



COMPARISON OF INTERNATIONAL SYSTEMS IN FAMILY DISPUTE RESOLUTION

Ridwan, Erman Gani, Muhammad Alpi Syahrin
Universitas Lancang Kuning
(Naskah diterima: 1 Maret 2026, disetujui: 31 Maret 2026)

Abstract

Family dispute resolution is an essential component of the legal system that reflects the social, cultural, and legal values of a country. This study aims to analyze the comparison of family dispute resolution systems across different countries using a comparative law approach. The method employed is normative legal research with a comparative analysis of several legal systems, namely civil law, common law, and Islamic law. The results indicate that there are significant differences in the mechanisms for resolving family disputes, both through litigation and alternative dispute resolution methods such as mediation. Countries adopting the common law system tend to emphasize flexibility and mediation, whereas civil law systems rely more on structured formal judicial processes. Meanwhile, the Islamic legal system highlights deliberation and reconciliation as primary approaches. This research is expected to provide a global perspective for the development of family dispute resolution systems in Indonesia.

Keywords: *family disputes, comparative law, mediation, legal systems, international law.*

Abstract

Penyelesaian sengketa keluarga merupakan bagian penting dalam sistem hukum yang mencerminkan nilai sosial, budaya, dan hukum suatu negara. Penelitian ini bertujuan untuk menganalisis perbandingan sistem penyelesaian sengketa keluarga di berbagai negara dengan pendekatan hukum komparatif. Metode yang digunakan adalah penelitian hukum normatif dengan pendekatan perbandingan terhadap beberapa sistem hukum, yaitu sistem hukum civil law, common law, dan hukum Islam. Hasil penelitian menunjukkan bahwa terdapat perbedaan signifikan dalam mekanisme penyelesaian sengketa keluarga, baik melalui litigasi maupun alternatif penyelesaian sengketa seperti mediasi. Negara-negara dengan sistem common law cenderung mengedepankan fleksibilitas dan mediasi, sementara sistem civil law lebih terstruktur melalui peradilan formal. Sementara itu, sistem hukum Islam menekankan aspek musyawarah dan rekonsiliasi. Penelitian ini diharapkan dapat memberikan perspektif global dalam pengembangan sistem penyelesaian sengketa keluarga di Indonesia.

Kata kunci: sengketa keluarga, perbandingan hukum, mediasi, sistem hukum internasional.



I. INTRODUCTION

Family disputes are a social phenomenon that is almost inevitable in the dynamics of human life (Soekanto, 2014; Rahardjo, 2009; Ali, 2006). Conflicts that arise within the family are generally related to very personal and emotional relationships, such as marriage, divorce, child custody, and the division of common property (Glendon, 1989; Goode, 1982; Giddens, 2006). Due to its complex and sensitive nature, family dispute resolution cannot be equated with ordinary civil disputes which tend to be more rational and based on purely economic interests (Posner, 1998; Cooter & Ulen, 2004; Friedman, 2005). This is in line with the view of Soekanto (2014) who states that conflicts in society, including in the family, are a consequence of social interaction involving differences in interests, values, and perceptions between individuals (Soekanto, 2014; Dahrendorf, 1959).

In the global context, each country has a different family dispute resolution system (Zweigert & Kötz, 1998; Merryman, 2007; David & Brierley, 1985). This difference is influenced by the legal system adhered to, be it civil law, common law, or religion-based legal systems, as well as by cultural values and social norms that develop in society (Glendon, 1989; Menski, 2006; Hooker, 1975). Glendon (1989) explained that family law is one of the branches of law that best reflects the social and cultural character of a nation (Glendon, 1989; Benda-Beckmann, 1981). Therefore, it is not surprising that the approach to resolving family disputes in each country has its own characteristics, both in terms of procedures, authorized institutions, and principles used in decision-making (Merryman, 2007; Zweigert & Kötz, 1998). In countries with civil law systems such as France and Germany, family dispute resolution tends to be carried out through formal judicial mechanisms (Merryman, 2007; Zweigert & Kötz, 1998). This system emphasizes legal certainty and the systematic application of written rules (David & Brierley, 1985; Friedman, 2005). Judges have a dominant role in determining decisions based on applicable laws (Merryman, 2007; Glendon, 1989). However, this approach is often considered less flexible in handling family disputes that require a more humanistic and adaptive approach (Zweigert & Kötz, 1998; Mnookin, 2003). Therefore, in recent decades, civil law countries have begun to integrate mediation into their judicial systems in an effort to improve the effectiveness of family dispute resolution (Menkel-Meadow, 2001; Riskin, 2002).

