

The Intersection of Dayak Tarangk Customary Divorce Practices and Canon Law

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Abstract

This research is motivated by the phenomenon of divorce which often occurs to overcome problems in family life. This study was conducted to analyze Tarangk Customary Law regarding divorce and elaborated from the perspective of Catholic Church teachings. The existence of laws regarding divorce in Tarangk Customary Law becomes a problem when compared with Church Law. The aim of this research is to find out the pastoral steps taken by the Catholic Church in dealing with problems that occur, especially regarding domestic problems that lead to divorce. The author uses a qualitative descriptive research method to describe the Tarangk Customary Law regarding divorce and the Church's teachings regarding marriage as well as finding a solution. The main source used in this study is the Book of Canon Law, while supporting sources are several relevant scientific articles and books. The author found that the Catholic Church took pastoral steps by 1) holding Marriage Preparation Courses (MPC), 2) providing catechesis on Catholic marriage, 3) providing sexuality education, 4) involving community leaders and catechists to proclaim the Church's teachings on marriage, 5) renewing marriage vows, 6) and making an agreement to give equal respect to Church law and customary law. These pastoral steps, especially in addressing the Tarangk Customary Law regarding divorce, can be used by Churches that have such pastoral challenges.

1. Introduction

The phenomenon of divorce is now a social problem that often occurs in family life, especially in Indonesia. According to the data, there will be 516,344 divorce cases occurring during 2023. The number of divorce cases has decreased compared to the previous year.¹ The description of this data reveals that there are still many married couples who choose divorce as a way to resolve problems in family life. Resolving family problems through divorce is a phenomenon that is no longer taboo in Indonesia because it is regulated by law. The rules regarding divorce are regulated in Article 39 paragraph 1 Number 1 of 1974², Article 14 GR No.9/1975³, and Article 14 Law GR No.7/1975. The regulations in this article indicate that divorce is the process of separating the marriage bond between a husband and wife, especially in a civil manner. In other words, the Indonesian state supports and legalizes divorce with the

¹ "Data Jumlah Kasus Perceraian Di Indonesia Hingga 2023," accessed March 7, 2024, <https://dataindonesia.id/varia/detail/data-jumlah-kasus-perceraian-di-indonesia-hingga-2023>.

² Fatimah Zuhrah, "Perceraian Di Bawah Tangan Di Indonesia: (Studi Terhadap Implementasi Pasal 39 UU No.1 Tahun 1974)," *Journal of Gender and Social Inclusion in Muslim Societies* 1, no. 1 (January 16, 2020), <https://doi.org/10.30829/jgsims.v1i1.8814>.

³ Azmi Azmi et al., "Analisis PP NO 9 TAHUN 1975 Pasal 19-36 Juncto Pada Pelaksanaan Pasal 38 41 UU NO 1 Tahun 1974 Tentang Perceraian (Studi Kasus Di Pengadilan Agama Tanjung Balai Karimun)," *Jurnal Kemunting* 4, no. 2 (2023): 1102-25.

conditions that apply in state law. If formulated in simple terms, a civil marriage can be called a temporary marriage and can be divorced if it meets the legal requirements.

The concept of marriage in Indonesia has striking differences when compared with the concept of marriage from a Catholic perspective. The Catholic Church teaches that marriage can only occur between one man and one woman.⁴ This teaching confirms that the agreed male and female partners in a Catholic marriage are monogamous and indivisible.⁵ In this case, the Catholic Church emphasizes firmly that there is no concept of divorce in Catholic marriage. Marriage is a bond of love united by God.⁶ It is interesting for the author to see the differences in the concept of marriage between state law and the teachings of the Catholic Church. This difference is the background for the author to research the oral law or laws used by the Dayak Tarangk community in living together, especially regarding divorce. This customary law applies to the Dayak people who live in Batang Tarang, Balai District, Sanggau Regency, West Kalimantan Province. According to the Dayak Tarangk community, the customary law that is enforced aims to resolve social problems that occur in communal life, including family life.⁷ The existence of customary law must be recognized because people actually live side by side with local culture. In other words, the Dayak Tarangk people really cannot let go of the customs that apply in a particular place.

Previous research on traditional marriages was carried out by Nikodemus and his colleagues with the title "*Hukum Adat Perkawinan Adat Dayak Mualang dan Perbandingannya dengan Perkawinan Gereja Katolik*".⁸ In this research, the marriage process and the laws that must be obeyed are written, including the law regarding divorce. Surya Nugraha also conducted similar research regarding traditional divorce. In his research entitled "*Eksistensi Hukum Adat Melalui Penerapan Singer (Denda Adat) Dalam Perceraian Suku Dayak Ngaju*", he analyzed that customary law can be said to be a local legal court that regulates the Ngaju Dayak community in overcoming social problems that occur in human life.⁹ Apart from that, similar research on customary divorce was also carried out by Tamara Arvianda. The results of his research show that the Dayak Kanayatn community places less importance on state law than customary law, so they prefer to divorce through customary law.¹⁰ Based on the three previous studies above, there are striking differences that the author will examine. In this research, the author focuses more on the conflict between customary law and Church law. When compared with the three

⁴ Leody Chandra Chandra et al., "Perkawinan Adat Dayak Kanayatn Dan Hubungannya Dengan Perkawinan Gereja Katolik," *ENGGANG: Jurnal Pendidikan, Bahasa, Sastra, Seni, Dan Budaya* 2, no. 2 (June 20, 2022): 192-203, <https://doi.org/10.37304/enggang.v3i1.4942>.

