

Legal Pluralism in Bugis-Makassar Society: Negotiating Interfaith Dynamics, Islamic Law, Ammotere Abbaji, and Restorative Justice in Silariang Cases

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Abstract

The enforcement of administrative restrictions on interfaith marriage following Supreme Court Circular (SEMA) No. 2/2023 has triggered a rise in silariang (elopement) cases in South Sulawesi, risking communal conflict due to clashing triadic jurisdictions (state, Islam, and adat). This study aims to conceptualize *Ammotere Abbaji* as a culturally embedded victim-offender mediation mechanism within Bugis-Makassar customary law and design a model for its integration into the national criminal justice system. Utilizing an empirical legal method within a qualitative socio-legal framework, this study gathered primary

data through a series of in-depth interviews with key informants in South Sulawesi (including customary leaders, religious figures, and law enforcement officers), validated through source triangulation and non-participant observation of tudang sipulung communal deliberations. The qualitative analysis was theoretically reinforced by a secondary review of the sociometric mathematical modeling of marital disputes. The results indicate that Ammotere Abbaji substantively merges the ethical values of Siri' na Pacce and Islamic Ishlah principles to facilitate organic community-level conflict resolution. However, this customary settlement remains impeded by dual-processing at the police level and administrative registration barriers. This study concludes the necessity of designing a three-level (normative, procedural, and rights-protection) 'Restorative Pluralism Framework' (RPF) under the substantive Penal Code (Law No. 1/2023) and the new Criminal Procedure Code (Law No. 20/2025) to guarantee the protection of women's agency and a just interfaith legal diversity governance.

KEYWORDS *Ammotere Abbaji, Triadic Legal Pluralism, Restorative Justice, Interfaith Dynamics, Silariang.*

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Introduction

The global paradigm shift in criminal justice systems, from a retributive-positivistic approach toward restorative justice, has provoked deep discourse on the effectiveness of legal monism in postcolonial multicultural states. Amid the formal legal system's real limitations in defusing social conflicts rooted in communal identity and lived cultural values, restorative justice has emerged as a paradigmatic alternative that prioritises the *healing of harm* and interpersonal reconciliation through the community's active participation.¹ Theoretically, restorative justice is not merely a procedural alternative; it is a manifestation of what Eugen Ehrlich termed the "living law"—a normative order that organically governs behaviour in society independently of state legislation, and that thereby demands institutional recognition of non-state authority in dispute resolution.²

This context is especially crucial in Indonesia, where normative plurality is not merely a sociological reality but also a constitutional foundation, one recently reaffirmed through the recognition of *living law* in the new National Criminal Code (Law Number 1 of 2023). This substantive legal reform has now been fully complemented by the formal-procedural dimension of law enforcement through the enactment of Law of the Republic of Indonesia Number 20 of 2025 on the Code of Criminal Procedure (KUHAP Baru). The New KUHAP, which came into simultaneous effect on Friday, 2 January 2026, fundamentally moves restorative justice beyond the confines of sectoral policies among law-enforcement institutions and formally codifies it as a core pillar of national criminal procedure.

Legal pluralism in Indonesian criminal law has evolved beyond the dichotomous framework of "state law versus popular law" into what Ratno Lukito has defined as "Triadic Legal Pluralism", a complex dialectic in which state

¹ Sahira Jati Pratiwi, Steven Steven, and Adinda Destaloka Putri Permatasari, "The Application of E-Court as an Effort to Modernize the Justice Administration in Indonesia: Challenges & Problems," *Indonesian Journal of Advocacy and Legal Services* 2, no. 1 (2020), <https://doi.org/10.15294/ijals.v2i1.37718>; Aprila Niravita, "Social Injustice in the Industrial Revolution 4.0," *Indonesian Journal of Advocacy and Legal Services* 1, no. 2 (2020), <https://doi.org/10.15294/ijals.v1i2.36509>.

² Sanapiah Faisal, "Format-Format Penelitian Sosial," *Jakarta: Raja Grafindo Persada*, 2007.

law, Islamic law (*syara*), and customary (*adat*) law are interwoven, simultaneously competing and adapting within the same socio-political space.³ Each of these three systems draws on a distinct source of legitimacy—the constitution for the state, divine revelation for Islam, and ancestral tradition for *adat*—yet all three frequently converge on the same point in resolving conflict at the community level. This triadic interaction produces what Boaventura de Sousa Santos theorised as a space of “interlegality”: a condition of legal porosity in which legal actors on the ground simultaneously inhabit and navigate multiple overlapping normative orders. John Griffiths’s foundational taxonomy further confirms that this is not a legal anomaly but a defining feature of postcolonial societies, in which formal state law and informal normative systems coexist as equally operative sources of social order.⁴

Marriage is one of the most central domains in which these three legal systems collide and interact intensely, particularly in cases that depart from the dominant communal norm.⁵ Moreover, following the issuance of Supreme Court Circular Letter (SEMA) Number 2 of 2023 on Guidance for Judges in Adjudicating Petitions for the Registration of Interfaith and Inter-Belief Marriages, which expressly prohibits courts from granting petitions to register interfaith marriages, interfaith couples in Indonesia confront an exceedingly rigid, monistic administrative wall. This is stated clearly and verbatim as follows:

“To ensure certainty and uniformity in the application of the law in adjudicating petitions for the registration of marriages between persons

³ Afiyah Salma Hermaya, “Mengenai Hukum Adat Di Indonesia,” in *Hukumku.Id*, preprint, 2025; Boaventura De Sousa Santos, *Toward a New Legal Common Sense: Law, Globalization, and Emancipation*, in *Toward a New Legal Common Sense: Law, Globalization, and Emancipation* (2020), <https://doi.org/10.1017/9781316662427>.

⁴ De Sousa Santos, *Toward a New Legal Common Sense: Law, Globalization, and Emancipation*; John Griffiths, “What Is Legal Pluralism?,” *Journal of Legal Pluralism and Unofficial Law* 18, no. 24 (1986), <https://doi.org/10.1080/07329113.1986.10756387>.

⁵ Dumitrita Florea, “Comparative Aspects of the Institution of Marriage in Different Legal Systems,” *Logos Universality Mentality Education Novelty: Law* 10, no. 2 (2023), <https://doi.org/10.18662/lumenlaw/10.2/74>.

of different religions and beliefs, judges must be guided by the following provisions:

1. *A valid marriage is one performed in accordance with the law of each party's respective religion and belief, pursuant to Article 2(1) and Article 8(f) of Law Number 1 of 1974 on Marriage.*
2. *Courts shall not grant petitions for the registration of marriages between persons of different religions and beliefs.*

This is issued for attention and implementation accordingly."

This jurisdictional impasse has generated new social tension and cast one particular customary-law phenomenon in South Sulawesi, *silariang* (elopement), as an act of institutional despair (*institutional elopement*) undertaken to escape the deadlock of formal state law. *Silariang* in Bugis-Makassar society is not merely an administrative violation of marriage law; it is an existential shock to the socio-cultural order rooted in family honour.⁶ From the standpoint of state law, *silariang* is classified as the criminal offence of abducting a woman, consistent with Article 454 of Law Number 1 of 2023. From a customary standpoint, *silariang* constitutes a grave violation of *pangngadakkang*, the customary normative system that relegates its perpetrators to a culturally abject status known as *tumate attallasa* (the living dead).⁷

Anthropologically, Bugis-Makassar society is structured around the philosophy of *Siri' na Pacce*. *Siri'* represents dignity, self-worth, and collective shame as the principal moral compass governing honour-based obligations, while *Pacce* (or *Pesse* in Buginese) denotes the empathy, solidarity, and shared suffering that bind the community together.⁸ When *silariang* occurs, the act is classified

⁶ Dani Setiawan, "Inter-Religious Marriage: A Controversial Issue in Indonesia," *Contemporary Issues on Interfaith Law and Society* 1, no. 1 (2022): 23–38, <https://doi.org/10.15294/ciils.v1i1.31348>

⁷ Zahra Zhafira Andalusia and Christine ST Kansil, "The Existence of Silariang Customary Delik In The Customary Law of Kajang Kab. Bulukumba Against Indonesian Law," *Journal Research of Social Science, Economics, and Management* 2, no. 7 (2023), <https://doi.org/10.59141/jrssem.v2i07.352>.

⁸ François Raillon, "Christian Pelras, The Bugis, Oxford, Blackwell, 1996, 386 p., Index, Illustr.," *Annales. Histoire, Sciences Sociales* 54, no. 3 (1999), <https://doi.org/10.1017/s0395264900041482>; Leonard Y. Andaya, "Kingship-Adat Rivalry

as *ripakasiri*' (an extreme violation of honour) which has historically demanded restoration through bloodshed. Yet *Pacce* opens a space for mediation, in which human solidarity can soften the destructive rigidity of *Siri*' through structured reconciliation. It is precisely this internal dialectic between *Siri*' and *Pacce* that drives the cultural machinery of the peacemaking process in South Sulawesi.