II. THEORETICAL STUDIE

On the other hand, countries with common law systems such as the United Kingdom and the United States tend to prioritize alternative approaches in resolving family disputes (Mnookin, 2003; Goldberg et al., 2012). Alternative Dispute Resolution (ADR), especially mediation and negotiation, is the main choice before the case is brought to court (Riskin, 2002;

Menkel-Meadow, 2001). Mnookin (2003) emphasized that mediation in family disputes provides an opportunity for the parties to actively participate in finding mutually beneficial solutions (Mnookin, 2003; Fisher & Ury, 1981). This approach is not only more efficient in terms of time and cost, but it is also able to maintain good relationships between the parties, especially when they still have to interact in the context of childcare (Golberg et al., 2012; Parkinson, 2011).

Meanwhile, in the Islamic legal system, the settlement of family disputes emphasizes more on the principles of deliberation and reconciliation (Ali, 2006; Esposito, 2002; Hallaq, 2009). The concepts of sulh (peace) and tahkim (arbitration) are the main foundations in resolving family conflicts (Ali, 2006; Kamali, 2008). Ali (2006) explained that in Islam, dispute resolution should be done peacefully by involving a neutral third party, such as family members or community leaders, before taking the case to court (Ali, 2006; Esposito, 2002). This approach aims to maintain family integrity and harmony and avoid wider negative impacts, especially for children (Hallaq, 2009; Chapra, 1992). In Indonesia, the family dispute resolution system reflects a combination of these various legal systems (Hooker, 1975; Menski, 2006; Bowen, 2003). For Muslims, family disputes are resolved through religious courts, while for non-Muslims through general courts (Mulyadi, 2017; Harahap, 2018). This system shows the existence of legal pluralism that is characteristic of Indonesia (Hooker, 1975; Benda-Beckmann, 1981). However, in practice, family dispute resolution in Indonesia is still dominated by a litigation approach (Mulyadi, 2017; Harahap, 2018). Mulyadi (2017) stated that formal judicial processes are often unable to accommodate the emotional needs of the parties, thus exacerbating existing conflicts (Mulyadi, 2017; Rahardjo, 2009). The weakness of the litigation approach in family disputes lies in its adversarial nature, which puts the parties in a position to face each other as opponents (Friedman, 2005; Posner, 1998). This is different from the mediation approach which emphasizes cooperation and the search for joint solutions (Riskin, 2002; Fisher & Ury, 1981). In addition, the long and complex litigation process can also cause a significant psychological and financial burden for the parties (Mnookin, 2003; Parkinson, 2011). Therefore, efforts are needed to develop dispute resolution mechanisms that are more responsive to the characteristics of family disputes (Menkel-Meadow, 2001; Goldberg et al., 2012).

III. RESEARCH METHODS

This research uses a normative legal research method that focuses on the study of applicable legal norms, both those written in laws and regulations and those developed in legal practice. Normative legal research is often referred to as doctrinal research, because it relies on the analysis of legal doctrines, principles, and principles that are relevant to the issue being studied (Soekanto, 2014). According to Soekanto (2014), normative legal research aims to find legal rules, legal principles, and legal doctrines to answer the legal problems faced.

In the context of this study, a normative approach is used to examine the family dispute resolution system in various countries through the perspective of comparative law. The comparative legal approach is important because it allows researchers to understand how different legal systems regulate and resolve family disputes, as well as identify the advantages and disadvantages of each system (Zweigert & Kötz, 1998). Thus, this research is not only descriptive, but also analytical and evaluative.

The data used in this study is secondary data, which consists of primary, secondary, and tertiary legal materials. Primary legal materials include laws and regulations, court decisions, and international legal instruments related to family disputes. Secondary legal materials include scientific literature such as books, journals, and the results of previous research relevant to the research topic. Meanwhile, tertiary legal materials are in the form of legal dictionaries, encyclopedias, and indexes that help in understanding legal terms and concepts (Marzuki, 2011).