⁵ Paus Yohanes Paulus II, *Kitab Hukum Kanonik*, ed. R Rubiyatmoko (Jakarta: Konferensi Waligereja Indonesia, 2018) Kan. 1056.

⁶ Chandra et al., "Perkawinan Adat Dayak Kanayatn Dan Hubungannya Dengan Perkawinan Gereja Katolik."

⁷ Yohanes Dandi and F X Eko Armada Riyanto, "Hukum Adat Tarangk Dalam Filsafat Hukum Perspektif Thomas Aquinas," *Borneo Review* 2, no. 2 (2023): 75-82.

⁸ Nikodemus et al., "Hukum Adat Perkawinan Dayak Mualang Dan Perbandingannya Dengan Perkawinan Gereja Katolik," *Borneo Review* 2, no. 1 (2023): 34-51.

⁹ Satriya Nugraha, "Eksistensi Hukum Adat Melalui Penerapan Singer (Denda Adat) Dalam Perceraian Suku Dayak Ngaju," *Belom Bahadat* 12, no. 1 (2022): 80-93.

¹⁰ Tamara Arvianda, "Kepastian Hukum Perceraian Yang Dilaksanakan Melalui Lembaga Adat Dayak Kanayatn," *Jurnal Notarius* 2, no. 2 (2023).

studies described previously, it can be seen that their research focuses more on state law and customary law. This means that they do not highlight the debate over customary law and religious law.

In this research, the author will discuss the Dayak Tarangk Customary Law which regulates customary divorce. Discussing divorce, this law is truly contrary to the teachings of the Catholic Church because marriage lasts for life and cannot be dissolved by any authority.¹¹ Therefore, the author wants to research; 1) what are the conditions and criteria that must be met in order for a divorce in Dayak Tarangk Customary Law to take place, 2) what is the role of the Catholic Church in responding to Dayak Tarangk Customary Law regarding divorce, 3) what are the appropriate pastoral recommendations for parishes who experience such a pastoral situation. These three points of research certainly do not merely provide descriptive information but will expand the author's knowledge in analyzing the pros and cons between customary law, national law, and Catholic Church law, and how these three can be implemented simultaneously, both in their application and in resolving existing issues.

2. Methods

In this study, the author used descriptive qualitative research methods. The Book of Canon Law is the main source for obtaining all information regarding marriage from a Catholic perspective, while scientific articles and several relevant books are supporting sources. Apart from that, the author also conducted interviews to obtain information regarding Dayak Tarangk Customary Law, especially the law regarding divorce. According to the author, this interview process is important to carry out in order to find out what conditions must be met and how the traditional Dayak Tarangk divorce process is carried out. Therefore, this study will be explained descriptively, both the Catholic Church's perspective on marriage and the Dayak Tarangk Customary Law on divorce. The structure of this research will begin by explaining the Catholic Church's teachings on marriage, followed by a case synopsis, then explaining the Tarangk Customary Law regarding divorce, and ending with pastoral recommendations.

3. Results and Discussion

3.1. Aims of Catholic Marriage

Dr. Piet Go explains in his book entitled "*Hukum Perkawinan Gereja Katolik*" that Catholic marriage has several purposes. The aims of Catholic marriage in question are *Bonum Coniugum* (for the welfare of husband and wife), *Bonum Proles* (for the birth and education of children), *Bonum Fidei* (for the sake of fidelity of husband and wife).¹² The welfare of husband and wife is placed in the first position because harmony and happiness within the family can only be determined by husband and wife. In other words, the role of husband and wife is to create prosperity in family life. This is an obligation as well as a right for both husband and wife because it concerns the partnership of married life.¹³

¹¹ II, *Kitab Hukum Kanonik*, Kan. 1057.

¹² Piet Go O.Carm, *Hukum Perkawinan Gereja Katolik*, ed. Edisi Revisi (Malang: Dioma, 2003).

¹³ II, *Kitab Hukum Kanonik*, Kan. 1135.

A good relationship between husband and wife, which is based on love, will form cooperation in building a harmonious and peaceful family.¹⁴ If love is not used as capital in establishing a relationship, then the union of husband and wife through marriage will be destroyed. However, if the opposite happens, then a husband and wife couple who build a family with all kinds of attention, warmth and service, then the relationship between the two will be harmonious. In this case, the husband has the responsibility to make his wife happy, and vice versa. This responsibility is not simply demanded without any particular reason, but rather because of the blessing of the marriage vows that have been made. In other words, the promise of marriage united them.¹⁵ The Book of Genesis explains clearly that "it is not good for man to be alone. I will make him a helper".¹⁶ Thus, God created Eve to accompany Adam and at the same time be his companion. *Bonum Prolis* (for the sake of the birth and education of children) is the goal of Catholic marriage that must be achieved and strived for by every married couple.¹⁷ This goal being placed in second place does not mean that this is not important in a Catholic marriage. It is said that because the two goals are in the same status. This means that husband and wife not only make each other happy, but also educate and develop their children, both physically, socially, culturally, as well as morally and religiously.¹⁸

Fidelity as husband and wife (*bonum prolis*) is something that must be achieved by every couple who accepts a valid Catholic marriage.¹⁹ This is the purpose of Catholic marriage in addition to those explained above. Loyalty is an important thing for the continuity of husband and wife, especially in living their lives as human beings who have been united in a sacred bond. It is said that because an important element in human life is seeking and maintaining holiness.²⁰ In achieving holiness, husband and wife are required to be able to carry out God's commands, namely the law of love as in the dialogue between the scribes and Jesus.²¹ This means that the holiness that husband and wife need to strive for is living in love, loving God and each other.