The integration of Islamic law into Bugis-Makassar culture has taken place over centuries, producing a normative syncretism captured in the expression *Adat kualleanna Syara', Syara' kualleanna Adat* (custom rests upon Sharia; Sharia rests upon custom).⁹ In the context of *silariang*, Islamic law does not function as a rival to custom but rather as a source of religious legitimacy for the peacemaking process through the principle of *Islah*. *Islah*, or reconciliation in Islamic jurisprudence, emphasises forgiveness (*al-'afwu*) and the restoration of family ties (*silaturahmi*) over the imposition of retributive punishment.¹⁰ Through the epistemology of *maqasid al-syari'ah* as elaborated by Jasser Auda, the resolution of *silariang* cases is directed toward safeguarding three essential values: the protection of life (*hifz al-nafs*) to prevent bloodshed; the protection of lineage (*hifz al-nasl*) through the legalisation of marriage via *itsbat nikah*; and the protection of honour (*hifz al-'ird*) through the restoration of social dignity.¹¹

The interfaith dimension of this analysis extends beyond the internal Islam-adat dialectic to encompass the broader normative ecology of South

and the Role of Islam in South Sulawesi," *Journal of Southeast Asian Studies* 15, no. 1 (1984), <https://doi.org/10.1017/S0022463400012194>.

⁹ Peter Carey and Leonard Y. Andaya, "The Heritage of Arung Palakka: A History of South Sulawesi (Celebes) in the Seventeenth Century," *The American Historical Review* 89, no. 2 (1984), <https://doi.org/10.2307/1862702>; Muhammad Yusuf et al., "Legal Construction of the Buginese Understanding," *Jurnal Ilmiah Al-Syir'ah* 19, no. 2 (2021), <https://doi.org/10.30984/jis.v19i2.1530>.

¹⁰ JASSER AUDA, *Maqasid Al-Shariah as Philosophy of Islamic Law*, in *Maqasid Al-Shariah as Philosophy of Islamic Law* (2019), <https://doi.org/10.2307/j.ctvkc67tg>; Mohammad Hashim Kamali, "Amnesty and Pardon in Islamic Law with Special Reference to Post-Conflict Justice," *Islam and Civilisational Renewal* 6, no. 4 (2015), <https://doi.org/10.12816/0019215>.

¹¹ AUDA, *Maqasid Al-Shariah as Philosophy of Islamic Law*; Sudirman Sudirman et al., "MASLAHAH REVIEW OF THE DOWRY (MARRIAGE COST) BUGIS-MAKASSAR COMMUNITY," *Jurnal Ilmiah Al-Syir'ah* 17, no. 2 (2019), <https://doi.org/10.30984/jis.v17i2.874>.

Sulawesi. The authors expressly maintain that customary law (*pangngadakkang*) does not function as an alternative theological "faith system" (*faith system*) competing with revealed religion.¹² Rather, borrowing Silvio Ferrari's proposition on the importance of a neutral shared order for managing public diversity, adat functions as a *neutral normative platform* that mediates *interreligious legal encounters*. This is illustrated historically by the pre-Islamic indigenous-faith community of Towani Tolotang in Amparita, Sidenreng Rappang Regency, which was accepted under adat through the historic agreements "Ade' Puronrona Sidenreng" and "Taro Bicarana Sidenreng" since 1610, following their migration in response to the pressures of Islamisation in Wajo. When cross-faith marriage disputes occur in South Sulawesi — an Austronesian region whose elopement pattern differs from the *merariq* tradition in Lombok or *londo iha* in Bima, in connection with the *pangngadakkang* custom, the *Ammotere Abbaji* mechanism emerges as a *third space* for managing the jurisdictional impasse that neither state law nor the rigid doctrine of either religion can resolve independently.

The Ammotere Abbaji mechanism ("returning to do good") is a concrete manifestation of Victim-Offender Mediation (VOM) within Bugis-Makassar local tradition, bearing substantive affinity with the principles of modern restorative justice as first laid down in Howard Zehr's foundational work, *Changing Lenses* (1990).¹³ This structural congruence aligns *Ammotere Abbaji* with global indigenous-justice models, such as Māori Family Group Conferencing (Maxwell & Morris, 2001),¹⁴ and Navajo Peacemaking Circles as

¹² De Sousa Santos, *Toward a New Legal Common Sense: Law, Globalization, and Emancipation*; Jeremy Webber et al., "Sally Engle Merry, Legal Pluralism, and the Radicalization of Comparative Law," *Law & Society Review* 54, no. 4 (2020), <https://doi.org/10.1111/lasr.12518>.

¹³ Howard Zehr, *Changing Lenses: Restorative Justice for Our Times* (MennoMedia, Inc., 2015).

¹⁴ Gabrielle Maxwell and Allison Morris, "Restorative Justice and Reconviction," *Contemporary Justice Review* 5, no. 2 (2002), <https://doi.org/10.1080/10282580212702>.

examined by Robert Yazzie and James Zion (1996) — situating Ammotere Abbaji within the global continuum of community-based restorative practices.¹⁵

The effectiveness of social restoration through *Ammotere Abbaji* ("returning to do good") can be analysed sociometrically using the conceptual analogy of the *Susceptible-Exposed-Infectious-Recovered* (SEIR) social-dynamics mathematical model. The total population equation for marital disputes (N) is formulated as follows:

$$N = S + E + I + R$$

S (Susceptible): The segment of society facing structural or administrative barriers to marriage.

E (Exposed): Individuals planning to elope.

I (Infectious/Active): Active perpetrators currently in flight (*tumate attallasa*).

R (Recovered): Reintegrated individuals processed via *Ammotere Abbaji*.

Where S (*Susceptible*) represents the vulnerable segment of society that has not yet undertaken *silariang* but faces structural barriers to marriage (such as a high *uang panai'* (bride price) or the interfaith administrative restriction under SEMA No. 2/2023); E (*Exposed*) denotes individuals planning to elope; I (*Infectious*) denotes active perpetrators currently in flight (*tumate attallasa*); and R (*Recovered*) represents the transition of perpetrators whose family relations

¹⁵ Robert Yazzie and James W. Zion, "Navajo Restorative Justice: The Law of Equality and Justice," in *Restorative Justice: International Perspectives* (1996).

have been successfully restored, and who have been reaccepted communally through *Ammotere Abbaji*.¹⁶

Table 1. Conceptual Mapping of the Triadic Interaction in Resolving Silariang

Dimension of Analysis	State Law (Positive Law)	Islamic Law (Syara')	Customary Law (Adat)
Source of Legitimacy	Constitution & New Criminal Code (Law No. 1/2023)	Qur'an, Hadith & Fiqh (Ishlah)	Lontara' & Pangngadakkang
Nature of Violation	Criminal offence (Art. 454, Law No. 1/2023)	Violation of marriage pillars & silaturahmi	Violation of Siri' — existential shame
Ultimate Aim	Legal certainty, due process & deterrence	Maslahah, itsbat nikah & ishlah	Social harmony, pacce & abbaji ritual
Key Actors	Police, prosecutors, judges	Imams, ulama, KUA officials	Puang, to matoa (customary leaders)
Restorative Instrument	New KUHAP (Arts. 79–88), Perpol 8/2021 & Perja 15/2020	Sulh & maqasid al-syari'ah	Ammotere Abbaji / Maddeceng

¹⁶ Rudi et al., “Simulation of the Abbaji Ammotere Case for Silariang Using Mathematical Modeling in Bugis Society,” *ITM Web of Conferences* 58 (2024), <https://doi.org/10.1051/itmconf/20245801005>.

Dimension of Analysis	State Law (Positive Law)	Islamic Law (Syara')	Customary Law (Adat)
Resolution Theory	Nullum crimen sine lege (legality)	Hifz al-nafs, hifz al-nasl, hifz al-'ird	Siri' na Pacce ethics & interlegality

Source: Authors' construction based on triadic legal pluralism analysis (2026).

“Article 454 of Law Number 1 of 2023 on the Criminal Code

- (1) Any person who takes away a Child against the will of the parent or guardian, but with the child's own consent, with the intent to secure control over the child, whether within or outside marriage, shall be punished for abducting a Child with a maximum term of imprisonment of 7 (seven) years.*
- (2) Any person who takes away a woman by deceit, Violence or the Threat of Violence, with the intent to secure control over that woman, whether within or outside marriage, shall be punished for abducting a woman with a maximum term of imprisonment of 9 (nine) years.*
- (3) The offence referred to in paragraph (1) may only be prosecuted upon complaint by the Child, the parent, or the guardian.*
- (4) The offence referred to in paragraph (2) may only be prosecuted upon complaint by the woman or her husband.*
- (5) If the person who eloped with the woman marries her, and that marriage is carried out in accordance with the applicable marriage legislation, no punishment may be imposed before that marriage is declared void. “*

(Explanation of the operative norm underlying the prosecution of silariang cases; compare with Article 332 of the former Criminal Code, which remained in force only until 2 January 2026).

