

Dayak Ngaju Customary Law's Criminal Sanctions Against Perpetrators of Adultery in Palangka Raya

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Abstract

Law in each society has its own style and nature. Customary law is a law that always grows out of a real need for life and a way of life in society, as a whole is the culture of the community where the customary law applies. If customary law is violated, sanctions will be imposed. Customary law in Palangka Raya against the perpetrators of the crime of adultery will receive punishment in the form of sanctions, namely by paying singer or jipen fines to settle peace in the Dayak Ngaju custom. Based on the facts in the field, if a criminal act of adultery is committed by a wife with an unmarried man against her husband, it certainly raises questions about the authority of Damang as the Dayak Customary Chief so that it can be known and understood that what are the legal actions in the settlement of adultery committed by the perpetrator.

Keywords: *Sanctions, Customary Crime, Dayak Ngaju, Adultery, Kedamangan Jekan Raya.*

Abstract

Hukum di dalam tiap masyarakat mempunyai corak dan sifatnya sendiri. Hukum adat adalah hukum yang senantiasa tumbuh dari sesuatu kebutuhan hidup yang nyata dan cara hidup bermasyarakat, yang keseluruhannya merupakan kebudayaan masyarakat tempat hukum adat itu berlaku. Hukum adat apabila dilanggar tentu akan dikenakan sanksi. Hukum adat di Palangka Raya terhadap pelaku tindak pidana perzinahan akan mendapat hukuman berupa sanksi, yaitu dengan membayar denda singer atau jipen guna menyelesaikan perdamaian secara adat Dayak Ngaju. Berdasarkan fakta dilapangan, apabila dilakukannya suatu tindak pidana perzinahan oleh istri dengan lelaki yang belum menikah terhadap suaminya tentunya menimbulkan pertanyaan-pertanyaan mengenai kewenangan Damang sebagai Ketua Adat Dayak sehingga dapat diketahui dan dipahami bahwa apa saja perbuatan hukum dalam penyelesaian perzinahan yang dilakukan oleh pelaku tersebut.

Kata Kunci: *Sanksi, Pidana Adat, Dayak Ngaju, Perzinahan, Kedamangan Jekan Raya.*



INTRODUCTION

The marriage customs of the Dayak Ngaju indigenous people possess distinct characteristics in comparison to other indigenous groups in Indonesia. A notable characteristic of matrimonial traditions is the implementation of marriage contracts. The traditional marriage of the Dayak Ngaju indigenous community is regarded as a profoundly sacred and significant process. The marriage contract came from Ranying, regarded as sacred and hallowed. The sanctity of marriage is manifest not only in the accompanying ceremonies and rituals but also in the repercussions that ensue from the breach of the marital contract. Transgressions of marital commitments, including infidelity or other activities that contravene customary norms, will incur stringent customary penalties. This censure functions both as a punitive measure and as a reminder of the significance of upholding the sanctity and honor of marriage within the Dayak Ngaju community. This method embodies the esteemed ideals maintained by the community, guaranteeing that each member comprehends and honors the importance of a sacred marital contract (Pratiwi et al., 2019).

The marriage agreement in Dayak customs serves as an important foundation to guarantee property rights in marriage. In this agreement, the identities of the bride and groom are clearly recorded, and provisions regarding fines or customary sanctions to be imposed on the party at fault and causing the divorce are also included. The agreement not only regulates the division of property but also acts as a mechanism for protection and conflict resolution in case of disputes in the marriage. This provision ensures that parties who violate norms and customary regulations will receive appropriate consequences, as well as provide justice and legal certainty for both parties. The meaning of the customary sanction clause in the marriage agreement is that the customary sanction in this marriage agreement is expected to make it difficult and cause the married couple to think twice before getting a divorce. This freedom is an implementation of Article 1338 of the Indonesian Civil Code (Fatnan, 2020).

Article 1338 of the Indonesian Civil Code (KUHPperdata) states that agreements made by the parties must meet three conditions to be valid, namely the agreement of the parties, the capacity to make an agreement, and a lawful object. This means that for an agreement to be valid under the KUHPperdata, there must be a clear agreement between the parties involved, the parties must have legal capacity or the ability to make an agreement, and the object of the agreement must be legally permissible. This article establishes an important legal basis in ensuring the validity and legal strength of every agreement made in Indonesia (Lie et al., 2023).