The Catholic Church teaches about marriage as a union. This is explained clearly in *Gaudium Et Spes*, especially in the section on the sanctity of marriage and the family. It was explained that;

"Persekutuan hidup dan kasih suami-isteri yang mesra, yang diadakan oleh Sang Pencipta dan dikukuhkan dengan hukum-hukumnya, dibangun oleh janji pernikahan atau persetujuan pribadi yang tak dapat ditarik kembali. Demikianlah karena tindakan manusiaawi, yakni saling menyerahkan diri dan saling menerima antara suami dan istri, timbullah suatu lembaga yang mendapat keteguhannya, juga bagi masyarakat, berdasarkan ketetapan ilahi. Ikatan suci demi

¹⁴ Alyosius Lerebulan, *Keluarga Kristiani-Antara Idealisme Dan Tantangan*, ed. Victi (Yogyakarta: Kanisius, 2020).

¹⁵ "So they are no longer two, but one flesh. Therefore what God has joined together, let no one separate (Matthew 19:6); that is why a man leaves his father and mother and is united to his wife, and they become one flesh (Genesis 2:24)"

Alkitab Deuterokanonika (Jakarta: Lembaga Alkitab Indonesia, 2019).

¹⁶ *Alkitab Deuterokanonika*, Genesis 2:18.

¹⁷ II, *Kitab Hukum Kanonik*, Kan. 1036.

¹⁸ II, *Kitab Hukum Kanonik*, Kan. 1136.

¹⁹ Lerebulan, *Keluarga Kristiani-Antara Idealisme Dan Tantangan*.

²⁰ Lerebulan.

²¹ *Alkitab Deuterokanonika*, (cf. Matthew 22:34-40).

kesejahteraan suami-istri dan anak maupun masyarakat itu, tidak tergantung dari kemauan manusiawi semata-mata. Allah sendirilah Pencipta perkawinan, yang mencakup pelbagai nilai dan tujuan. Itu semua penting sekali bagi kelangsungan umat manusia, bagi pertumbuhan pribadi serta tujuan kekal masing-masing anggota keluarga, bagi martabat, kelestarian, damai dan kesejahteraan keluarga sendiri maupun seluruh masyarakat”²². The intimate union of life and love between husband and wife, established by the Creator and confirmed by his laws, is established by a marriage promise or an irrevocable personal agreement. Thus, because of human actions, namely mutual surrender and mutual acceptance between husband and wife, an institution emerged which found its strength, also for society, based on divine decree. This sacred bond for the welfare of husband and wife, children and society does not depend on human will alone. God himself is the Creator of marriage, which includes various values and goals. All of this is very important for the survival of humanity, for the personal growth and eternal destiny of each family member, for the dignity, preservation, peace and prosperity of one's own family and the entire community.”

The Church's social teachings explained above want to reveal the nature of the human person. In general, humans are social creatures who cannot live alone. He needs the presence of other humans to build relationships so that he can develop in social life. The author sees that the Church advocates for well-established relationships between human beings (men and women) so that they can be brought to the level of legal marriage. The choice to live in a family between men and women is proof that humans are social creatures.

3.2. Annulment of Marriage

Etymologically, marriage annulation comes from the Latin *ad* (to, towards) and *nullum* (empty). Based on the roots of this Latin word, annulation can be interpreted as something that causes certain conditions to become empty. The Catholic Church has its own understanding of annulation. It is explained that an annulation is an official declaration or statement by the Church indicating that a marriage was invalid from the start.²³ This means that a marriage between a man and a woman is investigated by the Church Tribunal in order to find evidence that the marriage is not valid in a Catholic marriage even though the couple has lived together.

It is something that needs to be distinguished that the concept of marriage annulation is different from divorce. Marriage annulation is an investigation process carried out by the Church Tribunal Council.²⁴ In other words, marriage annulation refers to the meaning of the Ecclesiastical court. In carrying it out, the Church Tribunal Council investigates the initial relationship when a husband and wife live in a household. This is done by the Church Tribunal Council because Catholic marriage has a noble value that must be maintained, namely a marriage that is monogamous and indissoluble.²⁵

²² R. Hardawiryana, *Gaudium Et Spes-Kegembiraan Dan Harapan* (Jakarta: Departemen Dokumentasi Penerangan Konferensi Waligera Indonesia, 2021).

²³ Fabiana Meijon Fadul, “Anulasi Perkawinan Dalam Muto Proprio Mitis Iudex Dominus Iesus Dar Fransiskus Dan Relevansinya Bagi Perkawinan Katolik,” *Jurnal Pastoralia* 5, no. 3 (2019): 49–65.