This research uses several approaches to gain a comprehensive understanding. First, the statute approach is used to analyze various regulations that regulate the resolution of family disputes in various countries. Through this approach, researchers can identify how positive laws in each country govern aspects such as divorce, child custody, and property division. This approach is important because laws and regulations are the main source in the formal legal system (Ibrahim, 2006). Second, a conceptual approach is used to understand basic concepts related to family dispute resolution. This approach refers to the legal doctrines and theories that develop in the scientific literature. Using a conceptual approach, researchers can explore the meaning of concepts such as mediation, litigation, restorative justice, and the best interest of the child. According to Marzuki (2011), a conceptual approach is important to build a systematic and logical framework of thinking in legal research. By using this research method, it is hoped that a comprehensive understanding of various family dispute resolution systems in the world can be obtained. In addition, the results of this research are also expected to contribute to the development of the legal system in Indonesia, especially in creating a mechanism for resolving family disputes that are more effective, fair, and in accordance with societal values (Rahardjo, 2009).

IV. RESEARCH RESULTS

1. Sistem Civil Law

The civil law system is one of the most widely adopted legal systems in the world, including in Continental European countries such as France and Germany (Zweigert & Kötz, 1998). The main feature of this system is the existence of a systematic and comprehensive codification of law, which is the main basis for the resolution of various types of disputes, including family disputes (Merryman, 2007). In this context, the court has a central role as an institution that has the authority to examine, adjudicate, and decide cases based on written legal provisions. Zweigert and Kötz (1998) emphasized that the civil law system emphasizes legal certainty through the application of rules that have been codified in a clear and structured manner.

In the resolution of family disputes, civil law countries tend to rely on formal litigation mechanisms (Glendon, 1989). This process involves strict procedural stages, starting from filing a lawsuit, examining evidence, to a judge's decision (David & Brierley, 1985). Judges in this system play an active role in directing the course of the trial and ensuring that each process runs in accordance with the applicable legal provisions. This is different from the common law system which provides more space for the parties to play an active role in the evidentiary process. According to Glendon (1989), the formal approach in the civil law system reflects efforts to maintain consistency and uniformity in the application of family law.

Along with the times, civil law countries are beginning to realize the limitations of the litigation approach in handling family disputes. This encourages the emergence of innovations in the form of the integration of alternative dispute resolution mechanisms, especially mediation, into the judicial system (Cappelletti, 1993). Mediation is seen as a more flexible and humane solution because it provides an opportunity for the parties to communicate directly and reach a mutually beneficial agreement (Mnookin, 2003). According to Cappelletti (1993), the integration of mediation in the justice system is part of a global movement to increase access to justice.

In France, for example, mediation has become an important part of family dispute resolution. The judge can encourage the parties to follow the mediation process before proceeding to the trial stage. Similarly in Germany, the family justice system has adopted a more collaborative approach by involving mediators and psychologists in the dispute resolution process. This step aims to reduce conflict and achieve a solution that is more oriented to the best interest of the child (Zweigert & Kötz, 1998).

The integration of mediation in the civil law system also has positive implications for judicial efficiency. With mediation, the number of cases that must be resolved through trial can be reduced, so that the court's workload becomes lighter. In addition, the relatively fast mediation process and lower costs compared to litigation make it a more attractive alternative for the public. This is in line with the opinion of Harahap (2018) who states that mediation can be an effective instrument in realizing a simple, fast, and low-cost justice.

Nevertheless, the application of mediation in the civil law system is not free from challenges. One of the main challenges is the paradigm shift from an adjudicative approach to a more collaborative approach. This requires readiness from various parties, including judges, mediators, and the public. In addition, the success of mediation also depends heavily on the good faith of the parties to reach an agreement. Without a willingness to dialogue and compromise, mediation is difficult to achieve optimal outcomes (Mnookin, 2003).

Thus, it can be concluded that the civil law system in family dispute resolution has undergone significant development. Although initially heavily reliant on formal litigation mechanisms, these systems began to adopt a more flexible approach through mediation integration. This development shows that there is an effort to balance legal certainty and the need for more humane dispute resolution (Harahap, 2018). For Indonesia, the experience of these civil law countries can be an important reference in developing a family dispute resolution system that is more effective and responsive to the needs of the community.

