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**Nonmarital Sex Rituals on Mount Kemukus
(Study of Legal Culture and Islamic Law Perspective)**

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Abstract: The legal construction in the Criminal Code (KUHP) and Islamic law the ban of extramarital sexual encounters, yet in Mount Kemukus, a different reality prevails. The formulation of the problems in this research are; first, what is the pattern of pilgrims' actions on Mount Kemukus? and second, what is the ideal of legal culture in Mount Kemukus? This study is from the perspective of legal culture and Islamic law. This paper examines the relationship between legal culture and Islamic law. This research is a field study employing a multidisciplinary socio-legal methodology. Observation and interviews were used to collect primary data, whilst a review of the literature was used to collect secondary data. This article combines social theory, legal theory, and Islamic legal theory to form an eclectic theory. This study found two general patterns, santri pilgrims and non-santri pilgrims, which represent the motivations, sources of belief, and patterns of pilgrims' actions; and (2) the ideal of legal culture in Mount Kemukus is to perform tawaşul to Prince Samudro without performing non-marital sex rituals, and the law functions as a tool of social engineering for the benefit of society. The findings of this study suggest that in conditions of compulsion and despair, individuals seek justification for their actions even though they are against the social order. This research is useful for legal policies that regulate rituals and pilgrimages.

Keywords: Legal culture, mount kemukus, ritual, nonmarital sex, pilgrimage.

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Abstrak: Konstruksi hukum yang terdapat dalam Kitab Undang-Undang Hukum Pidana (KUHP) dan hukum Islam mengatur pelarangan hubungan seksual nonmarital, namun realitas faktual yang terjadi di Gunung Kemukus berbeda. Rumusan masalah dalam penelitian ini yakni; pertama, bagaimana pola tindakan peziarah di Gunung Kemukus?; kedua, bagaimana idealitas budaya hukum di Gunung Kemukus? Kajian ini dalam perspektif budaya hukum dan hukum Islam. Penelitian ini fieldwork study yang menggunakan pendekatan socio-legal interdisipliner. Teknik pengumpulan data melalui observasi dan wawancara guna memperoleh data primer, sedangkan studi literatur untuk mendapatkan data sekunder. Artikel ini menggunakan teori secara eklektik baik teori sosial, teori hukum maupun teori hukum Islam. Hasil penelitian ini adalah; (1) menemukan dua pola umum yakni peziarah santri dan peziarah nonsantri yang merepresentasikan motif, sumber keyakinan dan pola tindakan peziarah; (2) Idealitas budaya hukum di Gunung Kemukus adalah dengan melakukan tawaşul kepada Pangeran Samudro tanpa melakukan ritual seks nonmarital, dan hukum difungsikan as a tool of social engineering menuju kemaslahatan masyarakat. Temuan penelitian ini, dalam kondisi keterpakasaan dan keputus-asaan, individu akan mencari pembenaran atas tindakannya meski berlawanan dengan tertib hukum (social order). Penelitian ini bermanfaat dalam pembentukan legal policy yang mengatur tindakan ritual dan ziarah.

Kata Kunci: Budaya hukum, gunung kemukus, ritual, seks nonmarital, ziarah.

Introduction

The ritual on Mount Kemukus begins and is inseparable from the pilgrimage to the tomb of Prince Samudro. A pilgrimage is a common cultural or religious practice among the people of Indonesia.¹ Many pilgrims come to visit various sacred tombs,² including the tomb of Prince Samudro on Mount Kemukus, Sragen Regency, Central Java. Pilgrimage and the related ceremonies (such as sowing flowers, reciting Surah Yasin, tahlil, and praying) do not clash with Indonesian law,³ neither state nor Islamic law.⁴

¹ Pierre Fournie, "Ziarah (Pilgrimage) And The Legacy," *Peace Journeys: A New Direction In Religious Tourism And Pilgrimage Research*, 2019, p.152.

² Arnis Rachmadhani, "Role of Wali, Ancient Mosque and Sacred Tomb in and Sacred Tomb in Islam Spreading Islam Spreading Dynamics in Cikakak," *Ibda: Jurnal Kebudayaan Islam*, 14, no.2 (2016): 226-241.

³ Dale F Eickelman and James P Piscatori, *Muslim Travellers: Pilgrimage, Migration, and the Religious Imagination*, vol. 9 (Univ of California Press, 1990), p.10. See Matrokhim Matrokhim, "Islamic Education Values in Ziarah Kubur Tradition of Javanese People," *Journal of Nahdlatul Ulama Studies* 1, no. 2 (2020): 131-61, <https://doi.org/10.35672/jnus.v1i2.17>.

⁴ Abd al-Aziz bin Baz, "Ziarah Kubur: Antara Sunnah Dan Bid'ah," *Edited by Eko Haryanto Abu Ziyad. Translated by Muhammad Iqbal A. Gazali. Riyadh: Islamhouse. Com*, 2011, p.3.

The problem arises when the pilgrimage ritual at Mount Kemukus includes a ritual of non-marital sex. The phenomenon of non-marital sexual ritual on Mount Kemukus as a mythological requirement is distinct from non-marital sexual behaviors connected to infidelity or to fulfill lust.⁵ The reality on Mount Kemukus is not comparable to non-marital sexual activity in other areas, such as Gang Dolly in Surabaya,⁶ Sunan Kuning in Semarang⁷ or Alexis in Jakarta.⁸ All three locations have been closed by their respective local governments, but the problems in Mount Kemukus are far more complicated. Borrowing from Mircea Eliade's term (a religious sociologist from Romania) on sacred and profane,⁹ if Gang Dolly, Sunan Kuning, or Alexis only provide profane needs, Mount Kemukus ritual activities are both sacred and profane at the same time.

The Sragen Regency Government has actually regulated the rituals on Mount Kemukus through the issuance of regional regulations (Perda) and other legal regulations. Legal regulations have been imposed in the Gunung Kemukus region, but they have not been able to prevent extramarital sexual activity. In 2014, Ganjar Pranowo, the governor of Central Java, prohibited non-marital sexual activity on Mount Kemukus.¹⁰ In addition, the Sragen Regency Government issued Sragen Regent Circular No. 640/1140/29/2017 on September 27, 2017, prohibiting violations of moral norms in the Mount Kemukus region. Sragen Regent, Kusdinar Untung Yuni Sukowati hoped that Mount Kemukus would become a religious tourist attraction free from non-marital sexual activity,¹¹ but the reality is different. The legal ideals (das Sollen) in the Criminal Code (KUHP)¹² and Islamic law (Islamic law) also regulate the prohibition of non-marital sexual relations, but the factual reality (das Sein) that occurs in Mount Kemukus is different.