The enactment of National Police Regulation (Perpol) No. 8 of 2021 and Attorney General's Regulation (Perja) No. 15 of 2020 opened new legal space for customary practices in Indonesia. Both regulations permit the termination of criminal proceedings where peace has been reached between perpetrator and

victim, with explicit reference to living local wisdom values.¹⁷ For Bugis-Makassar society, this represents a historic opportunity to formalise Ammotere Abbaji within the national legal system. The procedural existence of restorative justice has now been decisively reinforced within formal criminal procedure through Chapter IV (Articles 79–88) of Law of the Republic of Indonesia Number 20 of 2025 on the Code of Criminal Procedure (New KUHAP). This formal codification confers markedly greater legitimacy and legal certainty on customary mediation such as Ammotere Abbaji, while simultaneously establishing a strict jurisdictional oversight mechanism through the principle of judicial scrutiny. Under Articles 83 and 84 of the New KUHAP, any written restorative-justice agreement reached at the investigation stage must be formally recorded, followed by the issuance of a letter terminating the investigation, with a binding legal determination sought from the Chief Judge of the District Court within a maximum of 3 (three) days from the issuance of that termination letter.

Prior studies of silariang have tended to gravitate either toward cultural anthropology descriptively documenting the practice or toward positivist criminal law analysing the formal legal response, rarely bridging the two.¹⁸ Scholarship touching on legal pluralism generally adopts a dualistic adat-versus-state framework, thereby failing to analyse the triadic interaction among customary law, Islamic law, and national criminal policy as simultaneously operating normative systems in the sense of Griffiths's (1986) strong legal pluralism. No study to date has proposed a systematic integrative framework — a Restorative Pluralism Framework — that positions Ammotere Abbaji not as a marginal customary exception but as a legally standardisable criminal-mediation

¹⁷ Muhammad Firdaus, Chryshnanda Dwilaksana, and Muhammad Daffa Auliarizky Oniella, "Shifting Polri's Law Enforcement Strategy: Restorative Justice for Public Trust," *Jurnal Media Hukum* 30, no. 2 (2023), <https://doi.org/10.18196/jmh.v30i2.18628>; Achmad Irwan Hamzani et al., "Non-Procedural Dispute Resolution: Study of the Restorative Justice Approach Tradition in Indonesian Society," *International Journal of Offender Therapy and Comparative Criminology* 69, no. 4 (2025), <https://doi.org/10.1177/0306624X231165425>.

¹⁸ Nurulfikah Utami, Ida Bagus Gde Pujaastawa, and I. Ketut Kaler, "Bentuk Perkawinan Silariang Di Desa Lampenai Kecamatan Wotu Kabupaten Luwu Timur Sulawesi Selatan," *ULIL ALBAB: Jurnal Ilmiah Multidisiplin* 1, no. 11 (2022); Indrayanti Indrayanti and Imelda Duma, "Silariang: A Hindered Love," *Jurnal Komunikasi Korporasi Dan Media (JASIMA)* 1, no. 2 (2021).

instrument within the national criminal justice system. This is the research gap this article fills.

This article's theoretical contribution is threefold. First, it advances Ratno Lukito's triadic legal pluralism scholarship by detailing how triadic interlegality unfolds at the micro level of dispute resolution, using Sally Engle Merry's concept of *forum shopping* to dissect how actors navigate customary, religious, and state jurisdictions. Second, it enriches Russell Sandberg's sociology of law and religion regarding the porosity of internal religious rules and Norman Doe's comparative religious law theory by presenting an *indigenous justice* model from Austronesian Southeast Asia. Third, it contributes to Tariq Modood and Thomas Sealy's theory of *religious diversity governance* concerning "multiculturalized secularism" (*multiculturalized secularism*) by positioning the RPF as a form of inclusive "thickening" (*thickening*) from below, in which adat acts as a neutral platform for religious accommodation in line with the thinking of W. Cole Durham Jr. and Silvio Ferrari, while still integrating Martha Nussbaum's critique of freedom of conscience as an ethical limit safeguarding women's free agency against the trap of patriarchal customary coercion.

The structure of the discussion — legal pluralism in Bugis-Makassar society: negotiating interfaith dynamics, Islamic law, Ammotere Abbaji, and restorative justice in silariang cases — addresses three central issues: (1) the conceptual position of *Ammotere Abbaji* as a neutral cross-faith mediation platform in South Sulawesi; (2) the structural obstacles and procedural incompatibility between national diversion regulations and local customary-Islamic law; and (3) the formulation of a Restorative Pluralism Framework (RPF) as a three-tier policy instrument (normative, procedural, rights-protection) under the New Criminal Code and New KUHAP to guarantee gender-responsive and inclusive plural legal governance.

Method

This research employs an empirical legal method grounded in a socio-legal and legal-anthropological approach to examine the triadic interaction between

state law, Islamic principles, and Bugis-Makassar customary norms.¹⁹ Structured as a multi-site qualitative case study, the investigation was conducted between June and September 2025 across five strategically selected regencies and cities in South Sulawesi: Makassar City, Gowa, Bone, Pangkep, and Jeneponto. These sites represent the full urban-rural continuum of Bugis-Makassar society, encompassing both urbanized coastal communities and rural highland communities where *Siri' na Pacce* values remain the primary social regulator.²⁰

The study focuses analytically on the phenomenon of "interlegality" in the sense theorized by Santos: the process by which local actors — police officers, Imams, and customary elders — simultaneously inhabit and navigate multiple overlapping normative orders in managing the resolution of *silariang* cases.²¹ This focus on interlegality as an empirical phenomenon distinguishes the socio-legal approach of this study from purely doctrinal legal analysis.

Primary data were gathered through purposive sampling, comprising fifteen in-depth interviews distributed across three distinct stakeholder cohorts: (1) state law enforcement actors, including police investigators (*penyidik*) and public prosecutors; (2) Islamic religious authorities, including Imams, *ulama*, and KUA officials; and (3) customary stakeholders, including *Puang* (customary leaders) and *to matoa* (community elders). This triadic sampling design directly mirrors the triadic legal pluralism framework and ensures that data reflects all three normative systems under analysis.²²

¹⁹ Dede Indraswara, "Rekonstruksi Metodologis Hukum: Diversifikasi dan Integrasi Penelitian Hukum Normatif (Doktrinal), Empiris (Non-Doktrinal), dan Studi Sosio-Legal (Legal Methodological Reconstruction: Diversification and Integration of Normative (Doctrinal), Empirical (Non-Doctrinal), and Socio-Legal Research)," *IPMHI Law Journal* 5, no. 2 (2025): 205–246, <https://doi.org/10.15294/ipmhi.v5i2.41599>

²⁰ Helen Noble and Roberta Heale, "Triangulation in Research, with Examples," in *Evidence-Based Nursing*, vol. 22, no. 3, preprint, 2019, <https://doi.org/10.1136/ebnurs-2019-103145>.

²¹ De Sousa Santos, *Toward a New Legal Common Sense: Law, Globalization, and Emancipation*; Jason Cross, : " : Toward a New Legal Common Sense : Law, Globalization, and Emancipation, 2nd Ed.," *PoLAR: Political and Legal Anthropology Review* 28, no. 2 (2005), <https://doi.org/10.1525/pol.2005.28.2.323>.

²² Budi Prakosa Adi, "Creating Synergy between Restorative Customary Law Values and the Retributive National Legal System," *SHS Web of Conferences* 221 (2025), <https://doi.org/10.1051/shsconf/202522103002>.

Data validity was ensured through source triangulation, comparing interview narratives with non-participant observations of *Tudang Sipulung* (communal deliberations) conducted in three of the five research sites, and documentary analysis of primary legal sources including Perpol No. 8 of 2021, Perja No. 15 of 2020, Law No. 20 of 2025, Law No. 1 of 2023, and SEMA No. 2 of 2023²³. A qualitative-descriptive analysis employing thematic mapping and categorical classification was used to identify recurring patterns across research sites. The typologies presented in the tables of this article were derived inductively from field data and then mapped deductively onto the triadic legal pluralism framework, ensuring that empirical categories are simultaneously data-grounded and theoretically coherent. By synthesizing empirical findings with theoretical postulates, this study connects the stages of indigenous reconciliation — *Appala Baji'*, *Madduta*, *Tudang Sipulung*, payment of *Pappasala*, and the *Mappasikarawa* ceremony — with the national restorative justice framework.²⁴

Result & Discussion

The results and discussion will analyze the triadic dialectic between customary law (*adat*), Islamic law (*syara'*), and state law in South Sulawesi in the handling of interfaith elopement (*silariang*) cases. This scholarly discourse is systematically structured around three main pillars of analysis that are progressively intertwined. The first section focuses on deconstructing the ontology of the Ammotere Abbaji customary law from theological and sociological perspectives. In the opening section, the extreme tension between the obligation to uphold honor (*Siri'*) and the moral counterbalance of empathy (*Pacce*) is analyzed; this tension is then harmoniously neutralized through the principle of forgiveness (*sulh/afw*) based on the integration of contemporary Maqasid al-Shari'ah theory. This also reinforces the evidence of the Bugis-Makassar indigenous community's capacity for social self-healing through the presentation of numerical data based on the SEIR (Susceptible-Exposed-Infectious-Recovered) mathematical model of social dynamics.

