren Village, Banyuwangi, preserve their traditions because they are based on strong beliefs taught from generation to generation, even in matters of marriage and divorce. In the traditional community of the Osing Tribe, when a divorce occurs, they resolve it according to customary law, because each customary law has its own resolution pattern when problems occur in customary communities. Osing Customary Law has its own way of resolving divorce cases. Traditional elders are critical in resolving divorce cases in Kemiren village. All decisions are in the hands of traditional elders because the community has entrusted their problems to them. The traditional elder does not insist that a relationship must remain intact forever, but he always looks at why they divorced and what conditions at that time required them to divorce.

The communal situation of the Kemiren village traditional community places great importance on the role of a traditional leader/traditional elder to coordinate and motivate the

community to comply with legal provisions. So that the understanding of customary law possessed by traditional heads/elders will enable them to maintain, carry out, and complete the customary tasks and laws that have been assigned. It is impossible for the indigenous people of Kemiren village in a living community to solve their problems on their own unless there is intervention from traditional leaders. This is intended as a place for the community to rely on themselves when problems arise that cannot be resolved by the indigenous people of Kemiren Village. If they are involved in a divorce problem, then all members of the community respect and trust the position held by traditional elders.

The roles of traditional leaders in Kemiren Village include:

1. Traditional elders make approaches to the parties. Traditional elders who have received full trust as mediators take approaches using religious and traditional languages, so that the parties in dispute can resolve their cases calmly, and can explain the causes so that the elders can help find a solution to end the case.
2. Traditional elders can strengthen it with religious language (religious advice) and traditional language (advice). Suppose the parties are ready to offer an alternative solution. In that case, the traditional elder can strengthen it with religious and traditional advice to realize a peace agreement. Suppose both parties agree to make peace with several of their demands that may be fulfilled. In that case, the elder customs can propose to prepare a peace statement in front of traditional leaders and relatives from both parties.

Below I will present a presentation of the results of the interview by the informant, namely Mr. Pur, as follows:

"For the people of the Osing tribe who feel they uphold the high values of their own traditional cosmological culture, they will be inspired that if they violate this sacred culture, they will be punished. In the past it was the modin who got married, now that it is modern times, the modin has been shifted in position by the headman. Modin is only a companion. They consider submitting and obeying customary law valuable, so they are afraid to violate it. As for whether you have to divorce, that is beyond the individual's control. However, the soul mate is already in the hands of those above. The influencing factors are usually educational and economic, for example, when you get married, the wife pays for her family even though the wife asks her husband for money. Well, it is mostly like that."

In this case, because Mr. Pur rarely participated in the problem-resolution process, he generally explained the divorce process. According to Mr. Pur, the people of Kemiren village rarely, in fact, almost no one takes matters to court. They still adhere to the guideline that "customary law is always implied, and will never be written" so that all problems that occur under customary law will also be resolved using customary methods.

The Osing tribe community has its own pattern in resolving divorce cases as explained by the informant above, so the researcher will analyze the interview results using the theory that the researcher has explained in the theoretical study. In academic studies, it is stated that the mediation process used by customary law communities is similar to the mediation process developed in the modern era. Generally, the customary law mediation process is carried out through joint deliberation.

Here I will sequence the mediation steps taken by the Osing community when a divorce occurs, including:

1. The parties place their trust in traditional elders as mediators
 People who are considered traditional elders or people who are trusted are people who have authority, are respected, their words are obeyed and they are people who can cover up the secrets behind disputes between the parties. The mediator (traditional elder) needs to have the ability to keep the parties' secrets, because if the parties know that their case is known to many people, it could have fatal consequences for the settlement process. Therefore, traditional elders as mediators can hold closed meetings and even separate meetings with the parties if necessary. In customary law communities, the meeting process between the parties and traditional elders is carried out at night at the parties' homes, or at the home of one of their relatives. This is done so that the mediation process is not known to the general public
2. The party who wishes to divorce brings family and traditional elders. The parties to the dispute usually ask for help from a third party (mediator).
 The Osing traditional community's third party is the elder, not the traditional leader. Because traditional elders are considered more experienced and trusted by the traditional community. In this divorce case, the party who first helps the parties (husband and wife) is the parents or relatives of both parties, so the party who wants to divorce must gather at least three people from each family, because this also exists related to family disgrace, if the husband and wife's case becomes known to outside parties from the husband and wife's relatives.
3. Implementation of customary mediation
 After they sit down together, the party who wants to divorce or who wants to divorce must state what their purpose is in asking for a divorce and what reasons they use for the divorce.
4. Traditional elders provide advice and find solutions
 Traditional elders began to advise both parties and their families regarding the goals and reasons stated by the party who wanted a divorce. Apart from that, traditional elders also looked for the best solution for their relationship. If it is better to divorce, then traditional elders think about life after marriage which not only has an impact on the two families, but can also have an impact on the lives of other people. Because in traditional communities, when a dispute occurs between one family and another, other indigenous communities will feel the impact.
5. Determining a day to gather all families from both sides
 When a divorce does occur, they set a day to gather all the families of each party to inform them that they have divorced.
6. Traditional elders notify the mediation results
 This final stage is a stage in the process of deliberative dispute resolution. At this stage the mediator, in this case the traditional elder, will conclude what was previously discussed in the deliberation. If an agreement has been reached during the deliberation regarding a solution to the divorce case that occurred, then the agreement can be made in the form of a written agreement. Suppose the recommendation is accepted by the parties involved.

In the dispute. In that case, the mediator will reschedule the subsequent deliberation. Still, if the parties refuse to hold further deliberations, the mediator recommends the parties to resolve through other, more formal or legal channels.

In the family gathering here, the person who informed them that their marriage relationship had ended was the traditional elder. Because the divorcing party feels ashamed of their family. Apart from that, traditional elders also advised all families that even though the marriage ties between these two families had been broken, they should not break the ties of friendship between each other. Apart from having similarities with the mediation process applied in court, it turns out that the settlement of Osing tribe divorce cases also meets the criteria for settling cases under customary law, as explained by Hadikusuma (1992), namely:

First, the disputing parties can ask for help from a third party (mediator) to resolve their dispute. The mediator entrusted by the parties is generally a traditional figure or ulama figure. In family disputes, the first parties to help the parties (husband and wife) are the parents or relatives of both parties. In domestic disputes, traditional or religious leaders are involved, if the husband's or wife's family is unable to find a solution. This is also related to family disgrace, if a husband and wife dispute becomes known to outsiders from the husband and wife's relatives.

Second, the parties who trust traditional leaders as mediators are based on the belief that they have authority, are respected, respected, their words are obeyed, and they are people who can close secret meetings behind disputes between the parties. In customary law communities, meeting processes between the parties and the mediator are carried out at night at the traditional leader's house, or at the home of one of their relatives. This is intended so the mediation process is unknown to the general public.

Third, traditional leaders who are trusted as mediators take approaches that use religious and formal languages, so that the parties to the dispute can sit together, explain the background, causes of the conflict, and possibilities for finding a solution to end the conflict.

Fourth, traditional leaders as mediators can hold several meetings including separate meetings if deemed necessary, or involve other independent traditional leaders after obtaining approval from both parties. The aim is to help speed up the mediation process, so that agreements can be reached quickly.

Fifth, if the parties are ready to offer an alternative solution, the mediator can strengthen it by using religious and traditional language to realize a peace agreement. Suppose both parties agree to make peace with several of their respective demands that may be met. In that case, the mediator can propose to prepare a peace statement in front of traditional leaders and relatives from both parties.

Sixth, if this willingness has been expressed to the mediator, then the traditional figure can hold a formal procession, as a final form of statement to end the dispute by mediating through conventional channels. Thus, the mediation process in customary law communities ends.

4.1 Legal Consequences Arising From Divorce of the Osing Banyuwangi Tribe

According to customary law, a marriage bond not only means that the husband and wife must help each other and complete their domestic life, but also the participation of both parties' parents, family or relatives to support the happiness and eternity of their household life. In fact, it is still visible in the Indigenous communities in Indonesia, with a decomposition system that is adapted to the minds of Indonesian people, and away from the minds of Westerners. Marriage according to customary law is a matter of relatives, a family matter, a matter of community, a matter of dignity and a personal matter and the same applies to religious matters. This means that marriage is not only a civil engagement, but also a kinship and neighborly engagement. So

the occurrence of a marriage bond not only has consequences for civil relations, such as the rights and obligations of husband and wife, joint property, the position of children, and the obligations of parents but also concerns the relations of customs, inheritance, kinship, and kinship. Moreover, neighbors and involving traditional and religious ceremonies (Haar, 1997).