⁵ See Chris Nagel, "Sexualities: Merleau-Ponty and Foucault on the Meaning of Sex," *International Studies in Philosophy* 27, no. 1 (1995): 63–71.

⁶ Atikah Amirah, "Cultural, Social, and Economic Perspectives in Making a Criminal Policy (Dolly Prostitution)," *Women and Criminal Justice* 11, no. 4 (2000): 29–64.

⁷ S Gunawan Widiyanto, "Faktor-Faktor Yang Berhubungan Dengan Praktik Wanita Pekerja Seks (WPS) Dalam VCT Ulang Di Lokalisasi Sunan Kuning, Semarang" (Program Pasca Sarjana Universitas Diponegoro, 2008).

⁸ Rety Palupi and Jaka Atmaja, "Berita Penutupan Hotel Alexis Di Media Online," *Jurnal Komunikasi* 9, no. 1 (2018): 8–14.

⁹ See Mircea Eliade, *The Sacred and the Profane: The Nature of Religion*, vol. 81 (Houghton Mifflin Harcourt, 1959). See Daniel S Pals, "Dekonstruksi Kebenaran: Kritik 7 Teori Agama," *Yogyakarta: IRCiSoD*, 2001. p.251-255.

¹⁰ Nur Cholid and Maas Shobirin, "Impact Closure of Prostitution Guise Ritual Practice Pilgrimage in Mountain Kemukus, Sragen, Central Java," in *Proceeding Of The International Seminar and Conference on Global Issues*, 2016, p.1-7.

¹¹ "https://www.viva.co.id/Berita/Nasional/561705-Tutup-Prostitusi-Gunung-Kemukus-Ganjar-Gandeng-Bupati-Sragen," n.d.

¹² Moeljatno, *Kitab Undang-Undang Hukum Pidana* (Jakarta: PT. Bumi Aksara, 2003). See Pasal 281-298 tentang Tindak Pidana Kesusilaan dan Pasal 506 tentang Ketertiban Umum.

In Western culture, non-marital sexual activity tends not to be disputed. In Western culture, non-marital sexual practices conducted by unmarried partners, for example,¹³ are not considered taboo.¹⁴ However, in Indonesian culture, non-marital sexual behavior is treated differently. The Western conception of sexual relations cannot be compared to Indonesian culture.¹⁵

Non-marital sex rituals at Mount Kemukus have been going on for a long time now (in 2022) and are often the object of research in various scientific disciplines, both by researchers from Indonesia or from other countries, for example; Rahmi Setiawati,¹⁶ Fibri Jati Nugroho,¹⁷ Klaus Fuhrmann,¹⁸ Volker Gottowik,¹⁹ Nasri Kurnialoh and Muhammad Miftah,²⁰ Aat Hidayat,²¹ Marjianto,²² Waluyo,²³ Agus Wahyudi²⁴. The distinction between this study and previous studies is the study's focus. This investigation focuses on legal culture and Islamic law. This refers to Lawrence Friedman's theory, which characterized

¹³ See Lawrence B. Finer, "Trends in Premarital Sex in the United States, 1954–2003," *Public Health Reports* 122, no. 1 (2007): 73–78.

¹⁴ Bryan Strong, Christine DeVault, and Theodore F. Cohen, "The Marriage and Family Experience: Intimate Relationship in a Changing Society," *Canada: Wadsworth*, 2011, p. 205.

¹⁵ See Werner Menski, "The Uniform Civil Code Debate in Indian Law: New Developments and Changing Agenda," *German Law Journal* 9, no. 3 (2008): 211–50.

¹⁶ Rahmi Setiawati and Priyanto Priyanto, "Komunikasi Ritual Peziarah 'Ngalap Berkah' di Kawasan Wisata Gunung Kemukus (Studi Etnografi Komunikasi Tentang Budaya Ritual Ziarah Di Kawasan Wisata Gunung Kemukus, Desa Pendem, Kecamatan Sumber Lawang, Sragen-Jawa Tengah)," *Jurnal Vokasi Indonesia* 3, no. 2 (2016).

¹⁷ Fibri Jati Nugroho and Agung Dian Rengganis, "Mitigasi Ekologi di Obyek Wisata Religi Gunung Kemukus," *Religi: Jurnal Studi Agama-Agama* 16, no. 1 (2020): 1–17.

¹⁸ Klaus Fuhrmann, "Formen Der Javanischen Pilgerschaft Zu Heiligenschreinen," *PhD Diss., University of Freiburg. Accessed May 29 (2000): 2014.*

¹⁹ Volker Gottowik, "Pilgrims, Prostitutes, and Ritual Seks: Heterodox Ritual Practices in the Context of the Islamic Veneration of Saints in Central Java," *Bijdragen Tot de Taal-, Land- En Volkenkunde/Journal of the Humanities and Social Sciences of Southeast Asia* 174, no. 4 (2018): 393–421.

²⁰ Nasri Kurnialoh and Muhammad Miftah, "Reasoning Changes of Commercial Sex Workers in Mount Kemukus Area from Hedonistic to Religious Reasoning through Moral Education," *Attarbiyah: Journal of Islamic Culture and Education* 4, no. 2 (2019): 167–83.

²¹ Aat Hidayat, "Rekonstruksi Pendidikan Islam Dalam Perubahan Mindset Masyarakat Gunung Kemukus," *Edukasia: Jurnal Penelitian Pendidikan Islam* 13, no. 2 (2018): 413–30.

²² S. Pd. Marjianto, "Komunikasi Ritual Ngalap Berkah Pesugihan Dalam Pandangan Agama Buddha," n.d.

²³ Waluyo Waluyo, "Ritual Ngalap Berkah Gunung Kemukus Dalam Perspektif Kejawaen" (Universitas Kristen Satya Wacana (UKSW) Salatiga, 2016).