Furthermore, the analysis examines jurisdictional tensions (jurisdictional negotiation) as well as power asymmetries reflected in the tactic of forum shopping. Here, the analysis examines the procedural disparity between national police and prosecutor's office regulations and mediation practices on the ground,

²³ Noble and Heale, "Triangulation in Research," 67–68.

²⁴ Asni and Kamaruddin, "Maddeceng: A Family Reconciliation in Bugis Community on Maslahat's Perspective," *IOP Conference Series: Earth and Environmental Science* 175, no. 1 (2018), <https://doi.org/10.1088/1755-1315/175/1/012133>.

which now enjoy guarantees of certainty and protection through strict judicial scrutiny following the codification of formal restorative justice under Law No. 20 of 2025 on the Code of Criminal Procedure (New KUHAP). Finally, the third subsection formulates a policy solution in the form of a reconstruction of national criminal policy through the institutionalization of a three-tiered Interfaith Restorative Pluralism Framework (RPF)—covering normative, procedural, and rights protection) under the mandates of Law No. 1 of 2023 and Law No. 20 of 2025 to operationalize “living law” in a manner that is inclusive, gender-responsive, and respectful of interfaith diversity in Indonesia.

A. Deconstructing the Ontology of *Ammotere Abbaji*: the Cultural Dialectic of *Siri’ na Pacce* and the Theological Synergy of *Isblab* in Customary Justice

The conceptualisation of *Ammotere Abbaji* in resolving the customary offence of *silariang* cannot be reduced merely to a domestic compromise mechanism or a pragmatic family negotiation.²⁵ Epistemologically, this socio-cultural phenomenon represents a complex space of normative contestation and cooperation within the framework of triadic legal pluralism. In legal anthropology, dispute resolution grounded in local wisdom demands a micro-level reading of how competing normative authorities negotiate their respective jurisdictions in pursuit of social stability — precisely the analytical task undertaken by this research.

Etymologically, *Ammotere* derives from the local language meaning “to return,” while *Abbaji* embodies the principle of “mending” or “restoring harmony.” The compound expression *Ammotere Abbaji* therefore conceptually means “returning to do good” — a socio-religious act of restorative justice in which the couple who committed *silariang* voluntarily return to the extended family bearing a commitment to peace, an open acknowledgement of wrongdoing, and a full reconstruction of kinship relations.²⁶ This mechanism

²⁵ Noor Syifa Amaliah Azizah and Shalihah Shalihah, “Maqasid Al-Shari’ah and Legal Pluralism: Normative Analysis of The Principle of Justice in A Multicultural Society,” *Journal Of Islamic And Law Studies* 9, no. 2 (2025).

²⁶ Gregorius Widiartana, Vincentius Patria Setyawan, and Ariesta Wibisono Anditya, “Exploring Restorative Justice in Domestic Violence Cases,” *Journal of Sustainable Development and Regulatory Issues* 3, no. 3 (2025), <https://doi.org/10.53955/jsderi.v3i3.87>.

does not function merely procedurally; it also serves as a medium for restoring social relations so that the couple who committed *silariang* can return safely to their family and community, free from the threat of social sanction in the form of communal gossip.

Ammotere Abbaji viewed from the perspective of the sociology of law can be understood along the lines conceptualised by Eugen Ehrlich in 1936 as *living law*: a normative order whose effectiveness derives not from the vertical coercion of the state's criminal apparatus, but which arises organically from the communal legitimacy of the customary community itself.²⁷ Ehrlich's view that "the centre of gravity of legal development lies not in legislation, not in juristic science, nor in judicial decision, but in society itself" directly anticipates this study's empirical findings: that Bugis-Makassar society achieves more durable and socially legitimate outcomes through customary reconciliation than through the formal state court process. The *living law* provision in Law No. 1 of 2023 can thus be read as the state's partial recognition of the sociological reality Ehrlich identified almost ninety years ago.

Empirically, the dynamics of cultural acceptance within *Ammotere Abbaji* move along a varied continuum, which field data categorise into three distinct response patterns: (1) Immediate Acceptance, driven by pragmatic-biological considerations or the urgent need to suppress broader social shame; (2) Total Rejection, in which the escalation of cultural anger implies a threat of physical violence (*ancalan*) against the groom; and (3) Conditional Acceptance, in which the family opens dialogue but firmly demands the fulfilment of customary sanctions and fines (*pappasala*) before the restoration of relations can be sanctified.²⁸ The complex psychological and cultural obstacles behind this mechanism were candidly conveyed by a customary leader in Sungguminasa:

"The Ammotere Abbaji procession is carried out in Bugis-Makassar society only after all stakeholders have reached agreement. Some cases receive immediate acceptance, some are rejected outright, and others require certain preconditions. The ceremony depends heavily on the degree of family anger toward the perpetrator of silariang, and the conditions typically required must first be fulfilled."

²⁷ Eugen Ehrlich, *Fundamental Principles of the Sociology of Law*, in *Fundamental Principles of the Sociology of Law* (2017), <https://doi.org/10.4324/9780203791127>.

²⁸ Rudi et al., "UNVEILING AMMOTERE ABBAJI: EXPLORING SILARIANG PERPETRATORS WITH SER MATHEMATICAL MODELING AMONG THE BUGIS COMMUNITY IN SOUTH SULAWESI," *Journal of Mathematics, Computations and Statistics* 7, no. 1 (2018), <https://doi.org/10.35580/jmathcos.v7i1.4252>.

(Wawancara, Darwis Dg. Nai, Tokoh Masyarakat, Sungguminasa, 20 Juli 2025).

Three principal philosophical-jurisprudential pillars drive this space of interlegality in resolving *silariang*. First, within the customary subsystem, *Siri'* functions as the existential axis of collective dignity and honour. When *silariang* occurs, the woman's family is plunged into *ripakasiri'* (extreme shame), which has historically triggered defensive acts to cleanse the stain on honour through bloodshed (*singngoranni siri'*). At this critical juncture, *Pacce* emerges as a moral counterweight — a profound empathy and communal solidarity capable of softening the destructive rigidity of *Siri'*, thereby enabling customary leaders (*to matoa*) to offer a path of restorative mediation.

Second, within the Islamic subsystem, Islamic doctrine has been internalised into Bugis-Makassar legal sociology not as a coercive instrument but as theological legitimacy for peace through *Isblah* and *Sulh* (peace agreement).²⁹ Religious leaders act as transcendental mediators bridging cultural anger with the doctrinal mandate to restore kinship ties (*silaturahmi*). Grounded in the epistemology of *maqasid al-syari'ah*, the resolution of *silariang* through *Ammotere Abbaji* aims to realise the public good (*maslahah*), encompassing: the protection of life (*hifz al-nafs*) to prevent bloodshed; the protection of lineage (*hifz al-nasl*) through *itsbat nikah*; and the protection of honour (*hifz al-'ird*) by restoring social dignity. A religious leader on Salemo Island described the dual function of this mechanism, at once religious and social:

"*Majepu iyyaro Maddeceng iyarega Ammotere Abbaji ipalisui appacingenna nenia ipannessai allaibiningen dua rupa raue naengka lisu mdeceng risompunglolona na ipannikkai paimeng oleh hukum adat, hukum agama nenia hukum negara.*"

(Interview with Sayyid Abdullah Aliah, Religious Leader, Salemo Island, Pangkep, August 11, 2025).