Marriage for the Customary Law community is a significant event, because according to the view of the Indigenous community, marriage is not a matter of the parties getting married alone or their families and relatives, but also of people who have no kinship relations who live there. Around the place where the marriage occurs, take responsibility or at least participate in implementing the critical event in question and consider it their business too. In relation to the importance of marriage according to Indigenous communities, Iman Sudiyat (1987) states that: "However, even though it is a family matter, a relative matter and a partnership matter, marriage is still a personal life matter of the individual parties who happen to be involved in it; So it's a matter of liking it or hating it. The course of the process of pinang marriage, especially the form of joint elopement and take-away marriage, reflects the tension between the group and the community as individuals." Therefore, Ter Haar stated, "that marriage is a matter of relatives, a family matter, a matter of society, a matter of dignity and a personal matter and it also concerns religion." Van Hollenhoven further said, "in Customary Law there are many legal institutions and legal rules that relate to the world order beyond and above human capabilities (Hoogere Wereldorde)".

The customary rules must be carried out by those wishing to enter into a marriage according to the form and system of marriage applicable in society. Law Number 1 of 1974 concerning Marriage does not regulate this. What this means is up to the tastes and cultural values of the community concerned, as long as everything does not conflict with the public interest. An exciting thing to learn is that the people of Osing have their image. The people are still a community with its customs, habits and beliefs. The criteria for a traditional marriage also vary greatly from each Indigenous community. Each region is not uniform and is more influenced by factors at the customary law level in each area.

The communal situation of the Kemiren Village traditional community places great importance on the role of a traditional leader/traditional elder to coordinate and motivate the community to comply with legal provisions. So that the understanding of customary law possessed by traditional heads/elders will enable them to maintain, carry out, and complete the customary tasks and laws that have been assigned. It is impossible for the indigenous people of Kemiren village in a living community to solve their problems on their own unless there is intervention from traditional leaders. This is intended as a place for the community to rely on themselves when problems arise that cannot be resolved by the indigenous people of Kemiren Village. If they are involved in a divorce problem, then all members of the community respect and trust the position held by traditional elders.

According to the Osing Tribe in Kemiren Village, Banyuwangi, divorce is taboo, so divorce rarely occurs there. If it is necessary to divorce, then the indigenous community, especially those who are parties, prioritize the path of peace first, because if a divorce occurs in the indigenous community, this can affect their social status in the eyes of the community.

IV. Conclusion

Marriage is a sacred bond to unite two people who have a relationship or feeling of love as a gift that must be grateful for. Kemiren Banyuwangi Village is a district with a diverse society

and different cultures for each region and tribe, one of which is marriage traditions. The marriage tradition of the Osing tribe of Kemiren Village, Banyuwangi, includes cultural heritage from ancestors still preserved today. Marriage in the Osing tribe aims not only to form a harmonious, peaceful and peaceful household in society, but also to achieve physical and spiritual well-being. Therefore, in the Osing Tribe's traditional legal concept, marriage binds the married husband and wife and strengthens the relationship between two families.

In living a domestic life, of course, disputes occur between husband and wife. In the Osing tribe's traditional community, when a conflict or even a divorce occurs, they resolve it using customary law, because each customary law has its own pattern of resolution when a problem occurs. Traditional elders have a very important role in resolving divorce cases, all decisions are in the hands of traditional elders, because the community has entrusted their problems to traditional elders. According to the Osing Tribe in Kemiren Village, Banyuwangi, divorce is taboo, so divorce rarely occurs there. If it is necessary to divorce, then the indigenous people, especially those who are parties, prioritize the path of peace first. The traditional elder does not insist that a relationship must remain intact forever, but he always looks at why they divorced and what conditions at that time required them to divorce.

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