However, the freedom to make such agreements must not violate or be contrary to good morals (*tata Susila*), public order (*ketertiban umum*), and must not contradict the fundamental principles of marriage law. This is in line with the regulations in Indonesia that make it difficult for divorces to occur. Customary Marriage Law in Indonesia exists among customary law communities to regulate marriages, including divorce and its consequences,

marriage requirements, and others. Customary Marriage Law in Indonesia varies according to the numerous ethnic groups that make up the Indonesian population. Divorce viewed through Customary Law is considered an extraordinary event for both the parties involved and others. The existence of sanctions or what is called a singer given in the resolution of divorce cases according to Dayak customary law (Achmad Ali & Wiwie Haryani, 2014).

The application for divorce within the Dayak Indigenous society is typically a measure implemented to reestablish equilibrium disrupted by transgressions occurring within the marriage, resulting in divorce. The enforcement of customary sanctions in marriage and divorce cases is conducted by the Customary Mantir, as stipulated in the Central Kalimantan Provincial Regulation No. 1 of 2020, which amends Provincial Regulation No. 16 of 2008 regarding Customary Institutions in Central Kalimantan Province. Chapter X, Article 27, paragraph (1) states: "Customary disputes submitted to the Customary Council Mantir/Customary Peace Settlement, whether at the Village/Sub-district level or at the District level, must be accepted, processed, and assist the Damang Head of Custom in enforcing Dayak customary law in their area." Support the Damang Head of Custom in implementing Dayak customary law within their jurisdiction (Aziz, 2013).

Divorce is a legal procedure that terminates the marital union of spouses. This is regarded as a final measure to overcome incompatibility or unsolved matters inside the household. This process entails a resolution that is formal and valid in accordance with the religious, legal, and customary regulations pertinent to each society. Divorce enables couples to pursue their lives as they see fit, while adhering to the established procedures and societal conventions of their community (Hamid, 2018).

According to Indonesian law, divorce is a cause for the breakdown of marriage ties, alongside other causes such as death and/or judicial orders, as articulated in Article 38 of Law Number 1 of 1974 about Marriage. Divorce may be executed and determined if there are justifiable grounds, including those from the husband's perspective. During legal processes in either Religious Courts or General Courts, it is strongly advised that both the plaintiff and the respondent retain legal counsel (Maulana, 2018).

Based on research conducted in the field, a case of adultery was found in the city of Palangka Raya, where A is the husband of B and they have two children. B, his wife, was taken away by C along with their children and has been living together for approximately 3 months. Then B became pregnant with C's child. Because of this, A filed for divorce from B on the grounds of incompatibility, lack of harmony in the household, frequent quarrels, and causing family disgrace, leading to the dissolution of the marriage due to adultery (Muhaimin et al., 2021). Based on the decision of the Dayak Ngaju customary law, it has been determined that the child from the marriage between A and B will be granted custody to B, while both A and B will be given the responsibility for the child's growth and development until the child reaches adulthood and independence. Then, A, who is the first party, sued C according to customary law, because he had eloped with B and her child from

their home. A gives a period or a term of 3 days, and if the second party does not comply or pay the customary fine that has been determined, then A will report C to the authorities to be processed according to state law (Hidakusuma, 2003). In the divorce process, A and B are carried out according to Dayak Ngaju customs. Based on the case, the marriage certificate includes a marriage agreement that contains several provisions based on mutual consent, one of which regulates divorce and includes the following points:

1. The party that causes the divorce is subject to customary sanctions by paying the innocent party an agreed amount (in the form of gold).
2. The dowry remains the wife's right; and
3. Property acquired during marriage (tangible personal property) becomes the children's right and an unproblematic right.

Customary sanctions in the Dayak Ngaju community often become an integral part of resolving divorce issues. When a married couple decides to divorce, they may face customary sanctions that could involve a mediation process or a meeting in front of the customary chief or other community leaders. The purpose of this customary sanction is not only to peacefully resolve divorce issues but also to maintain harmony and social balance within their community. This customary sanction can take the form of asset division, reconciliation efforts, or other resolutions that align with the cultural values and customary law of the Dayak Ngaju (Sibot et al., 2023). In the example case mentioned above, based on the subjects of the conducted research, a couple who have been married for 15 years and have been blessed with two children must face a divorce case due to infidelity. In accordance with the marriage agreement mutually agreed upon in the Dayak Ngaju customary marriage contract, the party at fault or the cause of the divorce is obligated to pay a customary fine, either in cash or in kind. However, up until the conduct of this research, the party at fault has not paid the customary fine as decided (Suratman, 2014).