2. Sistem Common Law

The common law system adopted by countries such as the United Kingdom and the United States has fundamentally different characteristics compared to the civil law system, especially in terms of the approach to family dispute resolution (Merryman, 2007). One of the main features of this system is its high flexibility, both in the process and in the role of legal actors. In the context of family disputes, the common law system shows a strong tendency to prioritize Alternative Dispute Resolution (ADR), such as mediation and negotiation, as the main mechanism before taking the formal litigation route (Mnookin, 2003).

The ADR approach in the common law system is based on the understanding that family disputes have unique characteristics, namely involving emotional relationships, long-term interests, and ongoing interactions between the parties, especially when there are children (Emery, 2012). Therefore, dispute resolution through a cooperative and participatory mechanism is considered more appropriate than an adversarial approach that puts the parties as opponents. According to Mnookin (2003), mediation provides a space for the parties to identify their interests more deeply and formulate solutions that are not only legal, but also practical **and** sustainable.

In practice, common law countries have institutionalized the use of mediation in the family justice system. In the UK, for example, there is a policy that encourages and even requires parties to consider mediation before filing a case in court. The same is true in the United States, where many jurisdictions require mediation as an initial stage in resolving family disputes, particularly in child custody cases. This policy aims to reduce the burden on the court while improving the quality of dispute resolution (Roberts, 2014).

One of the main advantages of this approach is its ability to produce a deal that is a win-win solution (Fisher & Ury, 1981). In contrast to court rulings that are coercive and often result in both winning and losing parties, mediation allows the parties to reach an agreement voluntarily. This not only increases the level of compliance with the outcome of the settlement, but also helps maintain good relations between the parties. In the family context, this is especially important, especially when the parties still have to work together in childcare (Emery, 2012).

In addition, the common law system also provides a more flexible role to judges in handling family disputes. Judges not only function as law enforcers who apply rules rigidly, but also as facilitators who consider various non-legal aspects in decision-making (Herring, 2015). One of the principles that is highly emphasized is the best interest of the child. This principle is a key consideration in every decision related to child custody, education, and welfare (Herring, 2015).

The best interest of the child principle provides space for judges to consider various factors, such as the child's psychological condition, emotional relationship with parents, and the social environment that supports the child's growth and development. Thus, decisions taken are not only based on legal rights and obligations, but also on broader and deeper considerations. This reflects a more humane and responsive approach to individual needs in the common law system.

Nevertheless, despite having many advantages, the ADR approach in the common law system also faces some challenges. One of them is the imbalance of power between the parties, which can affect the outcome of mediation. In some cases, the economically or emotionally weaker party may feel pressured to accept a deal that is not entirely fair. Therefore, the role of a professional and neutral mediator is very important to ensure that the mediation process runs fairly and balanced (Menkel-Meadow, 2001).

In addition, not all family disputes can be resolved through mediation. In cases involving domestic violence or particularly intense conflict, a litigation approach is still necessary to protect vulnerable parties. Therefore, the common law system does not completely replace litigation with ADR, but rather places ADR as the primary mechanism with litigation as a last resort. Thus, the common law system offers a more flexible and adaptive approach to family dispute resolution. The emphasis on mediation and negotiation, as well as attention to the best interests of the child, makes the system more responsive to the complex and emotional characteristics of family disputes (Mnookin, 2003). For Indonesia, this approach can be an inspiration in developing a family dispute resolution mechanism that is more humane, participatory, and oriented towards substantive justice (Rahardjo, 2009).

3. Sistem Hukum Islam

In the Islamic legal system, family dispute resolution has distinctive characteristics because it is based on religious, moral, and social values sourced from the Qur'an, Hadith, and the *ijtihad* of scholars (Ali, 2006). In contrast to the civil law system which emphasizes legal formalities or common law which emphasizes procedural flexibility, Islamic law prioritizes a normative and humanist approach through the principles of deliberation (*sulh*) and reconciliation (*tahkim*) (Hallaq, 2009). These principles aim to maintain the integrity and harmony of the family as a basic unit in society (Ali, 2006).