In terms of the implications of resolving marriage through *Ammotere Abbaji* within the context of jurisdictional integration, the registration pathway rests firmly on Article 2 of Law Number 1 of 1974 on Marriage (as amended by Law Number 16 of 2019). This law provides that a marriage is valid if performed in accordance with the law of each party's respective religion and belief (paragraph 1), and that every marriage is to be registered in accordance with

²⁹ Mohammad Hashim Kamali, "Exploring Facets of Islam on Security and Peace: Amnesty and Pardon in Islamic Law," *ICR Journal* 3, no. 3 (2012), <https://doi.org/10.52282/icr.v3i3.536>.

prevailing legislation (paragraph 2). This bifurcated structure signifies that religious validity under paragraph (1) is legally separated from the administrative registration obligation under paragraph (2), thereby creating a legal loophole that is highly suitable as an operative pathway for *itsbat nikah* (judicial confirmation of marriage). Through this instrument, *silariang* couples whose marriage has been validated customarily and religiously through *Ishlah*-based *Ammotere Abbaji* may directly petition the Religious Court under Article 7 of the Compilation of Islamic Law to obtain *itsbat nikah*. This procedural step effectively converts customary-religious legitimacy into positive legal status fully recognised by the state, without requiring the couple to perform a new marriage contract.

“Article 7 of the Compilation of Islamic Law

- (1) A marriage may be proven only by a Marriage Certificate issued by the Marriage Registrar.*
- (2) Where a marriage cannot be proven by a Marriage Certificate, an application for itsbat nikah may be submitted to the Religious Court.*
- (3) Itsbat nikah petitions that may be submitted to the Religious Court are limited to matters concerning:*
 - (a) The existence of a marriage for the purpose of resolving a divorce;*
 - (b) The loss of a Marriage Certificate;*
 - (c) Doubt as to the validity of one of the conditions of marriage;*
 - (d) The existence of a marriage that took place before the entry into force of Law No. 1 of 1974; and*
 - (e) A marriage performed by parties who are not subject to any impediment to marriage under Law No. 1 of 1974;*
- (4) Persons entitled to submit an application for itsbat nikah are the husband or wife, their children, the marriage guardian, and any party with an interest in that marriage.”*

The validation of Islamic law for this customary reconciliation has a firmly grounded theoretical basis within Islamic legal methodology.³⁰ As emphasised by the contemporary Islamic law scholar Mohammad Hashim Kamali, Islamic criminal law places peace (*sulh*) and forgiveness (*afw*) above the imposition of physical punishment (*qishas/diyat*) as the paramount value of public good in order to preserve social integrity.³¹ This is consistent with the integrative

³⁰ Waheeda Waheeda et al., “The Dynamic Interplay: A Normative-Philosophical Study of Islam and Local Wisdom in Indonesia,” *ASEAN Journal of Islamic Studies and Civilization (AJISC)* 2, nos. 1 SE-Articles (2025).

³¹ Kamali, “Amnesty and Pardon in Islamic Law with Special Reference to Post-Conflict Justice.”

Maqasid al-Shari'ah framework of Jasser Auda, who regards beneficial customary tradition (*urf*) as an integral part of a dynamic and open Islamic legal system. In the context of *silariang*, rather than sustaining a black-and-white dichotomy of sin or punishment, *Ammotere Abbaji* functions as an operational instrument of Sharia for upholding the five primary human necessities (*al-daruriyyat al-khamsah*).³²

This normative integration finds a profound jurisprudential explanation in the thought of the Maliki school reformer Muhammad al-Tahir ibn 'Asyur.³³ Ibn 'Asyur conceptualised the universality and flexibility of Sharia ("*al-samahah*") as an instrument for preserving social harmony (*tanzim al-mujtama'*). In cases of *silariang*, the presence of imams and religious leaders as triadic mediators serves not merely to legitimise the marriage customarily through a valid union, but also theologically redirects the demand for physical customary retribution toward a peace agreement grounded in mutual consent (*ishlah*). Through this convergence, Islam furnishes custom with a transcendental superstructure of spiritual forgiveness, while custom provides a terrestrial infrastructure of monetary fines (*pappasala*) and rites of physical purification, evidencing a mutually reinforcing legal syncretism.³⁴

The effectiveness of social restoration through *Ammotere Abbaji* can be validated not only qualitatively but also scientifically-sociometrically, using the conceptual analogy of the SEIR-type (*Susceptible-Exposed-Infectious-Recovered*) social-dynamics mathematical model. Drawing on the study by Rudi et al. (2024), the total-population equation for marital disputes (N) is dynamically formulated as $N=S+E+I+R$. Where S (*Susceptible*) represents the vulnerable segment of society that has not yet undertaken *silariang* but faces structural barriers to marriage (such as a high *uang panai'* (bride price) or the interfaith administrative restriction under SEMA No. 2/2023); E (*Exposed*) denotes individuals beginning to be exposed to and planning elopement; I (*Infectious*) denotes active perpetrators currently in flight (*tumate attallasa*); and R (*Recovered*) represents the transition of perpetrators whose family relations have been successfully restored and who have been reaccepted communally through *Ammotere Abbaji*. Using primary data from a questionnaire administered to 204 sample respondents in South Sulawesi — collected *offline* for active *silariang* perpetrators and *online* for vulnerable and affected members of the public — this

³² AUDA, *Maqasid Al-Shariah as Philosophy of Islamic Law*.

³³ Muhammad Tahir Ibn 'Asyur, *Al-Tahrir Wa al-Tanwir*, in *Al Dar al Tunisiyah* (1984).

³⁴ Khaerul Asfar, "Metodologi Tafsir Al-Tahrir Wa Al-Tanwir Karya Muhammad Tahir Ibnu 'Asyur," *Al Aqwam : Jurnal Studi Al-Quran Dan Tafsir* 1, no. 3 (2022).

SEIR modelling produced a Basic Reproduction Number (R_0) of $R_0=0.20381767$. This $R_0<1$ value mathematically demonstrates that the population of active disputes (I) will decline significantly over time owing to the high rate of perpetrator transition toward a recovered state (R) once facilitated by communal peace agreements, confirming the existence of a remarkably resilient capacity for self-recovery (*social self-healing*) within the Bugis-Makassar legal ecology.³⁵

Third, within the state subsystem, the diversion policy under Perpol No. 8/2021 formally confers legal recognition on local wisdom in terminating criminal proceedings, thereby creating a constitutional space for the outcomes of *Ammotere Abbaji* to carry state-recognised binding force. The interaction between customary law and Islamic law within the *Ammotere Abbaji* matrix is not one of hegemonic subordination, but a resilient model of *faith-and-culture based justice*.³⁶ This interlegal relationship fills a normative void: Islam supplies a transcendental superstructure of forgiveness (*al-'afwu*),³⁷ while custom supplies a terrestrial infrastructure of procedural fines and purification rites — confirming model of interlegality as a distinctive legal mode of operation in plural societies.

Table 2. Points of Convergence between Ammotere Abbaji and Modern Restorative Justice

Dimension of Analysis	Ammotere Abbaji (Customary Framework)	Modern Restorative Justice (Zehr; Braithwaite; Walker)
Core Objective	Eliminate communal conflict; restore cosmological and familial harmony after <i>ripakasiri</i> ³	Reach a voluntary peace agreement; reduce recidivism; repair damaged social relations

³⁵ Rudi et al., “Simulation of the Abbaji Ammotere Case for Silariang Using Mathematical Modeling in Bugis Society.”

³⁶ Ilyas Ilyas et al., “The Accommodation of Customary Law to Islamic Law: Distribution of Inheritance in Aceh from a Pluralism Perspectives,” *Samarah* 7, no. 2 (2023), <https://doi.org/10.22373/sjhk.v7i2.15650>.

³⁷ Ferry Armando Gunawan, Muhammad Amrulloh, and Akhmadiyah Saputra, “Makna Al-'Afwu Dalam Tafsir Asy-Sya'rawi,” *Hamalatul Qur'an : Jurnal Ilmu-Ilmu Al-Qur'an* 5, no. 1 (2024).

Dimension of Analysis	Ammotere Abbaji (Customary Framework)	Modern Restorative Justice (Zehr; Braithwaite; Walker)
Operational Method	Ritualised apology (Appala Baji') and social-reintegration ceremony (Mappasikarawa)	Victim-offender mediation (VOM); community conferencing; consensus-based dialogue
Nature of Sanction	Pappasala (redemptive fine) and demands for social reintegration	Out-of-court settlement; symbolic community service; direct restitution to the victim
Epistemological Basis	Pangngadakkang, ancestral Lontara' values, the ethical duality of Siri' na Pacce	Criminological reform; victim-oriented justice; diversion from state-based prosecution
Socio-Legal Consequence	Safe reintegration into the kinship group; resolution of spiritual-communal imbalance	Enhanced social cohesion; reduction of court case backlogs; restoration of public trust
Gender Dimension	Requires procedural safeguards: independent consent of the woman as a non-negotiable RPF precondition	Victim agency is fundamental; conscious and voluntary participation is required under VOM principles

Source: Synthesised from field data and theoretical literature (Zehr; Braithwaite; Walker; Kiefer et al.,).³⁸

³⁸ Zehr, *Changing Lenses: Restorative Justice for Our Times*; John Bradford Braithwaite, "Restorative Justice and Responsive Regulation: The Question of Evidence," *SSRN Electronic Journal*, ahead of print, 2017, <https://doi.org/10.2139/ssrn.2839086>; Margaret Urban Walker, "Restorative Justice and Reparations," in *Journal of Social Philosophy*, vol. 37, no. 3, preprint, 2006, <https://doi.org/10.1111/j.1467-9833.2006.00343.x>; Rebecca P. Kiefer et al., "Apology and Restitution in a Role-Play Restorative Justice Experiment: Multiple Perspectives, Multiple Measures," *Journal of Psychology and Theology* 48, no. 2 (2020), <https://doi.org/10.1177/0091647120911114>.