²⁴ Fabiana Meijon Fadul.

²⁵ II, *Kitab Hukum Kanonik*, Kan. 1156.

The Catholic Church remains firm in its teachings, including regarding marriage. In the Catholic Church, marriage is viewed as a sacrament.²⁶ This means that marriage is eternal and sacred.²⁷ This is the reason why the Catholic Church does not support divorce. Therefore, there is no concept of divorce in the Catholic Church and only marriage annulment. The process or stages in implementing a marriage annulment can only be carried out by the Church Court Council. As the party that handles the legal process of marriage annulment, the Church Court Council is first tasked with deciding whether a marriage that has been confirmed in the Sacrament of Marriage is invalid from the start.²⁸ Of course, this requires a process that is not short because it requires several stages and also appropriate considerations based on the Canon Law of the Catholic Church.

3.3. Annulment of Marriage

The Catholic Church is firm in its teaching that marriage is monogamous (a man and a woman), lasts until the end of life or for life, and cannot be divorced.²⁹ These characteristics of a Catholic marriage are something that legally Catholic married couples must undergo. Even though it is said that Catholic marriage is a bond between a man and a woman that cannot be divorced, there are exceptions when one of them is separated by death. In the Sacrament of marriage in the Catholic Church, the ministers of the Sacrament of Marriage are the two bride and groom, while the priest and deacon are the official witnesses of the Church. It is important to know that the marriage agreement (marriage promise) is the most important part of a Catholic marriage. It should be emphasized that a marriage agreement is different from an agreement to marry. A marriage agreement presupposes that each party, both men and women, is ready with all the preparations and consequences that will be received if they are legalized in a Catholic marriage. Meanwhile, an agreement to marry assumes that the prospective husband and wife want to enter into a Catholic marriage because of certain circumstances or conditions, for example there has been sexual intercourse between the two. In the teachings of the Catholic Church, this is an obstacle to carrying out the marriage process. In other words, this is contrary to Catholic marriage, namely as a sacred bond united in the sacrament of marriage.

3.4. The Catholic Church's Views on Polygamy

Polygamy is a marriage system that gives rights to someone who wants more than one wife or husband. This kind of marriage system is not recommended and used by the Church. In other words, the Church opposes polygamy among its people who have tied the knot in holy marriage. Nevertheless, the Church cannot avoid cases of polygamy that have occurred among Catholics. In this case, the Church is really required to overcome the pastoral problems that occur.

²⁶ F. Selatang et al., "Persepsi Dan Makna Pembaharuan Janji Perkawinan Terhadap Keutuhan Perkawinan Oleh Pasutri Katolik," *Jurnal Ilmu Keluarga Dan Konsumen* 16, no. 2 (May 1, 2023): 108–19, <https://doi.org/10.24156/jikk.2023.16.2.108>.

²⁷ Eduardus Krisna Pamungkas and R F Bhanu Viktorahadi, "Perkawinan Beda Agama Menurut Kitab Suci, Ajaran, Dan Hukum Gereja," *Religious: Jurnal Studi Agama-Agama Dan Lintas Budaya* 5, no. 3 (2021): 421–32.

²⁸ Silvester Susianto Budi, *Kasus-Kasus Aktual Berkaitan Dengan Hukum Gereja*, ed. Victima (Yogyakarta: Kanisius, 2023).

²⁹ Budi.

The Catholic Church strictly regulates the laws regarding marriage;

“Seorang tidak dibaptis yang secara serentak mempunyai beberapa istri tidak dibaptis, setelah menerima baptis dalam Gereja Katolik, jika berat baginya untuk tetap hidup bersama dengan yang pertama dari istri-istri itu, dapat mempertahankan satu dari mereka, sedangkan yang lain dilepaskan. Hal yang sama berlaku bagi perempuan tidak dibaptis, yang secara serentak mempunyai beberapa suami tidak dibaptis (Kan. 1148)”³⁰ “An unbaptized person who simultaneously has several unbaptized wives, after receiving baptism in the Catholic Church, if it is difficult for him to continue living together with the first of these wives, may keep one of them, while the others are released. The same applies to unbaptized women who simultaneously have several unbaptized husbands (Kan. 1148)”.

This canon would like to reveal that the Church has the authority to dissolve natural marriages between people who are not baptized in cases of polygamy, namely those who have more than one wife (*polygyny*) or more than one husband (*polyandry*).³¹ This power possessed by the Church is applied if there are cases that occur in marriage. The main reason this is implemented is for the sake of baptism in the Catholic Church. This intervention was carried out by the Church because of the interests of the faith of a person who was baptized as a Catholic. Apart from that, the Catholic Church cannot intervene.

In a marriage relationship, if one of them is polygynous or polyandry, then the Church provides a solution to choose one of these partners. In this case, if the husband commits polygyny, then he must determine the partner he will choose as his only wife. In other words, a husband who has been baptized Catholic is required to make a mature decision to choose one wife and be willing and ready to let go of the other without any strings attached. Likewise, if this happens on the part of the wife who practices polyandry. However, the Catholic Church still recommends that husbands or wives who practice polygamy choose their first partner. This recommendation comes from the teachings of the Catholic Church, namely that the husband or wife who is considered legitimate is the first.³² Why is that? Because the second husband or wife and so on are invalid partners in the marriage. This means that there is still a marriage contract that exists in the marriage relationship with the first husband or wife.