Based on the community tradition in the Dayak Ngaju customary marriage agreement, the party that causes the divorce will receive a sanction. Provisions regarding divorce in Dayak customary law are regulated in Dayak customary law Article 3 concerning singer hatulang Belom (unilateral divorce fine), Article 4 Singer Hatulang Palekak sama handak (mutual consent divorce), and Article 2 Singer Tungkun Balang, dossa palus (failure to abduct, but committing adultery) (Haq, 2020). Currently, the sanctions imposed on the guilty party are in the form of monetary fines, the amounts of which vary depending on the marriage agreement that has been agreed upon. As for the unilateral divorce fines, among others:

1. In accordance with the agreement;
2. The customary leader may impose or increase the fine up to 30 kati (Rp. 3,000,000) on the guilty party if deemed necessary;
3. If there are children, the joint property shall be divided between the innocent party and the children.

We assert that comprehending the function of traditional leaders in adjudicating divorce cases within the community and the enforcement of sanctions on traditional parties is essential. Consequently, we, as researchers, seek to acquire further insight into the Dayak Ngaju customary punishments pertaining to adultery within the Kedadangan of Jekan Raya District, Palangka Raya City.

DISCUSSION

Customary Criminal Sanctions against Adultery Offenders in Kedadangan, Jekan Raya District, Palangka Raya City

The country of Indonesia is a nation composed of various ethnic groups, religions, and diverse customs that stretch from Sabang to Merauke. Those customs are very different from others, so to maintain those differences intact and strong, we need to respect and honor the customs of each region without discriminating against the customs of other regions (Thoyib, 2018).

The connection between cultural diversity and customary law in Indonesia is very close. Customary law reflects the values, norms, and traditions that have developed in the local community over centuries. In the cultural diversity of Indonesia, customary law serves as one of the main means to maintain and regulate social, economic, and political life at the local level. Recognition and respect for customary law from various tribes and regions in Indonesia is not only a form of respect for cultural diversity but also a way to ensure that each local community can live and develop according to their own traditions. This creates a strong legal foundation to resolve conflicts and strengthen the sense of justice in a heterogeneous society like Indonesia (Nuranisa et al., 2023).

Customary law can be described as a series of unwritten rules that apply within a society, which are local practices and regulate the life and residence of communities that adhere to customary rules inherited from their ancestors. These customary rules are not based on the principle of formal legality like written laws, but their existence and status as a domestic rule system cannot be denied. Customary laws are always present and active in the daily lives of the community, providing a framework for social, cultural, and legal norms that regulate various aspects of life, including marriage, in Indonesia and in indigenous communities in various regions (Batubara & Achmadi, 2023).

Customary marriage law plays an important role in society because it not only regulates the relationships between husband, wife, and other family members fairly and clearly, but also preserves the cultural and social values that have been passed down through generations. By establishing rules regarding rights and obligations, property division, and local conflict resolution, customary marriage law helps maintain stability within families and communities. In addition, customary marriage law often serves as an instrument to preserve cultural identity and integrate traditional values within the ongoing context of modernization. Thus, the implementation and respect for customary

marriage laws are not only important for social order but also for ensuring the continuity of cultural heritage and community identity (Soumena, 2012).

The people of Palangka Raya City, Jekan Raya District, Central Kalimantan Province, still hold customs and traditions in high regard as a way of life passed down through generations. Regarding the role of traditional leaders, both the chairman and the deputy traditional leader are not traditional judges who have formal authority to decide cases. However, in resolving Dayak Ngaju customary matters, an experienced customary leader is often chosen for mediation or conflict resolution. Their role is more oriented towards consultative and mediative functions based on local wisdom and customary law that applies in their community. This reflects the integration of strong customary values with a more formal modern legal system in maintaining peace and social harmony in the Dayak Ngaju community.