The comparative matrix in Table 2 shows that *Ammotere Abbaji* operationalises the core essence of substantive restorative justice: this mechanism shields perpetrators from the corrosive effects of a stigmatising penal system, while simultaneously ensuring the restoration of honour for the victim's family.³⁹ This structural alignment with global indigenous-justice models situates *Ammotere Abbaji* not as a primitive, premodern practice, but as a culturally sophisticated embodiment of universal restorative principles — principles resonating with the foundational lineage of restorative justice laid down by Howard Zehr in his monumental work *Changing Lenses*, and further developed through John Braithwaite's theory of *reintegrative shaming* and Margaret Urban Walker's theory of reparation.

B. Jurisdictional Negotiation and the Practice of *Forum Shopping*: Procedural Synergy and Structural Friction within Triadic Legal Pluralism

Operationalising *Ammotere Abbaji* within Indonesia's contemporary criminal justice system demands a layered examination of procedural synergy, epistemic friction, and structural compatibility. When viewed through the lens of the sociology of law and legal anthropology, the intersection between Bugis-Makassar customary dispute resolution and the formal state apparatus manifests itself as a complex space of normative contestation — precisely capturing what Lukito theorised as triadic legal pluralism in practice.⁴⁰ These three normative orders do not operate in a hierarchical sequence, but rather in what Benda-Beckmann characterised as a dynamic coexistence: simultaneously a resource for legal actors and a risk for vulnerable legal subjects caught between competing authorities.⁴¹

³⁹ Kiefer et al., "Apology and Restitution in a Role-Play Restorative Justice Experiment: Multiple Perspectives, Multiple Measures"; Frank D. Hill, "Restorative Justice: Sketching a New Legal Discourse," *Contemporary Readings in Law and Social Justice* 1, no. 1 (2009).

⁴⁰ Ratno Lukito, *Tradisi Hukum Indonesia*, vol. 1, no. Cet. 1 (the institute for migrant rights press, 2012).

⁴¹ Franz von Benda-Beckmann and Keebet von Benda-Beckmann, "The Dynamics of Change and Continuity in Plural Legal Orders," *Journal of Legal Pluralism and Unofficial Law* 38, nos. 53–54 (2006), <https://doi.org/10.1080/07329113.2006.10756597>.

The structural implementation of *Ammotere Abbaji* begins with a highly ritualised, multi-layered mediation architecture. This process is initiated through *Tudang Sipulung* — a traditional deliberative consultation — which establishes an egalitarian platform for community-led dialogue, deliberately rejecting the vertical, adversarial, and punitive paradigm of the formal state court. This forum brings together *Tomasirik* (the aggrieved woman's family) and *Tomannyala* (the man's family) under the guidance of *to matoa* and equally respected religious mediators. As observed by a leading academic scholar in Makassar:

"Ammotere Abbaji is a comprehensive and restorative solution to the problem of silariang, in which the perpetrators return directly to their families to actively seek blessing and ask forgiveness — resolving the matter not merely legally, but fully within its social and cultural dimensions."

(Interview, Ramli Semmawi, Academic Scholar, Makassar, 2 September 2025).

The procedural development follows an established sequence: the *Appala Baji'* phase, in which *Tomannyala* — who face physical danger and the threat of retaliatory violence (*ancalan*) — seek protection from a customary leader acting as a peace intermediary (*madduta*); followed by the convening of the *Tudang Sipulung* forum; payment of *Pappasala* (material and symbolic restitution); and culminating in the *Mappasikarawa* ceremony of social reintegration and communal blessing. A community leader in Takalar offered an empirical account of this intricate diplomatic process:

"Tomannyala will seek help from the customary leader/community figure with whom they previously sought refuge. Someone is then sent to convey the intention of Appala Baji' to the family... The village head then contacts Tumasiri to ask them to be willing to accept Tunate Tallasa'na (the living dead)." (Interview, Syamsu Rijal, Community Leader, Takalar, 10 September 2025).

One crucial dimension of legal pluralism not yet sufficiently explored in the existing literature concerns the strategic dimension of forum selection.⁴² Field data reveal a pattern that Sally Engle Merry conceptualised as "forum shopping" — the strategic use of various legal forums by disputing parties based on social capital and expectations of the desired outcome. Victim families (*Tomasirik*) of high customary standing are strongly inclined to choose *Ammotere Abbaji* because it allows them to collect the *Pappasala* fine and restore their publicly fractured family honour through communal ritual — an outcome unavailable in the state courts. Conversely, perpetrator families (*Tomannyala*) lacking

⁴² von Benda-Beckmann and von Benda-Beckmann.

customary standing may prefer state criminal prosecution to neutralise pressing physical threats and limit their financial exposure to exceedingly high customary fines. This divergent strategic behaviour shows that legal pluralism in South Sulawesi is not merely a peaceful coexistence of norms, but an active competitive marketplace of normative authority, in which social power and ancestral capital determine systemic access — empirically confirming Griffiths’s model of *strong legal pluralism*.⁴³

Nevertheless, the integration of *Ammotere Abbaji* into the national criminal justice system reveals complex structural fault lines. The principal obstacle is a profound ideological incompatibility between customary law and state legal positivism. National criminal law operates on a highly codified individualistic framework, focused on the principle of legality (*nullum crimen sine lege*), and processes *silariang* under Article 454 of Law Number 1 of 2023. Customary law, by contrast, treats the event as a collective spiritual and social violation injuring the honour (*Siri*) of the entire kinship group — a *framing* that cannot be accommodated by state criminal procedure without a fundamental conceptual revision.⁴⁴

Significant structural friction also appears in the matter of jurisdictional legitimacy. Under the national constitutional framework, the authority to investigate and adjudicate criminal offences is held exclusively by formal state actors.⁴⁵ However, the enactment of Law Number 20 of 2025 on the Code of Criminal Procedure (New KUHAP) has opened a new chapter for this procedural recognition by placing Restorative Justice directly at the statutory level through Chapter IV (Articles 79–88). Article 83 and Article 84 of the New KUHAP provide as follows:

Article 83

(1) The Restorative Justice mechanism at the Inquiry and Investigation stage shall be conducted through an agreement to settle the case before the Investigating Officer or Investigator.

⁴³ Griffiths, “What Is Legal Pluralism?”

⁴⁴ Salle Salle and Mirnawanti Wahab, “Analysis of Positive Legal Sources on the Implementation Bugis Customary Sanctions of Makassar for Silariang Actor,” *Jurnal Akta* 9, no. 1 (2022), <https://doi.org/10.30659/akta.v9i1.20619>; Saleh Saleh et al., “Silariang Dalam Perspektif Hukum Islam Dan Hukum Adat,” *Al-Azhar Islamic Law Review* 3, no. 2 (2021), <https://doi.org/10.37146/ailrev.v3i2.115>.

⁴⁵ Zainuddin Zainuddin, “RESTORATIVE JUSTICE CONCEPT ON JARIMAH QISHAS IN ISLAMIC CRIMINAL LAW,” *Jurnal Dinamika Hukum* 17, no. 3 (2017), <https://doi.org/10.20884/1.jdh.2017.17.3.826>.

- (2) *The agreement referred to in paragraph (1) shall be evidenced by a written case-settlement agreement and signed by the perpetrator, the Victim, and the Investigating Officer or Investigator.*
- (3) *On the basis of the case-settlement agreement referred to in paragraph (2), the Investigating Officer shall issue a letter terminating the Inquiry.*
- (4) *On the basis of the case-settlement agreement referred to in paragraph (2), the Investigator shall issue a letter terminating the Investigation.*

Article 84

The letter terminating the Investigation referred to in Article 83(4) shall be notified by the Investigator to the Public Prosecutor, and a determination shall be sought from the Chief Judge of the District Court within a maximum period of 3 (three) days.

Pursuant to Article 83 and Article 84 of the New KUHAP, a written peace agreement reached at the investigation stage — such as the written agreement in *Ammotere Abbaji* — must be followed up with the issuance of a letter terminating the investigation by the Investigator, which must then be submitted for a legal determination by the Chief Judge of the District Court within a maximum period of 3 (three) days from the issuance of that determination letter. This progressive step confers substantive legal certainty on perpetrators, freeing them from a state of double vulnerability in which the case could still be processed as a conventional criminal matter even after customary reconciliation had been fully carried out.