3.5. Dayak Tarangk Customary Law Regarding Divorce

Humans need law in living life with other humans. Likewise, the Dayak Tarangk community, they have rules which are manifested in customary law or oral law. Everyone, whether local residents or migrants, who live with the Dayak Tarangk community is obliged to follow the applicable customary laws. This obligation is not merely a demand, but rather is obeyed with the aim of resolving social problems that often occur in life together. Tarangk Customary Law is a phrase to refer to the laws that apply in the Batang Tarang area, Balai District, Sanggau Regency, West Kalimantan Province. Tarangk Customary Law includes many rules that are relevant to social problems such as murder, theft, divorce, and so on.³³ It is important to know that Dayak Tarangk is a term to refer to the Dayak people who live in the area. In this research, the author is interested in Tarangk Customary Law, specifically relating to legal customary divorce for the Tarangk Dayak community. Therefore, next the

³⁰ II, *Kitab Hukum Kanonik*.

³¹ Seve Mandut, *Pemutusan Perkawinan Demi Iman*, ed. Hubertus Herianto (Yogyakarta: Kanisius, 2023).

³² Mandut.

³³ Dandi and Riyanto, “Hukum Adat Tarangk Dalam Filsafat Hukum Perspektif Thomas Aquinas.”

author will describe the customary divorce process of Tarangk Customary Law based on interviews with traditional administrators in Peluntan Hamlet, Keadu Village, Balai District, Sanggau Regency, West Kalimantan Province.

The local customary administrator explained that the customary divorce process can only be carried out if the husband and wife have agreed or their respective wishes desire this. The agreement to divorce chosen by the husband and wife is not the main condition for continuing the traditional divorce process, but rather the response or decision of the parents. This means that when a husband and wife want to divorce, they have to convey this to their parents to get approval or not. It is important to note that husband and wife cannot submit a customary divorce process to a customary administrator, because the right to submit a customary divorce can only be exercised by the parents of the husband and wife who wish to divorce. Therefore, consent from parents is the first requirement for carrying out the customary divorce process, especially in Tarangk Customary Law.

The customary divorce process, in Tarangk Customary Law, is not easy to carry out because husband and wife who wish to divorce must accept customary sanctions in accordance with sanctions in Tarangk Customary Law.³⁴ The bigger the problem faced, the bigger the customary sanctions received. The author sees that this kind of sanction aims to make everyone who is building a family life reflect on the meaning of the marriage they have previously chosen. In other words, customary sanctions can be said to be a symbol of warning to every couple who has problems in family life so that they can resolve them wisely without divorce.

When a husband and wife have agreed to divorce according to custom, then the conditions and sanctions have been accepted and fulfilled, then the customary divorce process can be carried out. When the traditional divorce process takes place, traditional administrators always provide key advice to couples who want to divorce. The advice is that if in the future the couple wants to reunite to build a family life, then it is very permissible provided they have to accept sanctions in accordance with Tarangk Customary Law. The Dayak Tarangk community interprets this as a lesson for every married couple, especially divorced couples, to take building their family seriously. Filing for divorce through the Tarangk Customary Law often makes it difficult for traditional administrators. It is said that this is because it is difficult for parties who wish to divorce to be open about the actual problems that are occurring, so traditional administrators will reject the application for divorce if there is no clear reason. If this happens, the traditional administrators will give authority to the parents concerned whether they agree to the divorce or not.

After knowing the Tarangk Customary Law regarding divorce, it is also good to explain how the traditional marriage process works. The first stage is that if a prospective husband and wife want to get married, they must determine a day to carry out the engagement. After that, the prospective husband and wife must prepare the *Mak Inang* (the community appointed to administer traditional marriages). During the engagement process, it is mandatory to prepare a ring as a symbol of a legally valid engagement. When the engagement process is complete, the prospective husband and wife may not have sexual intercourse before accepting

³⁴ Dandi and Riyanto.

a valid Catholic marriage. To avoid this action, the Tarangk Dayak community has a tradition that after the engagement, they are not allowed to live in the same house. The next stage is that the husband and wife must accept a valid Catholic marriage and after that a traditional marriage process will be held.

3.6. Procedures, Legal Basis, and Implications of Marriage Annulment in the Context of Canon Law

The annulment of marriage is one way for the Catholic Church to overcome the phenomenon of divorce that occurs in the life of Catholic families. First of all, it is necessary to know that divorce is not the same as annulment of marriage. The Catholic Church defines the annulment of marriage as a marriage that is not considered valid from the beginning. However, the annulment of the marriage is not easy for the Catholic Church to decide because it must be investigated in depth and requires a long process.