²⁴ Agus Wahyudi, "Prosperity Through Sexuality: A Study of Outdoor Sexual Intercourse as a Ritual in Kemukus Mountain Sragen Central Java," *Journal of Islamic Civilization* 1, no. 1 (2019): 30–39.

legal culture as: “By legal culture we mean the ideas, values, attitudes, and opinions people in some society hold, with regard to law and the legal system.”²⁵

Various mass media have also discussed the rituals of non-marital intercourse on Mount Kemukus. The media referred to this ritual by a variety of names, including sex tourism,²⁶ sex mountain, a sex pilgrimage,²⁷ and various other names. This demonstrates that the subject of nonmarital sex practices in Mount Kemukus has become a national and global concern, and is up to date for research.

Given the above context, this study seeks to comprehend the pattern of pilgrims' behaviors on Mount Kemukus and the ideals of its legal culture. This research is a fieldwork study using an interdisciplinary socio-legal approach with qualitative methods.²⁸ The data collection technique was through observation and interviews (in-depth interviews) with a number of involved parties, including the caretaker of Prince Samudro's tomb, the community, pilgrims, and non-marital sex workers at Mount Kemukus, as well as literature studies. Due to the sensitivity of the issue on Mount Kemukus, the names of the informants are deliberately disguised by the researchers (not their real names). Data processing techniques with four stages referring to Miles and Huberman with data collection, data presentation, data reduction, and verification were used.²⁹ Cross-checking and triangulation approaches were used to establish the validity of the research data.³⁰ The research paradigm used constructivist³¹ with emic perspective.³² This article combined social theory, legal theory, and Islamic legal theory to form an eclectic theory.

Physical and Social Spatial of Mount Kemukus

Mount Kemukus is part of a tourist attraction area recognized by the Sragen Regency Government. Its existence is recognized and legitimized through

²⁵ Lawrence M Friedman, “Is There a Modern Legal Culture?,” *Ratio Juris* 7, no. 2 (1994): 117–31.

²⁶ “<https://www.krjogja.com/Berita-Lokal/Jateng/Solo/Esek-Esek-Gunung-Kemukus-Kembali-Menggeliat/>,” n.d.

²⁷ “<https://www.tripoto.com/Indonesia/Trips/a-Sex-Pilgrimage-Exists-and-Its-Not-Your-Ideal-Religious-Trip-5c8a0d29116b5>,” n.d.

²⁸ Bernadette Atuahene, “Takings as a Sociolegal Concept: An Interdisciplinary Examination of Involuntary Property Loss,” *Annual Review of Law and Social Science* 12 (2016): 171–97.

²⁹ Matthew B Miles and A Michael Huberman, *Qualitative Data Analysis: An Expanded Sourcebook* (sage, 1994).

³⁰ See Burhan Bungin, “Penelitian Kualitatif: Komunikasi, Kebijakan Publik, Dan Ilmu Sosial Lainnya,” 2010, p.260.

³¹ See Gunther Teubner, *How the Law Thinks: Toward a Constructivist Epistemology of Law* (Routledge, 2017), p.87-113.

³² Nancy C Morey and Fred Luthans, “An Emic Perspective and Ethnoscience Methods for Organizational Research,” *Academy of Management Review* 9, no. 1 (1984): 27–36.

Regional Regulation Number 13 of 2018 concerning the Master Plan for Tourism Development of Sragen Regency for 2018-2033. The tourist area of Mount Kemukus is located in Pendem Village, Sumberlawang District, Sragen Regency. Most people in Pendem Village are farmers or fishermen in the Kedung Ombo Reservoir. In terms of economic income for villagers, Prince Samudro's tomb as a tourist destination is "seasonal" and "sideline." It is considered seasonal due to the thousands of visitors only on certain nights (Pon Friday night, Kliwon Friday, and 1 Syuro).³³ At the same time, it is considered a side job or side hustle because it is not the only way people in Pendem Village make a living.³⁴

What separates Mount Kemukus from other locations is the community's belief in the existence of the tombs of Prince Samudro and Dewi Ontrowulan, who, in Weber's terms, have "charisma" and are regarded to be cultural heroes³⁵ as well as being a "magnet" for people to make pilgrimages or perform rituals there. Human knowledge, believing that Prince Samudro is a cultural hero, is the knowledge that, according to Ibn Arabi is categorized as *burhani* knowledge (intuitive),³⁶ or knowledge beyond rational.

The pilgrims come from various regions (read: provinces). Practitioners who perform rituals on Mount Kemukus believe that Prince Samudro and Sendang Ontrowulan contribute to their well-being. From the perspective of symbolic interactionism, the relationship between Prince Samudro and the pilgrims is unequal. There are differences in characteristics between the actors involved, causing differences in expectations, interpretations, and meanings.³⁷

The Series of Ritual on Mount Kemukus

Typically, rituals on Mount Kemukus have multiple plots. In Mircea Eliade's view, ritual is a means of encounter with the sacred in which the performers feel touched by something unworldly.³⁸ The pilgrims on Mount Kemukus perform various rituals to communicate with Prince Samudro and Dewi Ontrowulan as cultural heroes. Furthermore, Eliade divides human ritual actions

³³ The Javanese tradition uses a calendar calculation of monthly cycle for 35 days which contains 7 days and *pancawara* (which later known as "*hari pasaran*") that contains 5 days. The seven days usually used are Monday, Tuesday, Wednesday, Thursday, Friday, Saturday and Sunday. While the *pancawara* or *pasaran* days are Pahing, Pon, Wage, Kliwon, Legi. See Clifford Geertz, "Agama Jawa: Abangan, Santri, Priyayi Dalam Kebudayaan Jawa, Terj.," *Aswab Mahasin Dan Bur Rausanto. Jakarta: Komunitas Bambu*, 2013, p.33. See Muhammad Sholikhin, *Misteri Bulan Suro: Perspektif Islam Jawa* (Penerbit Narasi, 2010), p.116-117.

³⁴ Ariyadi, Village Chief, Interview, 25 Agustus 2020.

³⁵ See Mudjahirin Thohir, *Orang Islam Jawa Pesisiran* (Fasindo Press, 2006), p.135.

³⁶ See William C Chittick, *The Sufi Path of Knowledge: Ibn Al-Arabi's Metaphysics of Imagination* (Suny Press, 2010), p.147-155.