This institutional incompatibility previously manifested most acutely through investigators' discretionary authority under Perpol No. 8/2021. Although this regulation formally permits case diversion on the basis of "local wisdom," field data from all five research sites show that investigators frequently engaged in "double processing" — requiring a signed customary agreement while simultaneously keeping the criminal case file active. This produces a paradox of "pluralism on paper, monism in practice" — a finding that confirms Santos's theoretical observation that interlegality, although potentially emancipatory, can equally reproduce existing power asymmetries when institutional actors lack the competence and mandate to follow through on plural normative inputs.⁴⁶

⁴⁶ Alistair Ross, "The New Pluralism - a Paradigm of Pluralisms," *European Journal of Psychotherapy and Counselling* 14, no. 1 (2012), <https://doi.org/10.1080/13642537.2012.652400>.

In the prosecutorial context, administrative-procedural tension at the level of positive law is also clearly reflected in case termination by the prosecution service. Under Article 5(1) of Attorney General's Regulation (*Peraturan Kejaksaan* [Perja]) No. 15 of 2020 on the Termination of Prosecution Based on Restorative Justice, a primary substantive requirement dictates that the financial loss caused by the offense must not exceed IDR 2,500,000. This monetary threshold frequently proves a confusing procedural obstacle for officials, since the offence of *silariang* under Article 454 of Law No. 1/2023 is classified as an offence against a person's freedom, not an offence against property. Fortunately, Article 5(3) of Perja No. 15 of 2020 explicitly exempts offences committed against a person's body, life, and freedom from the IDR 2,500,000 loss-threshold requirement. This opens a pathway for the Public Prosecutor to disregard that financial-loss logic and focus discretion instead on the authenticity of the *ishlah* agreement within *Ammotere Abbaji* in order to issue a determination letter terminating prosecution, which must then promptly be submitted for determination by the Chief Judge of the District Court within a maximum period of 3 (three) days pursuant to Article 86(1) of the New KUHAP.

A fundamental human-rights tension inherent in *Ammotere Abbaji* concerns the agency, protection, and individual rights of women who are perpetrators of *silariang*. Field observation confirms that the *tudang sipulung* deliberation is largely convened by male family figures, with women's participation mostly confined to symbolic presence or coerced compliance in line with the family's strategic alignment.⁴⁷ This raises serious questions as to its compatibility with Indonesia's ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the individual-rights provisions of Law No. 1/2023. Women who commit *silariang* risk secondary victimisation — being pressured into unwanted or structurally unequal marriage arrangements in order to cleanse the cultural stain on their family name.⁴⁸ Any effort to integrate *Ammotere Abbaji* into the national criminal justice system must directly confront this gender asymmetry to ensure that local wisdom does not override fundamental human rights.

⁴⁷ Birgit Bräuchler, "The Revival Dilemma: Reflections on Human Rights, Self-Determination and Legal Pluralism in Eastern Indonesia," *Journal of Legal Pluralism and Unofficial Law* 42, no. 62 (2010), <https://doi.org/10.1080/07329113.2010.10756648>.

⁴⁸ Rebecca Banwell-Moore, "Restorative Justice: Adopting a Whole System Approach to Address Cultural Barriers in Criminal Justice," *Criminology and Criminal Justice* 24, no. 5 (2024), <https://doi.org/10.1177/17488958241268005>.

C.Reconstructing National Criminal Policy: Formulating an *Interfaith Restorative Pluralism Framework* under the Duality of the New Criminal Code and New KUHAP

Formulating a comprehensive policy response to triadic legal pluralism in South Sulawesi must address the systemic obstacles that arise when *silariang* intersects with interfaith dynamics. Empirical evidence from this study shows that legal governance in Indonesia's plural society cannot be managed through rigid legal monism; rather, what is required is what Ehrlich characterised as the recognition of "living law" — a normative commitment that organically dominates social life independently of state legislation.⁴⁹ Under the transformative paradigm of Law No. 1 of 2023, the Indonesian state has constitutionally renewed its commitment to recognising these living laws. This substantive reform has now been procedurally perfected by Law No. 20 of 2025 on the Code of Criminal Procedure (New KUHAP), which codifies Restorative Justice nationally, thereby opening a historic legislative opportunity to build a purpose-designed policy instrument: the Restorative Pluralism Framework (RPF).⁵⁰ The RPF operationalises this recognition of living law by bridging the formality of national criminal procedure with the communal restorative capacity offered by *Ammotere Abbaji*.

This integration becomes especially crucial in navigating the legal and theological impasse created by Supreme Court Circular Letter (SEMA) No. 2 of 2023. As stated verbatim in that SEMA, judges are expressly prohibited from granting petitions for the registration of marriages between persons of different religions and beliefs, because a valid marriage under Article 2(1) of Law Number 1 of 1974 must be performed according to the law of each party's own religion. This exceedingly rigid monistic administrative constraint forces interfaith couples in South Sulawesi who do not receive their families' theological blessing to undertake *silariang* as an act of institutional despair (institutional elopement). This kind of interfaith elopement triggers acute double marginalisation: the couple is ostracised as *tumate attallasa* for violating *Siri'* custom and religious boundaries, while their marriage remains unrecognised by the state. Although

⁴⁹ Banwell-Moore.

⁵⁰ Carmit Klar-Chalamish and Inbal Peleg-Koriat, "From Trauma to Recovery: Restorative Justice Conferencing in Cases of Adult Survivors of Intrafamilial Sexual Offenses," *Journal of Family Violence* 36, no. 8 (2021), <https://doi.org/10.1007/s10896-020-00239-0>.

Ammotere Abbaji possesses the cultural authority to defuse family honour and prevent honour-based violence, this mechanism is powerless against the formal administrative obstacle of SEMA No. 2/2023 — making the need for an interfaith policy instrument both urgent and concrete.⁵¹

To resolve these systemic frictions, the proposed Restorative Pluralism Framework (RPF) operates at three distinct yet interrelated levels: the normative level, the procedural level, and the rights-protection level, as set out in the following tables.

Table 3. Typological Classification of Silariang Case Handling within the Context of Legal Pluralism

Handling Category	Legal Paradigm	Primary Focus	Process Output	Key Actors
Formal-Legalistic	Legal Monism	Enforcement of the Criminal Provision (Art. 454)	Imprisonment / Criminal Record	Police, Prosecutors, Judges
Religious-Normative	Islamic Law	Validity of the Marriage Contract	Itsbat Nikah / Ishlah Agreement	Imam, KUA Officials, Ulama
Cultural-Communal	Customary Law	Restoration of Siri' & Social Harmony	Abbaji Ritual / Pappasala	Puang, To Matoa
Integrative-Restorative (RPF)	Triadic Pluralism	Relational Restoration, Legality & Rights	State-Recognised Peace Agreement	Triadic Interfaith Mediation Panel

⁵¹ Ehrlich, *Fundamental Principles of the Sociology of Law*; Hijrah Lahaling et al., “Legal Pluralism in the Tayade System: Reconciling Land and Plant Ownership Laws in Gorontalo,” *Jurnal Ilmiah Al-Syir'ah* 23, no. 1 (2025), <https://doi.org/10.30984/jis.v23i1.3325>.

Source: Authors' typological analysis based on field data (2026).

Table 4. Structural Architecture of the Restorative Pluralism Framework (RPF)

RPF Level	Institutional Mechanism	Core Objective	Key Interfaith Stakeholders
Normative Level	Formal recognition of Ammotere Abbaji as living law under Law No. 1/2023; case termination (SP3) triggered by a valid customary peace outcome and confirmed through a district court determination under Law No. 20/2025.	Terminate criminal prosecution under Art. 454; prevent honour-based retaliatory violence; provide legal certainty for both Muslim and interfaith couples.	National legislators; customary council; National Commission on Human Rights (KOMNAS HAM); Ministry of Religious Affairs (Kemenag).
Procedural Level	Establishment of a Triadic Interfaith Mediation Panel at District Police stations; for interfaith silariang, the panel is expanded to include representatives of non-Muslim religions (Christian pastors; Towani Tolotang leaders).	Eliminate the double-processing paradox; facilitate balanced cross-faith mediation; coordinate the itsbat nikah or civil-registration pathway for interfaith couples.	Police investigators; KUA officials; Christian pastors; Towani Tolotang leaders; customary Puang; Religious Court representatives.
Rights-Protection Level	Women's independent consent must be documented in writing; witnessed with legal	Protect individual agency (CEDAW); protect freedom of religion (Art. 29 of	Independent legal aid institutions (LBH); women's

RPF Level	Institutional Mechanism	Core Objective	Key Interfaith Stakeholders
	assistance; anti-forced-conversion clauses in every peace agreement; procedural audit in accordance with CEDAW.	the Constitution); ensure a process that is victim-oriented; prevent secondary victimisation.	rights NGOs (Komnas Perempuan); government human-rights officials (KOMNAS HAM).