The Catholic Church has steps that must be taken in carrying out the process of annulment of marriage. First, couples who want to annul their marriage must submit a written agreement (*Libellus*) to the Church.³⁵ In this case, *Libellus* is the first step for the Catholic Church to investigate cases experienced by couples who want to apply for annulment of marriage. This submission applies to Catholic couples, whether they are married to different churches or different religions. It is important to note that in *Libellus*, couples who ask to annul the marriage must testify before a Church court. Second, the Church gives a submission to those who have the authority to administer the annulment of marriage, namely the territorial/diocesan Church tribunal council.³⁶ There are several things that must be carefully considered as follows; The Church must provide information about the place of the couple's marriage, inform the place where each spouse is domiciled, and provide a complete description of the place where the evidence is submitted to the Church tribunal board. Third, the Council of the Church's tribunal, the authority to handle the case of couples who want to annul the marriage, will investigate and examine the application (*Libellus*) of annulment of marriage that has been submitted to the Church.³⁷ This is done for the Church to assess the cases experienced by couples who request that their marriage be annulled. The judgment of this case certainly refers to the law of the Church. After the above three stages have been passed, the Church Tribunal Council will conduct a court hearing with the couple who filed the petition for annulment of the marriage.³⁸ This trial was held to hear directly the arguments and all the evidence that had been collected by the couple. It is necessary to emphasize that the Council of the Tribunal of the Church will make decisions through Church Law and the evidence concerning whether the marriage of the couple is worthy of annulment or not.

³⁵ Yustinus Dwi Karyanto, Agus Rasyid, and Prahasti Suyaman, "Perbandingan Penyebab Perceraian Di Pengadilan Negeri Dan Nullitas Perkawinan Di Tribunal Gereja," *Jurnal Sosial Teknologi* 4, no. 1 (2024): 17-23.

³⁶ Karyanto, Rasyid, and Suyaman.

³⁷ O S C Postinus Gulö, *Kasus-Kasus Aktual Perkawinan: Tinjauan Hukum Dan Pastoral* (PT Kanisius, 2022).

³⁸ Rikardus Jehaut, "'Quod Deus Coniunxit, Homo Non Separet': Perkawinan Katolik Yang Tak Terputuskan Dalam Bingkai Pertanggungjawaban Yuridis-Teologis," *Jurnal Alternatif Wacana Ilmiah Interkultural* 10, no. 2 (2021).

Fourth, the Council of the Tribunal of the Church implements the decisions of the courts.³⁹ The decision to annul the marriage is considered through the factors that cause the couple to file the case.⁴⁰ If the annulment of the marriage is approved by the Council of Tribunal of the Church, then their marriage is not considered valid in the first place (*ex tunc*).⁴¹

This phenomenon of customary divorce is one of the interesting discussions to discuss. It is said to be interesting because it creates a conflict between the customary law of Dayak Tarangk and the law of the Catholic Church. Therefore, it is necessary to explore the interaction of the two legal systems and their implications. The author assesses that there are several considerations that can be assessed from the following two things. Before that, however, it is necessary to know that customary law and church law are two laws that are obeyed simultaneously without violating both. In the view of customary law, the existence of law is a tradition that is inherited from generation to generation so that it becomes a habit as well as a norm for a certain ethnic group. Tarangk Dayak customary law is considered a law that prioritizes aspects of common life such as living in a community, including marriage. If customary regulations are violated, then those who violate them are obliged to apply customary sanctions. The Dayak Tarangk customary law in its application certainly has advantages and disadvantages. The author analyzes that the Tarangk Dayak Customary Law is flexible. This means that the law is easier for the local community to accept because they consider it as the norm in their lives. However, the Dayak Tarangk Customary Law is also really contrary to Church Law because it legalizes divorce.

In the view of Church Law, the rules used are derived from the Book of Canon Law. This means that these rules are binding on Catholics so that they cannot be released from Church law if they violate existing rules. Nevertheless, the application to deal with cases of violations of the rules of the Code of Canon Law requires a lengthy process and can be done by the Council of Tribunals of the Church. The laws of the Church regulated in the Book of Canon Law contain spiritual, moral, marriage, and worship aspects.⁴² If a Catholic violates the laws of the Canon Code, then he must receive sanctions such as excommunication, not being able to receive the sacraments, and so on. Church law can also be judged in terms of positive and negative aspects. The laws of the Church can truly guide people morally and spiritually and cultivate faith. On the other hand, Church Law has certain difficulties, especially in dealing with local culture.

There are at least three things that can be found if we look at the implications of Dayak Tarangk Customary Law versus Church Law. First, if carefully considered, choosing to obey Customary Law or Church Law can result in a conflict between the two. It is said that this is

³⁹ Mathias Adon and Hyronimus Dominggus, "Konsep Pisah Ranjang Dalam Sifat Tak-Terputuskan Perkawinan Katolik: Analisis Kanon 1151-1155," *ELEOS: Jurnal Teologi Dan Pendidikan Agama Kristen* 1, no. 2 (January 21, 2022): 111-25, <https://doi.org/10.53814/eleos.v1i2.9>.

⁴⁰ Yohanes Fransiskus Siku Jata, "Simulasi Sebagai Penyebab Cacat Konsensus," *Atma Reksa: Jurnal Pastoral Dan Kateketik* 5, no. 2 (2021): 36-51.

⁴¹ Alberta Ranti, Timotius Tote Jelahu, and Silvester Adinuhgra, "Pendampingan Keluarga Katolik Tentang Sakramen Perkawinan Di Stasi Santo Petrus Cangkang Paroki Santa Theresia Liseux Saripoi," *Sepakat: Jurnal Pastoral Kateketik* 7, no. 1 (2021): 28-41.