The concept of *sulh* or peace is one of the main mechanisms in resolving family disputes in Islamic law. *Sulh* emphasized the importance of dialogue and mutual agreement between the parties to the dispute without coercion (Kamali, 2008). In the Qur'an, it is recommended that if there is a dispute between husband and wife, it is better to appoint a mediator from each side of the family to help achieve peace. This shows that Islamic law prioritizes internal and familial conflict resolution before involving formal judicial institutions (Ali, 2006).

In addition to *sulh*, there is also the concept of *tahkim*, which is the resolution of disputes through a third party who is trusted as a mediator or arbitrator (Rahman, 2010). In practice, *tahkim* can involve religious leaders, community leaders, or individuals who are considered to have wisdom and justice. The role of this third party is not only as a mediator, but also as an advisor who aims to achieve a fair and beneficial solution for both parties. According to Rahman (2010), *tahkim* reflects a restorative approach in Islamic law that focuses on the restoration of social relations, not just the formal legal resolution of disputes.

The approach of deliberation and reconciliation in Islamic law is highly relevant to the character of family disputes which are generally emotional and involve long-term relationships (Esposito, 2002). In many cases, the main goal is not to determine the winner or loser, but rather to find a solution that is acceptable to all parties and maintains the continuity of family relationships. Therefore, peaceful settlement of disputes is a top priority in Islamic law (Ali, 2006).

In addition, Islamic law also places the value of justice and benefit as the basis for every dispute resolution. The concept of *maslahah* (public interest) is an important consideration in determining the best solution, especially in cases involving children (Kamali, 2008). In this case, the best interests of the child are also the main concern, in line with the principles in the modern legal system. However, in Islamic law, these considerations are not only based on legal aspects, but also moral and spiritual values (Chapra, 1992).

However, Islamic law does not rule out the possibility of resolving disputes through judicial channels. If the efforts of deliberation and reconciliation are unsuccessful, then the case can be submitted to the court (*qadhi*) to obtain a binding verdict. However, this step is considered the last resort (*ultimum remedium*) after all peaceful alternatives have been taken (Rahman, 2010). This shows that Islamic law still leaves room for formal settlements, but with peace as a top priority.

In the modern context, the principles of dispute resolution in Islamic law have been adopted in various judicial systems, including in Indonesia through religious courts (Mulyadi, 2017). The mediation required in the religious justice process is a reflection of the concept of *sulh* that has long been known in the Islamic legal tradition. This shows that Islamic legal values remain relevant and can be integrated into the contemporary legal system.

However, the application of these principles also faces challenges, especially in an increasingly complex and pluralistic society. Social, economic, and cultural changes can affect the effectiveness of traditional approaches such as deliberation (Hallaq, 2009). Therefore, efforts are needed to adapt the principles of Islamic law to the modern context without losing the essence of its values (Kamali, 2008).

Thus, the Islamic legal system offers a unique and comprehensive approach to family dispute resolution. The emphasis on deliberation, reconciliation, and substantive justice makes this system particularly relevant for dealing with complex and emotional family conflicts (Esposito, 2002). This approach is not only oriented towards dispute resolution, but also on the maintenance of social relations and family harmony, so that it can be one of the important references in the development of a more humane and just family dispute resolution system (Rahman, 2010).

4. Perbandingan dan Relevansi bagi Indonesia

Based on an analysis of three main legal systems—civil law, common law, and Islamic law—it can be concluded that each has its own characteristics and advantages in resolving family disputes. The civil law system is known to excel in providing legal certainty through systematic codification and structured procedures (Zweigert & Kötz, 1998). This legal certainty is important to ensure the consistency of the decision and provide clear guidelines for the parties in resolving disputes. In the context of family disputes, legal certainty plays an important role in matters such as the division of joint property, the determination of child custody, and alimony obligations (Merryman, 2007).

On the other hand, the common law system offers advantages in terms of flexibility and the use of alternative dispute resolution mechanisms, particularly mediation and negotiation (Mnookin, 2003). This approach allows the parties to be actively involved in the dispute resolution process and reach an agreement that better suits their needs. Mnookin (2003) emphasizes that flexibility in the common law system provides room for more creative and interest-oriented solutions, especially in family relationships that do not completely end despite conflict (Emery, 2012).