Source: Proposed policy model based on field data and legal analysis (2026).

At the normative level, the RPF advocates explicit legislative recognition of customary peace agreements — particularly Ammotere Abbaji — as a valid ground for terminating criminal prosecution for the abduction of a child or woman under Article 454 of Law No. 1/2023. This recognition is procedurally operationalised through Articles 83 and 84 of Law No. 20/2025 (New KUHAP), which require the Investigator to issue a formal letter terminating the investigation once a written restorative peace agreement has been reached, which must then be submitted to the Chief Judge of the District Court within a maximum period of 3 (three) days to obtain a binding legal determination. In interfaith silariang cases, this determination not only halts the state's double criminal processing but also provides a preventive legal-protection space that eases sociocultural tension and shields interfaith couples from the threat of unilateral physical violence (ancalan) from their families.

At the procedural level, the RPF mandates the institutionalisation of a Triadic Interfaith Mediation Panel at the District Police (Polres) investigation stage, in keeping with the spirit of decentralised restorative justice in Chapter IV of the New KUHAP. Where a silariang case occurs among fellow Muslims, a standard mediation panel involving police investigators, KUA representatives, and customary leaders (to matoa) is considered sufficient. However, for interfaith silariang disputes — such as those involving the Christian minority in Toraja or adherents of the indigenous Towani Tolotang faith in Amparita — the RPF requires an expanded mediation panel with the equal inclusion of accredited representatives of non-Muslim religious figures. This step transforms the

mediation space from a single-religion tribunal into an inclusive interfaith dialogue forum for negotiating the pappasala fine payment and preparing marriage administration without sectoral discrimination. This multi-faith procedural model rests on a philosophical foundation equivalent to renowned global indigenous-mediation practices, such as Family Group Conferencing among the Māori in New Zealand, which engages kinship networks across backgrounds, and the Navajo Peacemaking Circles in North America.

At the rights-protection level, the RPF upholds ethical boundaries and human-rights protection guarantees firmly grounded in Article 29(2) of the 1945 Constitution of the Republic of Indonesia on freedom of religion, alongside the international commitment under Article 16(1)(b) of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), ratified through Law No. 7/1984. Guided by these constitutional and international legal pillars, the RPF strictly prohibits the inclusion of any forced-conversion clause as a precondition for Ammotere Abbaji customary reconciliation. Furthermore, to prevent secondary victimisation of women who are frequently exploited within the patriarchal tudang sipulung deliberation to restore family honour (Siri'), the RPF requires written documentation of free and informed consent from the woman perpetrator of silariang, independently verified by legal counsel or a legal-aid institution (LBH) before the restorative determination is submitted to the District Court under Article 84 of the New KUHAP.

This triadic, interfaith model is best understood through Santos's (2002) concept of interlegality — a dynamic process in which multiple legal orders overlap, interpenetrate, and intermingle within the same social space. The RPF does not impose a rigid, state-oriented hierarchy that erases custom or syara'; rather, it recognises the legal porosity through which local actors strategically negotiate their jurisdictions to jointly produce durable social peace. By formalising these spaces of interlegality, the state manages the “simultaneous resource and risk” inherent in legal pluralism — granting communities the flexibility of customary reconciliation while guaranteeing constitutional certainty for individual human rights.

Achieving comprehensive systemic harmony within this triadic landscape ultimately requires expanding formal legal education to build deep cultural and interfaith competence among police officers, public prosecutors, and judges.⁵²

⁵² Jérémie Gilbert, “Indigenous Peoples and Litigation: Strategies for Legal Empowerment,” *Journal of Human Rights Practice* 12, no. 2 (2020), <https://doi.org/10.1093/jhuman/huaa028>; Carlos Benítez Trinidad and Hygor Mesquita Faria, “Toward Self-Determined Reparative Justice in Brazil: Indigenous Leadership

Law-enforcement training must enable state actors to recognise *Ammotere Abbaji* as a legitimate and highly effective complement to positive law, rather than as a challenge to state sovereignty. In this way, the RPF demonstrates that legal pluralism in Indonesia should not be characterised as an unmanageable clash of normativities, but as an opportunity for “normative cooperation amid diversity” — operationalising the living-law provision of Law Number 1/2023 and the codification of restorative justice in Law No. 20/2025 as a replicable policy blueprint: one that honours the ancestral traditions of Bugis-Makassar society, respects the theological principles of Islamic *Ishlah*, protects individual human rights, and preserves the Indonesian state’s constitutional mandate as a whole.

Conclusion

The ontological deconstruction of *Ammotere Abbaji* reveals that this customary mechanism constitutes a manifestation of living law that creates a space for interfaith mediation through the encounter between Bugis-Makassar cultural values and Islamic teachings. From the perspective of legal anthropology, this mechanism functions as a form of communal *Victim-Offender Mediation* (VOM) that derives its legitimacy not only from the social recognition of the customary community, but also from theological legitimacy rooted in *pangngadakkang* and *syara’*. The dialectic between *Siri’* as a mechanism for restoring honour, *Pacce* as an expression of solidarity and social empathy, and *ishlah* as the principle of reconciliation in Islamic law together form a normative synthesis directing conflict resolution toward the restoration of social relations, offender accountability, victim recovery, and the sustainability of communal harmony. These findings confirm that *Ammotere Abbaji* can no longer be positioned as a residual customary-law practice, but rather as a dispute-resolution institution possessing legal rationality, social legitimacy, and a theological foundation consistent with the paradigm of modern restorative justice. This research therefore demonstrates that legal pluralism in Indonesia does not merely describe the coexistence of multiple legal systems, but also reflects a process of value integration that allows customary law and religious law to make a genuine contribution to the development of the national criminal justice system.

Furthermore, an analysis of jurisdictional negotiation and forum shopping demonstrates that this conceptual value alignment has not yet been matched by harmonisation at the procedural and institutional level. Although the substance

of Ammotere Abbaji is compatible with the concepts of diversion and restorative justice within the national legal system, this study finds that its implementation still faces problems in the form of overlapping authority, power asymmetry, and desynchronisation among case-resolution mechanisms. These conditions drive *forum shopping*, in which victim families tend to choose the customary mechanism as a means of restoring honour and obtaining *pappasala*, while perpetrators prefer the state legal mechanism to limit economic consequences or avoid potential unilateral violence. At the same time, the practice of double processing by law-enforcement officials shows that recognition of legal pluralism still stops at the normative level without being followed by adequate procedural integration. This research also shows that the structure of customary deliberation, still influenced by patriarchal relations, has the potential to restrict women's freedom to give consent or to participate on an equal footing. Accordingly, the principal problem of triadic legal pluralism lies not in the conflict between state law, customary law, and religious law, but in the need to build an institutional design capable of effectively integrating all three while still guaranteeing legal certainty, human-rights protection, and gender equality.

Reconstructing National Criminal Policy through the Formulation of an Interfaith Restorative Pluralism Framework under the Duality of the New Criminal Code and New KUHAP constitutes both a conceptual contribution and the principal recommendation produced by this research. Building on the findings concerning value compatibility and various implementation obstacles, this study proposes the *Interfaith Restorative Pluralism Framework* as a model for integrating state law, customary law, and religious law through the strengthening of the normative, procedural, and rights-protection dimensions. Within that framework, an Ammotere Abbaji agreement needs to obtain formal recognition as a ground for terminating criminal proceedings for the offence of abducting a child or woman, through a supervisory mechanism of the District Court, as is already made possible under the New Criminal Code and New KUHAP regimes that accommodate restorative justice. At the implementation level, the establishment of a Triadic Interfaith Mediation Panel at the investigation stage becomes an important instrument for securing the representation of law-enforcement officials, customary leaders, and religious figures, including from non-Muslim communities, so that the resolution of interfaith cases proceeds more inclusively and attains balanced legitimacy. In addition, the protection of women's rights must be strengthened through a requirement of freely given written consent and a prohibition on any form of forced religious conversion as a condition for peace. Through this construction, the *Interfaith Restorative Pluralism Framework* is expected not only to serve as a

model for recognising *living law* within the national legal system, but also to offer a new paradigm for criminal-law reform capable of integrating normative diversity with the principles of restorative justice, freedom of religion, gender equality, and respect for human rights. On this basis, future research should be directed toward testing the effectiveness of this model through longitudinal studies on the durability of peace and recidivism rates, comparative analysis with legal-pluralism practices in Muslim-majority Austronesian countries, and gender-informed research to ensure that the institutionalisation of customary law proceeds in a manner substantively consistent with the protection of human rights.

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