⁴² Nikodemus Nikodemus and Yohanes Endi, "Panorama Kitab Hukum Kanonik:(Tinjauan Tempat, Peran Dan Fungsi Di Dalam Gereja Katolik)," *Jurnal Pendidikan Agama Dan Teologi* 2, no. 3 (2024): 20-33.

because there are conflicting provisions between the two laws. The concrete example is that in customary law it is legalized regarding divorce while in the Catholic Church the law is not regulated regarding it. Second, regarding the existence of the law. In fact, customary law until now cannot be recognized by the state. In other words, decisions chosen based on customary law have no legal force in the eyes of the state. On the other hand, Church Law is often recognized in certain contexts, such as marriage, but there are some things that the Catholic Church does not approve, namely regarding divorce. Third, the Tarangk Dayak Customary Law and Church Law will certainly have a social impact on people's lives if the two laws run side by side. Following Customary Law can strengthen cultural identity and community solidarity and on the other hand, it can also cause isolation from people with different cultures. On the contrary, following the Law of the Church can maintain the existence of the law and make the people understand the meaning of the rules made in the Law of the Church. Nevertheless, the Church will continue to deal with conflicts with local traditions in which there are also rules, therefore the Church will continue to try to find a solution without allowing it to happen.

3.7. Effectiveness between Dayak Tarangk Customary Law, National Law on Marriage, and Catholic Church Law

It is important to see how the Dayak Tarangk Customary Law is aligned with the Indonesian State Law. This is important to explore in order to determine the effectiveness of both laws. The Indonesian State Law on marriage is regulated in Law of the Republic of Indonesia No.1/1974.⁴³ There are fourteen chapters that regulate civil marriage in Indonesia, namely the basis of marriage, conditions of marriage, prevention of marriage, annulment of marriage, marriage agreement, rights and obligations of husband and wife, property in marriage, termination of marriage and its consequences, status of children, rights and obligations between parents and children, guardianship, other provisions, transitional provisions, and closing provisions.

In this article, the author will use several chapters contained in the Indonesian State Law on Marriage, especially those related to divorce and its consequences. Law Number 1/1974 on Marriage, especially in chapter four, regulates the appropriate reasons for filing an annulment of marriage, the process of annulment of marriage, and the legal consequences that must be borne.⁴⁴ When viewed from the perspective of Catholic Church Law, it can be said that there are similarities between the two. The Catholic Church requires couples who wish to file for annulment of marriage to submit a written application to the Church Court Council, then follow the trial process, and there are also consequences that must be accepted if the annulment of the marriage is approved.⁴⁵ In the Dayak Tarangk Customary Law, the stages in implementing customary divorce also have the same process as the two laws discussed previously. However, it should be distinguished that the Catholic Church Law can be adjusted to any legal context, including national law or customary law. Meanwhile, national law and

⁴³ "Undang-Undang Nomor 1 Tahun 1974 - Pusat Data Hukumonline," accessed August 1, 2024, <https://www.hukumonline.com/pusatdata/detail/26834/undangundang-nomor-1-tahun-1974/>.

⁴⁴ "Undang-Undang Nomor 1 Tahun 1974 - Pusat Data Hukumonline."

⁴⁵ Antonio Anandityo Bagaskara, "Kedudukan Pembatalan Perkawinan Menurut Hukum Kanonik Terhadap Pembatalan Perkawinan Dan Perceraian Menurut Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan," 2021.

customary law have little chance of finding a solution. However, national law and customary law have goals that are directed towards the common good, as is the case with the Catholic Church Law.

Dayak Tarangk Customary Law, National Law, and Catholic Church Law are three interesting laws because they intersect with the issue of justice. If examined carefully, it is good for us to see how the Dayak Tarangk Customary Law compares to National Law or Catholic Church Law regarding justice and dispute resolution. The Dayak Tarangk Customary Law contains the value of communal justice. This means that customary law can create justice communally so that community life becomes something that is prioritized compared to individual interests. On the other hand, National Law emphasizes more on justice which is generally formal and legalistic.⁴⁶ This means that National Law must be implemented through very strict procedures and meet applicable legal standards. Catholic Church Law also has its own characteristics, especially regarding justice. The Catholic Church regulates its laws in the Code of Canon Law with an emphasis on moral and spiritual justice.⁴⁷ The characteristics of Catholic Church Law aim to maintain the integrity of the faith and morals of the people.

3.8. Pastoral Recommendations

Based on the description above, the author recommends several pastoral steps that can be implemented. These steps aim to reduce cases of traditional divorce and provide an understanding of Catholic marriage. The pastoral recommendations referred to are; first, holding a Marriage Preparation Course (MPC); second; providing catechesis on marriage; third; providing sexuality education (socialization), especially in schools and in each parish area; fourth, involving community leaders and catechists in proclaiming the Catholic Church's teachings on marriage; fifth, intermingling marriage vows; sixth, giving equal respect to Church law and customary law.