The Dayak Ngaju customary law in Palangka Raya City, Jekan Raya District, Central Kalimantan Province, has a traditional leader like Mr. Kardinal Tarung, who is trusted and respected by the local community. They not only possess deep knowledge of the Dayak Ngaju language and customs but also have the authority to resolve customary matters fairly and in accordance with prevailing norms. The decisions they make are considered adequate authority in maintaining social order and harmony within the community. This shows the importance of the role and authority of traditional leaders in maintaining justice and peace, as well as resolving conflicts within the Dayak Ngaju indigenous community in the region (Kuzari, 1995).

Speaking about the authority of the damang in deciding cases, one of them being adultery cases. If adultery is committed by an individual who is already married, it is certainly a criminal and disgraceful act. The provisions of Indonesian criminal law (KUHP) regarding the crime of adultery have a different meaning from the conception given by society. According to criminal law, adultery is identified with overspel, which has a much narrower definition than adultery itself (Ali, 1984). Although there are differences in the use of terms and concepts, both zina and overspel are prohibited acts and can be subject to sanctions according to the laws in force in Indonesia.

Based on the interview results with Kardinal Tarung regarding the customary criminal sanctions for adultery, he stated that:

“In the customary criminal sanctions against adulterers, the act of having an affair or taking someone else's wife is subject to formal and material laws clearly outlined in the Dayak Tumbang Anoi 1894 Law, Articles 1 and 2. It is considered adultery when two people engage in sexual relations, and one of them is already bound in marriage. According to Article 1 of the Dayak Tumbang Anoi 1894 customary law, anyone who dares to persuade and take another person's wife, resulting in the separation of the man and woman from their previous spouses, will be subject to customary sanctions” (Muhammad, 2006).

Next, regarding the customary sanctions that will be imposed on the perpetrators of the customary crime of adultery based on the interview with Kardinal Tarung, he stated that:

“Married individuals who commit adultery are required to pay a fine in the form of a plot of land measuring 600 to 1,200 square meters to the husband of the unfaithful wife and pay a fine of 15 *kati ramu tekap bau mate*, which means restoring dignity. The meaning of restoring dignity is that if someone takes another person's husband/wife, they must pay a fine to restore the dignity of the person whose husband/wife was taken, and essentially, the dignity of the person whose husband/wife was taken has been destroyed. 1 *kati ramu* is also called 1,000 rupiah, which is defined in the Dayak Ngaju customary law as a unit of weight, namely 6.20 ounces. For the wronged husband/wife, the adulterer must pay an amount of 1 *kati of ramu* up to 15 *kati of ramu*, which can be said to be an amount of money to be paid 1,500,000 and 3 pieces of clothing for the wronged husband/wife.”

Then, in terms of other compensation and in the context of a family settlement, based on an interview with Kardinal Tarung, he said:

“The adulterer is required to pay a reparation charge of 150,000,000 to the spouse of the individual involved in the affair. The customary peace feast entailed the butchering of two pigs. The two pigs were designated for the community and environment, where a ceremony known as *saling saki*, or blood sprinkling, would occur. The blood would be applied to the hands of the spouse abducted by the criminal, and if the abducted spouse had offspring, the blood would also be applied to the children. If the couple has a child, they will compensate a vocalist. The vocalist is linked to the destiny of their offspring, designated as singer *tungkun balang dusa palus*. Moreover, if one person engages in adultery while unmarried, they would incur the singer *dusa palusan* penalty and must remit from 100 to 300 *kati ramu* or more, contingent upon the ruling of the *damang* and *mantir*, as adultery is deemed uncivilized. If your infidelity is discovered at the residence of a man without a spouse, it is OK; but, if he is married, it is unethical, and if there is a complication, it must be addressed. It is erroneous for individuals to interpret Article 55 of the Tumbang Anoi Customary Law about adultery, which renders the adulterer incapable of recourse. Adultery can be reconciled with a peace feast, in accordance with tradition.”

Damang is a person who can resolve social and community issues and act as a mediator or bridge to reconcile problems that arise within the scope of the Dayak Ngaju indigenous community. Damang plays an important role in the Dayak Ngaju indigenous community as a resolver of social and community issues. They function as mediators or bridges to resolve conflicts that arise in community life. Their ability to understand and implement the Dayak Ngaju customary law, as well as their wisdom in mediating disputes, helps maintain peace and social harmony within the community. As a

respected and trusted figure, Damang plays a crucial role in maintaining cultural values and traditions, as well as ensuring the continuity of harmony between generations in the Dayak Ngaju indigenous community (Pratiwi et al., 2019).