³⁷ Daan and Cohen in I Gede Yoga Kharisma Pradana, "Sosiologi Pariwisata," *Stpbi Press* 1, no. 1 (2019): 1-88.

³⁸ See, Aning Ayu Kusumawati, "Nyadran Sebagai Realitas Yang Sakral: Perspektif Mircea Eliade," *Jurnal Bahasa, Peradaban Dan Informasi Islam* 14, no. 1 (2013): 145-160.

into two dimensions: sacred and profane. The sacred is a supernatural dimension that has profound significance for the performer and is difficult to forget. All order and perfection are believed to reside in the spirits of the ancestors (*hierophany*), the gods, or the *coincidentia oppositorum* in the sacred domain (the Divine).³⁹ Meanwhile, the profane (*pseudoreal*) is a space of daily life carried out regularly and is mundane. Typical actions of those who execute the rituals on Mount Kemukus include;

First, washing their body parts in Sendang Ontrowulan. The pilgrims believe this action is a "traceback" of the journey of Dewi Ontrowulan (Prince Samudro's stepmother) before making a pilgrimage to Prince Samudro's grave on the peak of Mount Kemukus. Dewi Ontrowulan then *moksha* and is believed to be able to unite with Prince Samudro who died first.⁴⁰ The concept of *moksha* is interpreted as an endeavour to liberate oneself from the realm of the profane and enter the realm of eternal (*hierophany*).⁴¹ In this case, the realm of eternity lies between Prince Samudro and Dewi Ontrowulan. Therefore, cleaning body parts in Sendang Ontrowulan is a prerequisite in mythology for communicating with Prince Samudro.

Second, making a pilgrimage to Sendang Ontrowulan. The purpose of this ritual is to pray for Dewi Ontrowulan and request her "blessing". The blessing or approval of Dewi Ontrowulan is believed to be one of the conditions for getting the blessing of Prince Samudro. An asymmetric relationship occurs between the pilgrim, Dewi Ontrowulan and Prince Samudro. The analogy is similar to the "love triangle" relationship between Muslims, the Prophet Muhammad, and Allah SWT, a love triangle relationship manifested in *shalawat* to the Prophet Muhammad.⁴²

Third, a pilgrimage to the tomb of Prince Samudro. The Prince Samudro *Maqbaroh* (tomb) has a pair of tombstones. It is a symbolic reality which, in Eliade's perspective, is a symbolism of *hierophany* in an object that is both amazing and sacred or sanctified by the pilgrims (guests) and the community (hosts) on Mount Kemukus. In Eliade's perspective, Prince Samudro *Maqbaroh* is a "sacred modality".⁴³

Fourth, the *slametan* ritual (communal feast). The *slametan* ritual is an act performed by some pilgrims on Mount Kemukus. *Slametan* consists of three things: first, for pilgrims whose wishes have been granted (*kabul ajate*), the *slametan* functions as gratitude (*tahadus bi ni'mah*) or gratitude to Prince

³⁹ Fransiskus Guna, "Coincidentia Oppositorum: Tafsiran Eliade Atas Cusanus," *Limen* 16, no. 1, Oktober (2019): 3–24.

⁴⁰ Supardi (The Caretaker of Sendang Ontrowulan), "Interview, Agustus 2020."

⁴¹ See Putu Budiadnya, "Makna Relief Tapal Kuda Pada Candi Sukuh Dalam Perspektif Pendidikan Agama Hindu," *Widya Aksara* 25, no. 1 (2020): 118–29.

⁴² See Al Quran, *Al Ahzab*, 56, n.d.

⁴³ See, Aning Ayu Kusumawati, ...p.145-160.

Samudro; second, for pilgrims who want their wishes to be granted immediately, the *slametan* serves as a medium for "spiritual negotiations" with Prince Samudro; and third, the *slametan* functions as a blessing for other pilgrims who can also enjoy the *slametan* dish.⁴⁴

Fifth, non-marital sex rituals. Some pilgrims believe that non-marital sex rituals are a mythological instrumental requirement and must be performed for those who want their expectations to be granted. Based on the results of this study, not all pilgrims engage non-marital sexual activity.

The pilgrims' knowledge about the rituals on Mount Kemukus is obtained from three different sources. *First*, it comes from the success stories of previous pilgrims who became actors based on models. According to Winfred Hill, humans tend to be influenced by others, therefore they attempt to emulate what they observe (primary reinforcement).⁴⁵ This Actor based model may be parents, neighbours, friends, spiritual teachers or shamans who have previously visited Mount Kemukus and believe that the source of their material success comes from the ritual;⁴⁶ *second*, the caretaker who becomes the director and the main reference source for pilgrims, so that all series of ritual actions refer to what the caretaker says;⁴⁷ *third*, the media, both printed newspapers and social media.⁴⁸

In "*the unit act*," Talcott Parsons states that action is a single social action. Each action responds to some previous action (stimulus), and it drives further actions. "*The unit act*" in Parsons' view consists of four elements; (1) *the actor*; (2) *an end (goal)*; (3) *the situation*, which consists of *the condition of action* and *the means of condition*; (4) *norms*.⁴⁹

In understanding the typology of pilgrims or ritual performers on Mount Kemukus, the theoretical analysis design in the following discussion, the researchers divided into two categories of actors, which are *santri* rituals and non-*santri* rituals, that represent actors, an end (goal), situational conditions, and norms believed by each category. This categorical design is also inspired by the analytical model created by Clifford Geertz, which distinguishes Javanese society

⁴⁴ Supardi (Caretaker of Sendang Ontrowulan), "Interview, Agustus 2020."

⁴⁵ Winfred F Hill, "Learning Theory and the Acquisition of Values.," *Psychological Review* 67, no. 5 (1960), p.317-331.

⁴⁶ The results of interview with several pilgrims named Eko from Magetan, who claimed to have made a pilgrimage to Gunung Kemukus because of the encouragement of his spiritual teacher, Reni from Bandung who received a message from his parents that if her merchandise was not sold well, she should make a pilgrimage to Gunung Kemukus and Fajar from Semarang Regency, he was invited by his neighbor.

⁴⁷ The results of interview with some pilgrimage named Desi from Kediri, Neneng from Bandung, Yudi and Pratiwi from Indramayu.