Meanwhile, Islamic law makes a significant contribution through a kinship and reconciliation approach. The principles of deliberation (*sulh*) and peaceful settlement (*tahkim*) emphasize the importance of maintaining harmony in family relations and avoiding prolonged conflicts (Ali, 2006). Ali (2006) states that this approach aims not only to resolve disputes, but also to restore disturbed social relations. In the context of family disputes, this approach is particularly relevant because it takes into account emotional aspects and moral values that are not always covered in formal legal approaches (Kamali, 2008).

Indonesia as a country with a mixed legal system has unique characteristics because it combines elements of the three systems. Indonesia's national legal system is influenced by civil law traditions inherited from the colonial period, common law principles that developed through judicial practice, and Islamic legal values that are accommodated in religious courts (Hooker, 1975). This condition provides a great opportunity for Indonesia to develop a more comprehensive and adaptive family dispute resolution system.

In practice, family dispute resolution in Indonesia is still dominated by the litigation approach through the courts, both in religious courts and general courts. However, this approach often faces various obstacles, such as a lengthy process, high costs, and negative psychological impacts for the parties. Therefore, efforts are needed to integrate a more flexible and humanist approach into the existing system (Mulyadi, 2017).

One of the strategic steps that can be taken is to strengthen the mediation mechanism in the judicial process. Mediation has great potential to be an effective means of dispute resolution because it is able to accommodate the interests of the parties more comprehensively. Harahap (2018) stated that mediation can help reduce the burden on the court while improving the quality of dispute resolution by producing more sustainable agreements.

The strengthening of mediation in Indonesia is also in line with Islamic law values that emphasize deliberation and peace, as well as practices in the common law system that prioritize ADR. Thus, mediation can be a meeting point between various existing legal systems. In addition, mediation can also be combined with the principles of civil law to still guarantee legal certainty through the ratification of the agreement by the court (Zweigert & Kötz, 1998).

However, the implementation of mediation in Indonesia still faces various challenges, such as the lack of public understanding of the benefits of mediation, the limited number of professional mediators, and a legal culture that still tends to prioritize settlement through the courts. Therefore, comprehensive efforts are needed, both through regulatory reform, capacity building of human resources, and socialization to the community (Rahardjo, 2009).

In addition to mediation, Indonesia can also adopt an interdisciplinary approach to family dispute resolution, such as involving psychologists, family counselors, and social workers. This approach has been widely applied in developed countries and has proven effective in dealing with non-legal aspects of family disputes. Thus, dispute resolution focuses not only on the legal aspect, but also on the restoration of relationships and the welfare of the parties, especially children (Emery, 2012). By integrating the advantages of the civil law, common law, and Islamic law systems, Indonesia has the opportunity to develop a more effective, fair, and sustainable model of family dispute resolution. This model is expected to be able not only to provide legal certainty, but also to create substantive justice that pays attention to social, emotional, and moral aspects in family life (Kamali, 2008). Therefore, the comparative legal approach is very important as a basis for formulating legal policies and practices that are more responsive to the needs of the Indonesian people (Zweigert & Kötz, 1998).

V.CONCLUSION

Family dispute resolution in various countries shows that there are variations in approaches that are greatly influenced by the legal system, social values, and culture that develop in their respective societies. The civil law system emphasizes the importance of legal certainty through formal procedures and systematic codification, so as to be able to provide clarity and consistency in decisions. On the other hand, the common law system prioritizes flexibility by prioritizing the use of alternative dispute resolution mechanisms such as mediation and negotiation, which allow for more participatory and needs-oriented agreements of the parties. Meanwhile, Islamic law offers a more humanist approach by emphasizing the principles of deliberation (*sulh*) and reconciliation (*tahkim*), which aim to maintain harmony

and integrity in family relationships. A comparison of the three systems shows that no one system is completely perfect, but that each has advantages and limitations. Therefore, the most relevant approach is to integrate the strengths of each system to form a more comprehensive family dispute resolution mechanism. In this case, Indonesia as a country with a mixed legal system has a great opportunity to adopt and adapt the best practices of these various legal systems.

Strengthening mediation mechanisms and non-litigation approaches is a strategic step that needs to be continuously developed, because it has proven to be better able to accommodate the characteristics of family disputes that are emotional, personal, and sustainable. In addition, the integration of the values of deliberation and substantive justice is also important to ensure that dispute resolution is not only oriented to the formal legal aspect, but also to the restoration of social relations and the welfare of the parties, especially children.