MPC is one of the pastoral steps implemented by the Catholic Church. It is said that because MPC is the right pastoral tool so that each couple is ready to move on to a more serious level.⁴⁸ MPC actually aims to guide prospective husband and wife so that they understand and appreciate Catholic marriage. On the other hand, they are also expected to be aware of the duties given to them as husband and wife. Apart from that, another aim of the MPC is to complete the needs of husband and wife in knowledge of theology, psychology, morals, sexuality, health, economics, gender understanding and other knowledge, which is closely related to family life.⁴⁹

Ditechesis regarding preparation for Catholic marriage should perhaps not be neglected to be given to them, especially for young people and those who wish to marry Catholic. This catechesis has many benefits for prospective husband and wife couples who will prepare for Catholic marriage. The benefits of marriage preparation catechesis include getting to know

⁴⁶ Cahya Wulandari, "Kedudukan Moralitas Dalam Ilmu Hukum," *Jurnal Hukum Progresif* 8, no. 1 (2020): 1-14.

⁴⁷ Nikodemus and Endi, "Panorama Kitab Hukum Kanonik:(Tinjauan Tempat, Peran Dan Fungsi Di Dalam Gereja Katolik)."

⁴⁸ Ira Mardila, Albert I Ketut, and Deni Wijaya, "Manfaat KPP Bagi Pasutri Katolik Yang Melangsungkan Pernikahan Adat Kendawangan Sebelum Menerima Sakramen Perkawinan," *Jurnal Pendidikan Agama Katolik (JPAK)* 22, no. 2 (2022): 228-38.

⁴⁹ Mardila, Ketut, and Wijaya.

your partner better, being more prepared to live in marriage, being able to build a harmonious Christian family, and being able to help deal with family problems. Apart from catechesis, socialization is also a good pastoral step to implement to prevent problems in marriage. In this regard, outreach regarding sexuality education must also be provided to young people who are still studying at school. Socialization regarding sexuality education is important because young people actually have a high curiosity about their sexuality. The aim to be achieved from this socialization is to prevent cases of pregnancy before entering into an official Catholic marriage and cases of divorce.⁵⁰ Therefore, sexuality education becomes a means of explaining the value and meaning of sexuality itself.⁵¹

The presence of catechists and congregation leaders can have a positive impact on the Church. They must be involved in proclaiming the Catholic Church's teachings on marriage. This may be related to Catechesis activities which can be carried out directly or digitally.⁵² Apart from that, marriage vows can also be renewed. This pastoral step is one way to respond to the challenges of the times, especially regarding divorce. Renewing marriage vows can encourage every married couple to interpret these promises in their domestic life.⁵³

The description above will reveal the Church's pastoral steps in responding to the problems that occur among its people. So, what if these issues are faced with customary law? The author analyzes that action to respect Church law and customary law equally is a pastoral step that can be taken. The aim of equal respect for both laws is to avoid bias towards one law. If such pastoral steps are taken, then it must be stipulated in customary law that Church law must not be ignored for the sake of the common good.

4. Conclusions

The conditions that must be fulfilled by husband and wife who wish to divorce through Tarangk Customary Law are; first, agreement to divorce from both husband and wife; second, approval from the husband and wife's parents; and third, accepting traditional witnesses. These conditions are not understood to mean that Tarangk Customary Law supports divorce but are understood as an attempt to resolve the problem. The Catholic Church also has the same concept of not supporting divorce, although there are several differences between Church Law and Tarangk Customary Law. The difference lies in problem solving. If the Tarangk Customary Law resolves it through customary divorce, then the Church resolves it by carrying out Marriage Annulment. The method used by the Church must of course meet the applicable requirements as stated in the Church's teachings. The role of the Catholic Church in responding to the Tarangk Customary Law regarding customary divorce is expected to resolve problems for those who have problems in the household. The Catholic

⁵⁰ Alfonsus Christ Setiawan and Yohanes Wilson Bei Lena Meo, "Kehamilan Di Luar Nikah Dalam Perspektif Katolik: Studi Berdasarkan Kitab Hukum Kanonik (KHK)," *Jurnal Hukum Magnum Opus* 6, no. 2 (August 31, 2023): 111–22, <https://doi.org/10.30996/jhmo.v6i2.8495>.

⁵¹ Agustinus Andi Umbu RASA, "Pentingnya Pendidikan Moral Seksualitas Bagi Kehidupan Seksual Kaum Remaja Kristiani" (IFTK Ledalero, 2023).

⁵² Andreas Sainyakit, Willem Batlayeri, and Cayetanus Andreas Masriat, "Digitalisasi Dalam Kegiatan Katekese Oleh Para Katekis Pada Paroki Santo Yohanes Maria Vianney Halong, Ambon," *Jurnal Pendidikan Dan Konseling (JPDK)* 5, no. 1 (2023): 4517–4630.

⁵³ Selatang et al., "Persepsi Dan Makna Pembaharuan Janji Perkawinan Terhadap Keutuhan Perkawinan Oleh Pasutri Katolik."

Church certainly does not turn a blind eye to the problems that occur among its people. The Catholic Church has its own unique way of going through Church teachings. Pastoral steps have also been taken, such as holding KPPs, providing catechesis, promoting sexuality education through outreach, involving community leaders and catechists to proclaim Church teachings on marriage, and renewing marriage vows. However, there is one pastoral step that can be taken when faced with customary law as explained previously, namely by making an agreement so that each congregation gives equal respect to Church law and customary law.

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