⁴⁸ Results of interviews with Fathur a pilgrim from Ungaran, Bagong a pilgrim from Magelang, Hendi from Banten.

⁴⁹ Chantal Thomas, "Max Weber, Talcott Parsons and the Sociology of Legal Reform: A Reassessment with Implications for Law and Development," *Minn. J. Int'l L.* 15 (2006): 383.

at three loci of study; locus rice fields, which are identified with "*orang abangan*", the market locus is identified with "*santri*", and the office or government locus, which is identified with "*priyayi*".⁵⁰

Santri Ritual

Santri pilgrims base their pilgrimage intentions or motives on the spiritual dimension. In the Theory of Reasoned Action developed by Fishbein and Ajzen, it is explained that behavioral practice is determined by behavioral intention. Pilgrims with spiritual motives have an understanding (means) of something metaphysical, transcendental, and believed to affect their lives. This knowledge by Seyyed Hossein Nasr is called sacred knowledge (*scientia sacra*).⁵¹

The pilgrimage to Prince Samudro's tomb for *santri* pilgrims comes from sacred knowledge based on spiritual intentions or motives, which are also regarded to be sacred. An end (goal) for *santri* pilgrims is to attain inner serenity and goodness (blessings) in life.⁵² *Santri* pilgrims often make pilgrimages to sacred tombs believed to have *karāmah* (noble). According to the reasoned action theory perspective, the encouragement of *santri* pilgrims to visit the *waliyullāh* tomb is based on three factors; (1) starting from important information to make a pilgrimage to the graves of the *wali* (behavioural beliefs); (2) the *santri* community often does pilgrimage rituals at the grave (normative beliefs); and (3) the *santri* community has financial resources (control beliefs).⁵³ So, the tomb of Prince Samudro is not the only tomb visited by *santri* pilgrims.

In general, pilgrims with spiritual motives are usually those with *santri* background. *Santri* in this context refers not only to students who have received religious education in Islamic boarding schools, as described by Zamakhsyari Dhofier,⁵⁴ but also to people who believe that religious norms, legal norms, and moral norms serve as guidelines for how to behave or act. *Santri* pilgrims believe that pilgrimage or ritual at the tomb of someone close to God (*waliyullah*) is a form of spiritual practice. This practice needs to be carried out as part of an effort to *taqarub* (get closer to God), so the action is believed (means) based on sacred and divine knowledge. Seyyed Hossein Nasr called it

⁵⁰ Geertz, "Agama Jawa: Abangan, Santri, Priyayi Dalam Kebudayaan Jawa, Terj."

⁵¹ Asfa Widiyanto, "Traditional Science and Scientia Sacra: Origin and Dimensions of Seyyed Hossein Nasr's Concept of Science," *Intellectual Discourse* 25, no. 1 (2017): 247–72.

⁵² Fathur (Pilgrims from Ungaran), "Interview, Maret 2020." Furthermore, Fathur explained about his background, that he had studied at a boarding school in Pacitan Regency, East Java from 1994 to 2000.

⁵³ See Fishbein, "Leek Ajzen. 2010. Predicting and Changing Behavior: The Reasoned Action Approach, p.23."

⁵⁴ See Zamakhsyari Dhofier, *Tradisi Pesantren: Studi Pandangan Hidup Kyai Dan Visinya Mengenai Masa Depan Indonesia* (LP3ES, 2011).

sacred knowledge or *al-hikmah al-khalidiyah* (eternal wisdom) in Al-Ghazali's terminology.⁵⁵

The study of *scientia sacra* by Seyyed Hossein Nasr places spirituality higher than religion. According to Nasr, spirituality is esoteric, inclusive, and unifying, whereas religion is exoteric, exclusive, and conceive to differentiate. Spirituality is more universal than religious institutions. Therefore, spiritual motives on Mount Kemukus are not only carried out by devout Muslims but also by people of other religions or people who have a tradition of spiritual beliefs according to their religion.⁵⁶ It is what the researchers found from several pilgrims who adhere to the teachings of Kejawen. The believers of Kejawen teachings claimed that they are not devout Muslims because they rarely perform Islamic religious rituals. However, they believe that one of the ways (means) to get closer to God is through "*laku batin*" (asceticism), by visiting the *pesareyan* (tomb) of Prince Samudro to get a *sawab berkah* (good deeds).

The Kejawen believers' teachings said they are embracing the understanding and teachings (norms) of *ngelmu Jawa* (Kejawen). They admitted that they do not have non-marital sexual relations on Mount Kemukus because it is considered *sesirik* (an act that must be prevented). Furthermore, the Kejawen pilgrim said that there are five *sesirik* in life which are known as "*mo limo*"; *main* (gambling), *mendem* (drinking intoxicating liquor), *medok* (having non-marital sexual relations), *madat* (consuming opium or addictive substances) and *maling* (stealing).⁵⁷

The term "*mo limo*" mentioned by the Kejawen pilgrim as *sesirik*, when viewed from the perspective of *maqasidus sharia* contains the same universality values because *mendem* and *madat* are actions that are contrary to the concept of *hifdz al nafs wa hifdz al aql* (maintaining the body and mind). *Main* and *maling* are opposite to *hifdz al mal* (maintaining the property), while *madon* is against to *hifdz al nasb* (maintaining lineage).⁵⁸ In this dimension, *scientia sacra* meets the philosophical tradition of Javanese cosmology and the universality of Islamic teachings. So, *santri* pilgrims place spiritual motives and sources of religious belief (sacred knowledge) in their pilgrimage at Prince Samudro's tomb by not performing non-marital sex rituals.

⁵⁵ Ahmad Zaini, "Pemikiran Tasawuf Imam Al-Ghazali," *Esoterik: Jurnal Akhlak Dan Tasawuf* 2, no. 1 (2016): 146-159.

⁵⁶ The word 'religion' here is defined as behavioral manifestation contained in a belief system. According to Koentjaraningrat, religion itself is part of culture. Each religion is a system which consists of four components; (1) religiosity emotion; (2) belief system; (3) ritual and ceremonial systems; (4) folks or social unity. These four components are interconnected with one another that become one integrated system. See Koentjaraningrat. 1985. *Culture, Mentality and Development*. Jakarta: Gramedia Publisher, p.144-147.