Thus, the development of a family dispute resolution system in Indonesia should not only focus on regulatory reform, but also on a paradigm shift towards a more humanistic, participatory, and equitable approach. Through the integration of these various approaches, it is hoped that a system will be created that is not only effective and efficient, but also able to provide sustainable justice in family and community life.

REFERENCE

- Alexy, R. (2002). *A theory of constitutional rights*. Oxford: Oxford University Press.
- Ali, Z. (2006). *Hukum perdata Islam di Indonesia*. Jakarta: Sinar Grafika.
- Ali, Z. (2010). *Metode penelitian hukum*. Jakarta: Sinar Grafika.
- Arifin, Z. (2015). *Hukum keluarga di Indonesia*. Jakarta: Kencana.
- Asshiddiqie, J. (2006). *Pengantar ilmu hukum tata negara*. Jakarta: Sekretariat Jenderal MK
- Atmadja, I. D. G. (2012). *Hukum konstitusi*. Malang: Setara Press.
- Bell, J. (2006). *French legal cultures*. London: Butterworths.
- Benda-Beckmann, F. von. (1981). *Forum shopping and shopping forums*. *Journal of Legal Pluralism*.
- Black, H. C. (1990). *Black's law dictionary*. St. Paul: West Publishing.
- Bowen, J. R. (2003). *Islam, law, and equality in Indonesia*. Cambridge: Cambridge University Press.
- Cane, P. (2011). *The heart of justice*. Oxford: Oxford University Press.
- Cappelletti, M. (1993). *Access to justice and the welfare state*. Florence: European University Institute.
- Chapra, M. U. (1992). *Islam and the economic challenge*. Leicester: Islamic Foundation.
- Cooter, R., & Ulen, T. (2004). *Law and economics*. Boston: Pearson.
- Cotterrell, R. (1992). *The sociology of law: An introduction*. London: Butterworths.
- Dahrendorf, R. (1959). *Class and class conflict in industrial society*. Stanford: Stanford University Press.
- David, R., & Brierley, J. (1985). *Major legal systems in the world today*. London: Stevens & Sons.