⁵⁷ Slamet (Kejawen Pilgrim), "Interview, September 2020."

⁵⁸ Abdul Karim Zaidan, "Al-Wajiz Fi Ushul Al-Fiqh," *Beirut: Muassasah Al-Risalah*, 1998, p.379-382.

Non-santri Ritual

The myth believed by non-santri pilgrims is that there is a *dawuh* (words) from Prince Samudro saying, "*sapa wong kang gelem, ziarah marang aku kayadene, menyang demenane, mangka bakal tak ijabah apa sing dadi penyuwune*",⁵⁹ (who is willing to make a pilgrimage to me like when meeting his lover then I will grant his request). The word "*demenan*" which is part of the mythical text of Prince Samudro's *dawuh* developed into a story (folklore)⁶⁰ interpreted in various ways by the pilgrims.⁶¹ According to Roland Barthes, a text or symbol has two meanings, denotative and connotative.⁶² *Demenan* can be interpreted in many ways, depending on the understanding of the pilgrims or performers of the ritual itself. The text "*demenan*" is interpreted by some pilgrims as performing sexual rituals with non-official partners (lawful wife/husband) 7 (seven) times for 7 (seven) eight (months in the Javanese calendar)⁶³ There is also a belief that to get *pesugihan* on Mount Kemukus, no sacrifice is required as is the case in other *pesugihan* places.⁶⁴

Non-santri pilgrims believe that Prince Samudro is a figure with magical powers who may assist them escaping the difficulties in their life (a cultural hero). In order to get help by Prince Samudro, non-santri pilgrims perform various rituals, including non-marital sex rituals. According to the understanding (*verstehen*) of non-santri pilgrims, the conditions for performing nonmarital sex rituals on Mount Kemukus are seven times the period of pilgrimage, which is every Pon Friday night or Kliwon Friday night.⁶⁵ Pilgrims believe that Friday Pon night is the day Prince Samudro passed away (*geblak*), while Friday Kliwon night is the seventh day of commemoration of *mitong dino* (seven days) of Prince Samudro's death. Therefore, pilgrims believe these are auspicious days to perform rituals on Mount Kemukus, where Prince Samudro is believed to give greater blessings.

For non-santri pilgrims, the intended ritual includes having non-marital sex in the Mount Kemukus area. Non-santri pilgrims believe this is done to fulfil

⁵⁹ Mbah Mugi (Caretaker of Prince Samudro Tomb), "Interview, Agustus 2020."

⁶⁰ See J Danandjaja, "Folklor Indonesia. Jakarta: Pustaka Utama Grafiti," 2007.

⁶¹ See Rahmi Setiawati and Priyanto, "Komunikasi Ritual Peziarah 'Ngalap Berkah' di Kawasan Wisata Gunung Kemukus (Studi Etnografi Komunikasi Tentang Budaya Ritual Ziarah Di Kawasan Wisata Gunung Kemukus, Desa Pendem, Kecamatan Sumber Lawang, Sragen-Jawa Tengah)."

⁶² Marcel Danesi, "Messages, Signs, and Meaning: A Basic Textbook in Semiotics and Communication Theory Atau Pesan, Tanda, Dan Makna: Buku Teks Dasar Mengenai Semiotika Dan Teori Komunikasi, Terjemahan Evi Setyarini Dan Lusi Lian Piantari (2004)," Penerbit Jalasutra, Yogyakarta, 2010, p.441.

⁶³ Desti Widiani and Jiyanto Jiyanto, "Rekonstruksi Kisah Pangeran Samudro: Di Tengah Mitos Ritual Seks Gunung Kemukus, Sumber Lawang, Sragen," *Jurnal Lektur Keagamaan* 17, no. 1 (2019): 77–98.

⁶⁴ Yudi and Pratiwi (Pilgrim from Indramayu), "Interview, September 2020."

⁶⁵ Hendi (Pilgrim from Banten), "Interview, February 2020."

the *dawuh* of Prince Samudro. The number seven is used because the meaning of the number seven in Javanese is *pitu*. *Pitu* is interpreted as *pitulungan* (help) that Prince Samudro will give to pilgrims. The same thing was conveyed by the informants, based on some experience that the number of rituals as much as seven times gave results or fulfilled the pilgrim's desire to become rich (*sugih*). It means non-*santri* pilgrims' motive is to gain economic benefits from ritual on Mount Kemukus.

This desire to be wealthy is due to various reasons, including being in debt, poverty, and poor business performance.⁶⁶ The poverty of pilgrims in this category causes them humiliation or decreased social status. For non-*santri* pilgrims, wealth is a symbol of social prestige. It indicate that this type of pilgrims are psychologically under economic and social pressure. Therefore, they tend to follow the cultural pattern of permissiveness, the most important thing being that they can get out of economic and social pressures immediately.⁶⁷

Non-*santri* pilgrims consider non-marital sexual relations as an instrumental ritual (*wasilah*) towards success in life (*ghoyah*) in the form of *pesugihan* (economic wealth). This *pesugihan* in Talcott Parsons' terms is referred to as the goal of an action, understanding (means) and the situational condition of the performer (actor). Borrowing Karl Marx's term, the nonmarital sex ritual at Mount Kemukus is a "class struggle" from "*proletary*" to "*bourgeoisie*" through beyond rational means.⁶⁸

Non-*santri* pilgrims believe that after the ritual is performed perfectly (including non-marital sex rituals), both the ritual partner or one of them will become rich. If both of them become rich, they will host a *slametan* or ceremonial feast and help others in need. Meanwhile, if only one partner becomes rich, then the rich provide assistance to their partner who happens to be poor. If it is a male partner who happens to be rich, then he must help his female partner and vice versa. If couples who become rich do not assist people in need or their ritual partner, it is believed that the person will be poor again. It can happen in various ways. It could be that their business goes bankrupt, their house burns down, their family experiences an acute illness, or other unfortunate events. When that happens, the pilgrim is required to repeat the ritual from the beginning. Getting back into poverty again is believed to be a punishment from Prince Samudro. According to the basic assumption of Homans' exchange theory, people engage

⁶⁶ The results of interview with some nonsantri pilgrims.

⁶⁷ See Agus Maladi Irianto, *Interaksionisme Simbolik. Pendekatan Antropologis Merespons Fenomena Keseharian*. (Gigih Pustaka Mandiri, 2015), p.52.

⁶⁸ See Indriaty Ismail and Yusri Mohamad Ramli, "Karl Marx Dan Konsep Perjuangan Kelas Sosial (Karl Marx and the Concept of Social Class Struggle)," *International Journal of Islamic Thought* 1 (2012): 27–33.

in actions to obtain rewards and avoid punishment.⁶⁹ This can explain the phenomenon that there is a belief in avoiding Prince Samudro's *sambikala* (punishment) and a myth to perpetuate nonmarital sex rituals on Mount Kemukus.

The Ideals of Islamic Law and Legal Culture on Mount Kemukus

Law is present for *li maslahat al ummah*, or simply interpreted as the law exists for the benefit and well-being of humanity.⁷⁰ It is crucial to examine the law by not placing it as a material -in the language of the *ulumul Qur'an-* "*qoth'i*" (taken for granted), which is isolated from culture (thinking systems, knowledge systems) and its relations with society.⁷¹ Law is closely related to culture. The rule of Islamic law states, *al-ādah muhakkamah*, (customs, traditions or culture can be transformed into law).⁷² The relationship between law and culture stated by Roger Cotterrell "*Law sometimes appearing to be dependent on culture, sometimes dominating and controlling it; sometimes ignoring it; sometimes promoting or protecting it; sometimes expressing it; sometimes expressed by it.*"⁷³ The same thing was stated by Lawrence Friedman, who described legal culture as the ideas, values, attitudes, and opinions held by people in society concerning law and the legal system.⁷⁴

According to the statement of Cotterrell and Friedman, it can be understood that the relationship between law and culture cannot be separated. Sometimes the law depends on the culture, dominates and controls it, sometimes ignores it, develops or protects it, or even reflects and reinforces the existing culture completely.⁷⁵ Understanding what happened on Mount Kemukus should be viewed from a "wise" perspective according to the original term of the law itself, "*al-hukmu*". The presence of the law on Mount Kemukus cannot be applied in a positivistic normative manner by labeling it wrong, *haram* (forbidden), sinful, heretical, superstitious or polytheistic for non-marital sex rituals on Mount Kemukus.

⁶⁹ Margaret M Poloma, "Sosiologi Kontemporer: PT Raja Grafindo Persada," *Prasad, Mousami, et Al.* (2019). *Corporate Social Responsibility and Environmental Sustainability: Evidence from India Using Energy Intensity as an Indicator of Environmental Sustainability. IIMB Management Review* 31 (2007): 374–84.

⁷⁰ See, Jaseer Audah. *al-Ijtihad al-Maqashidi*. al-Syabkah al-Arabiyah li al Abhas. (2011), p.17.

⁷¹ Sulistyowati Irianto Shidarta, *Metode Penelitian Hukum: Konstelasi Dan Refleksi* (Jakarta: Yayasan Pustaka Obor, 2017), p.177.

⁷² Bodei Andullah Beni Ahmad Saebani, *Perbandingan Kaidah Fiqhiyyah* (Bandung: Pustaka Setia, 2018), p.162.

⁷³ Roger Cotterrell, "Law in Culture," *Ratio Juris* 17, no. 1 (2004): 1–14.

⁷⁴ Lawrence Meir Friedman, *The Republic of Choice: Law, Authority, and Culture* (Harvard University Press, 1990), p.4. See Friedman, "Is There a Modern Legal Culture?"

⁷⁵ See Endang Sutrisno, "Pemaknaan Budaya Hukum: Menggagas Kesejahteraan Masyarakat," *Penerbit in Media, Bogor*, 2019, p.26-27.

As previously explained, people performing non-marital sex rituals at Mount Kemukus are generally driven by the need to fulfill their daily needs and get out of difficulties. Non-marital sex rituals are considered a mythological requirement (instrument) to communicate with Prince Samudro and fulfill his *dawuh*. It means that the performers of non-marital sex rituals in Mount Kemukus are people experiencing economic pressure and wanting to have a prosperous life. They are in poor living conditions. The hadith of the Prophet Muhammad SAW states, *kādal faqru anyakūna kufron*,⁷⁶ poverty is vulnerable to *kufir*. This is where the role of law is needed in promoting human dignity.

The legal phenomenon occurring on Mount Kemukus cannot be judged as criminal behaviour or a "social disease" *an sich*. Moreover, there are many social aspects that need to be unravelled. Law enforcement can not suddenly close the area. The closure of the Mount Kemukus tourist attraction actually has a worse impact on the welfare of the community. The natural beauty of Mount Kemukus along with the sacred space (*hierophany*) of Prince Samudro's tomb as a potential tourist destination and cultural heritage site, needs to be preserved. In the *qaidah fiqhiyyah* it is stated, *mā lā yudraku kulluh, lā yutraku kulluh* (something that cannot be obtained entirely, do not leave it entirely).

The local government of Sragen Regency must come up with a suitable and prudent solution (*al hukmu*). Mount Kemukus's challenges must be resolved in a manner that benefits all involved parties. In the study of Islamic law, there are *qaidah fiqhiyyah*, *tashoruful imam 'ala roiyah manutun bi al maslahah*. It means that the leader's policy towards his people should be based on their benefit.⁷⁷ Therefore, the policy made by Sragen Regency Government must at least contain two dimensions, the community welfare dimension, and the legal dimension. In order to meet their demands, people must have access to a good education and appropriate employment possibilities. As noted by Lawrence Friedman, the legal component entails enhancing both the legal culture of the apparatus (internal legal culture) and the legal culture of the community (external legal culture).⁷⁸

Law should be able to ensure social justice and welfare for all human beings. The law itself, as said by Cicero, *salus populi suprema lex*, is to provide welfare to the community is the highest law.⁷⁹ The law itself, as said by Cicero, *salus populi suprema lex*, is to provide welfare to the community is the highest law. The law should provide economic justice to every human in society,

⁷⁶ Abdurrauf al-Ma'nawi. *Faidhul Qodir Syarh al-Jami' as-Shoghir*. Maktabah Syamilah, Juz 4. n.d. p. 409.

⁷⁷ As-Syafi'i, A. sayid A. B. al A. A. Y. *Al Faraidul Bahiyyah fil Qowaidil Fiqhi*. Ploso, Kediri: Al Ma'had wal Madrasah Al Islamiyah Assalafi, (1412 H). p.39.