- Emery, R. E. (2012). *Renegotiating family relationships*. New York: Guilford Press.
- Esposito, J. L. (2002). *What everyone needs to know about Islam*. Oxford: Oxford University Press.
- Fisher, R., & Ury, W. (1981). *Getting to yes*. New York: Penguin Books.
- Friedman, L. M. (2005). *The legal system*. New York: Russell Sage Foundation.
- Fuady, M. (2013). *Teori-teori besar dalam hukum*. Jakarta: Kencana
- Fuller, L. L. (1969). *The morality of law*. New Haven: Yale University Press.
- Giddens, A. (2006). *Sociology*. Cambridge: Polity Press.
- Glendon, M. A. (1989). *The transformation of family law*. Chicago: University of Chicago Press.
- Goldberg, S., Sander, F., Rogers, N., & Cole, S. (2012). *Dispute resolution*. New York: Aspen.
- Goode, W. J. (1982). *The family*. New Jersey: Prentice Hall.
- Hadjon, P. M. (2007). *Perlindungan hukum bagi rakyat*. Surabaya: Bina Ilmu
- Hallaq, W. B. (2009). *An introduction to Islamic law*. Cambridge: Cambridge University Press.
- Harahap, M. Y. (2018). *Hukum acara perdata*. Jakarta: Sinar Grafika.
- Herring, J. (2015). *Family law*. London: Pearson.
- Hooker, M. B. (1975). *Legal pluralism*. Oxford: Clarendon Press.
- Ibrahim, J. (2006). *Teori dan metodologi penelitian hukum normatif*. Malang: Bayumedia.
- Kamali, M. H. (2008). *Shari'ah law*. Oxford: Oneworld.
- Kelsen, H. (2006). *Pure theory of law*. New Jersey: The Lawbook Exchange.
- Kusumaatmadja, M. (2002). *Konsep hukum dalam pembangunan*. Bandung: Alumni.
- Llewellyn, K. N. (1960). *The common law tradition*. Boston: Little Brown.
- MacCormick, N. (2007). *Institutions of law: An essay in legal theory*. Oxford: Oxford University Press.
- Mahfud MD. (2010). *Politik hukum di Indonesia*. Jakarta: Rajawali Press
- Marzuki, P. M. (2011). *Penelitian hukum*. Jakarta: Kencana.
- Menkel-Meadow, C. (2001). *Mediation*. Harvard Law Review.
- Menski, W. (2006). *Comparative law in a global context*. Cambridge: Cambridge University Press.
- Merryman, J. H. (2007). *The civil law tradition*. Stanford: Stanford University Press.
- Mnookin, R. (2003). *Beyond winning*. Cambridge: Harvard University Press.
- Moleong, L. J. (2018). *Metodologi penelitian kualitatif*. Bandung: Remaja Rosdakarya.
- Mulyadi, L. (2017). *Hukum acara perdata Indonesia*. Bandung: Citra Aditya Bakti.
- Nasution, B. J. (2008). *Metode penelitian ilmu hukum*. Bandung: Mandar Maju
- Nonet, P., & Selznick, P. (1978). *Law and society*. New York: Harper & Row.
- Parkinson, P. (2011). *Family law and the indissolubility of parenthood*. Cambridge: Cambridge University Press.
- Posner, R. A. (1998). *Economic analysis of law*. New York: Aspen.
- Rahardjo, S. (2009). *Hukum progresif*. Jakarta: Kompas.
- Rahman, F. (2010). *Islamic methodology*. Chicago: University of Chicago Press.
- Rasjidi, L., & Putra, I. B. W. (2003). *Hukum sebagai suatu sistem*. Bandung: Mandar Maju
- Rawls, J. (1999). *A theory of justice*. Cambridge: Harvard University Press.
- Raz, J. (1979). *The authority of law: Essays on law and morality*. Oxford: Clarendon Press.
- Riskin, L. (2002). *Understanding mediation*. Harvard Negotiation Law Review.
- Roberts, M. (2014). *Mediation in family disputes*. London: Ashgate.
- Salim, H. S. (2014). *Perkembangan teori dalam ilmu hukum*. Jakarta: Rajawali Press
- Satjipto Rahardjo. (2006). *Ilmu hukum*. Bandung: Citra Aditya Bakti.
- Shidarta. (2013). *Hukum penalaran hukum*. Jakarta: Grasindo.
- Soekanto, S. (2014). *Pengantar penelitian hukum*. Jakarta: UI Press.

- Soemitro, R. H. (1990). *Metodologi penelitian hukum*. Jakarta: Ghalia Indonesia.
- Soerjono Soekanto. (2007). *Sosiologi hukum*. Jakarta: Raja Grafindo
- Subekti. (2005). *Pokok-pokok hukum perdata*. Jakarta: Intermasa.
- Sudikno Mertokusumo. (2009). *Penemuan hukum*. Yogyakarta: Liberty.
- Sugiyono. (2015). *Metode penelitian*. Bandung: Alfabeta.
- Sutiyoso, B. (2006). *Metode penemuan hukum*. Yogyakarta: UII Press.
- Syarifuddin, A. (2006). *Hukum perkawinan Islam*. Jakarta: Kencana.
- Thibaut, J., & Walker, L. (1975). *Procedural justice*. New Jersey: Erlbaum.
- Twining, W. (2009). *General jurisprudence: Understanding law from a global perspective*. Cambridge: Cambridge University Press.
- Umar, H. (2003). *Metode penelitian*. Jakarta: Gramedia.
- Unger, R. M. (1976). *Law in modern society: Toward a criticism of social theory*. New York: Free Press.
- Usman, H. (2008). *Manajemen teori praktik*. Jakarta: Bumi Aksara.
- Waluyo, B. (2002). *Penelitian hukum dalam praktik*. Jakarta: Sinar Grafika.
- Watson, A. (1993). *Legal transplants: An approach to comparative law*. Athens: University of Georgia Press.
- Widnyana, I. M. (2010). *Alternatif penyelesaian sengketa*. Jakarta: Fikahati.
- Wignjosebroto, S. (2002). *Hukum paradigma metode*. Jakarta: Elsam.
- Zweigert, K., & Kötz, H. (1998). *An introduction to comparative law*. Oxford: Oxford University Press.