⁷⁸ Lawrence Friedman, *The Legal System; Social Science Perspective* (New York: Russle Sage Foundation, 1975), p.15.

⁷⁹ Colin Murray, "Salus Populi Suprema Lex: The Development of National Security Jurisprudence Prior to the First World War" (Durham University, 2006).

including the actors in Mount Kemukus. In John Rawls' terms, justice is both an original position and a veil of ignorance. According to Rawls, the priority of justice is prioritized for the oppressed or weak (marginal society / *mustadzafin*), such as the community and ritual performers on Mount Kemukus. Satjipto Rahardjo said the same thing that the presence of law is to find solutions to human problems. Therefore, the state's role through law is essential for creating a sense of community justice, benefit,⁸⁰ and increasing social welfare.⁸¹

Efforts to improve the welfare of pilgrims and the people in the Mount Kemukus area in constructing a progressive legal theory by Satjipto Rahardjo can be achieved with the following concrete things offered for this research; *first*, pro-people and pro-justice laws. It can be understood that the state must produce legal regulations with massive socialization to increase visitors to Mount Kemukus significantly. That way, the community can benefit from many guests who visit; *second*, improving welfare (life) as a good legal basis. This good legal basis can be interpreted with legal authority for the community to obey; *third*, responsive law, legally, in Mount Kemukus case, the concern is not only about how severe the sanctions are but also about the solution to problems of security, order, and public welfare; *fourth*, law with conscience, means that the legal culture, both internal (internal legal culture) and external (external legal culture) strives to comply with legal rules that are applied to the conscience of each person, not based on compulsion; *fifth*, laws with spiritual intelligence, it can be interpreted as human actions that are in line with moral, religious and customary norms so that lawful behaviour is formed. In this context, *santri* pilgrims have spiritual intelligence in carrying out rituals on Mount Kemukus by not having nonmarital sexual relations. Their ritual is *tawasul* to Prince Samudro as a figure who is believed to be *waliyullah* in order to get closer to God Almighty.⁸²

Based on these five things, the law can be used as a social engineering tool as Rescoe Pound said.⁸³ The law can indeed function as a tool (regulator) or a means of renewal in channeling the direction of human actions to the direction desired by the renewal itself.⁸⁴ The law should accommodate aspects of the

⁸⁰ See Helmi Basri and Hidayatullah Ismail, "Teori Ma'âlât Al-Af'âl Dalam Maqâshid Syar'ah Dan Aplikasinya Pada Permasalahan Fiqih Kontemporer," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 19, no. 2 (2019): 205–21, <https://doi.org/10.18326/ijtihad.v19i2.205-221>.

⁸¹ Staffan Kumlin, "The Welfare State: Values, Policy Preferences, and Performance Evaluations," *The Oxford Handbook of Political Behavior*, no. June 2018 (2009): 1–27, <https://doi.org/10.1093/oxfordhb/9780199270125.003.0019>.

⁸² See Satjipto Rahardjo, *Hukum Progresif: Sebuah Sintesa Hukum Indonesia* (Genta Pub., 2009).

⁸³ See Lee W Potts, "Law as a Tool of Social Engineering: The Case of the Republic of South Africa," *BC Int'l Comp. & L. Rev.* 5 (1982): 1-11.

⁸⁴ Arief Sidharta and Lili Rasjidi, "Filsafat Hukum Mazhab Dan Refleksinya," *Bandung: Remaja Rosda Karya*, 1994, p.104.

welfare of human life, in this case, the people of Mount Kemukus. Therefore, good things that existed for the people of Mount Kemukus can be maintained without neglecting innovations that also have implications for the community's welfare. In Islamic law, this perspective is in line with the *qaidah fiqhiyyah, al-muhāfadzotu alā qodimissholih wa al akhdzū bi al jadīdi al ashlāh*, maintaining good old traditions and opening up space for good reforms as well.

The concept of welfare of life in the study of *maqasid sharia* contains at least five elements (*al ushul al khamsah*), maintaining the religion or belief of each individual and getting the freedom to perform it (*hifdz al din*), maintaining the soul and body to get self-safety (*hifdz al nafs*), secure property ownership (*hifdz al mal*), security in freedom of thought, opinion and education (*hifdz al aql*) and maintaining security and peace in obtaining offspring through marriage (*hifdz al nasb*),⁸⁵ not by having non-marital sexual intercourse either in the context of ritual or out of lust.

Conclusion

Motives, sources of belief, and patterns of action of ritual performers on Mount Kemukus based on the theory of the units of voluntary action by Talcott Parsons, the pilgrim actor on Mount Kemukus is divided into two categories; santri and non-santri pilgrims, who represent the goals, norms, situational conditions, and means of each of the two. The *santri* pilgrims base their motives on spiritual intentions that are believed to be sacred (transcendental qualities). The goal of *santri* pilgrims is to get inner peace and goodness (blessings) in life. Non-*santri* pilgrims are motivated to get economic benefits from rituals on Mount Kemukus. The goal is to become rich through *pesugihan*. So, the people who perform nonmarital sex rituals in Mount Kemukus are experiencing economic and psychological pressure.

The ideal legal culture in Gunung Kemukus will take time to involve various parties. Legal culture's ideal can be realized by instilling ideal values in pilgrimage and marriage, as well as ideal values on how to fulfill the welfare. The law should function as a tool of social engineering towards the benefit of society by providing economic justice. The priority of justice, in John Rawls's view, is more for the oppressed or weak (marginal society/ *mustadzafien*) such as the community and the actors of non-marital sex rituals on Mount Kemukus. The novelty of this research is that the higher the individual's economic and psychological pressure on the reality they face, the more likely they will lead to the expected expectations with various actions. In conditions of compulsion and despair, individuals look for justification for their actions even though they are against the legal order (social order).

⁸⁵ See Ilyya Muhsin, Sukron Ma'Mun, and Wardah Nuroniyah, "Sexual Violence in an Islamic Higher Education Institution of Indonesian: A Maqasid Al-Shariah and Foucauldian Perspective," *Samarah* 5, no. 1 (2021): 127–53, <https://doi.org/10.22373/sjhc.v5i1.9144>.

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