Regarding the presence of customary leaders, customary leaders play a role in the mechanism of dispute resolution processes to achieve values of justice. So that the community prefers the application of customary criminal sanctions against adulterers and does not intend to disregard national law to avoid conflicts between husband and wife in the household (Abdullah & Saebani, 2013). The perpetrator of the crime of adultery can be prosecuted if there is a complaint from the husband or wife who feels aggrieved by the act of adultery. In the context of law in Indonesia, adultery falls under the category of absolute complaint offenses, meaning that the legal process depends on a complaint from the directly affected party, namely the legitimate husband or wife. This complaint allows the case of adultery to be processed under customary law or state law in accordance with the prevailing regulations in that society or region (Setyowati, 2005).

Customary sanctions in the Dayak Ngaju community play an important role in handling divorces involving the crime of adultery. When a divorce is caused by adultery involving one or both partners, the Dayak Ngaju customary institution can impose appropriate sanctions as a consequence of the act. These customary sanctions can include various measures, such as the division of property, mediation efforts for reconciliation, or conflict resolution in the presence of experienced customary leaders. The purpose of customary sanctions is to restore social and moral balance in society, as well as to uphold the traditional values highly esteemed by the Dayak Ngaju tribe. Here are the duties of each section of the Dayak Ngaju customary institution:

1. The head of the Dayak Ngaju customary leader, Kardinal Tarung, is responsible for the security authorities for every decision made regarding the perpetrator.
2. The mantir adat is tasked with assisting the head damang of the Dayak Ngaju adat if the damang is unavailable or not present.

Here are other tasks of the traditional leader, Damang adat, which are:

1. Assisting the government in the smoothness and implementation of development in all fields, especially in the fields of religion, culture, and society;
2. Implementing customary law in the Jekan Raya District;
3. Granting legal status according to custom to matters related to social, economic, and religious interests;
4. Fostering and prioritizing the moral values of customs and traditions to the sub-district community; and
5. Maintaining, preserving wealth, and also enforcing the Dayak Ngaju customary culture in Central Kalimantan.

Damang adat and Mantir have authority that includes:

1. Representing the Dayak Ngaju indigenous community to manage the interests of that indigenous community;
2. Processing customary rights and/or wealth to improve the progress and living standards of the community towards a better future;
3. Resolving disputes related to customary law and the traditions of indigenous communities throughout;
4. The resolution does not conflict with the applicable laws and regulations;
5. Discussing various matters related to customs and religious issues for the benefit of the sub-district; and
6. As a mediator in customary cases that cannot be resolved at the sub-district level.

Regarding the customary sanctions against the perpetrator in Jekan Raya, Palangka Raya City, Central Kalimantan Province, based on an interview with the Jekan Raya chief, Mr. Kardinal Tarung explained that:

“In the customary criminal sanctions against the perpetrator in Jekan Raya, Palangka Raya City, this act of adultery is highly disapproved of and carries a customary fine as per the decision given by the *damang* and *mantir*.”

Next, regarding the duties of the *damang*, Mr. Kardinal Tarung, as the head of the *damang*, explained that:

“Customs play a very important role because, besides representing the central government, they also serve as advisors in matters or actions taken by the head *damang* in the process of customary criminal sanctions of the Dayak Ngaju in actions committed by an adulterer.”

Continuation of the interview results on customary criminal sanctions against adulterers in Palangkaraya includes customary sanctions in the form of a singer to resolve peace according to Dayak Ngaju customs (Hadikusuma, 2005).

Enforcement of Customary Criminal Sanctions against Adultery Offenders in Palangka Raya City, Jekan Raya District

Based on the interview results with the traditional leader Mr. Kardinal Tarung as the Head of Damang Adat Jekan Raya regarding the execution of customary criminal sanctions against adulterers in Mendawai, Palangka Raya City, Jekan Raya District, Central Kalimantan Province, it is derived that the expression *Belom Bahadat* is more dominant for everyone, especially the Dayak Ngaju tribe in general. The nature and essence of customary law norms do not only follow the etiquette among humans but also encompass elements of flora, fauna, humans, and spirits, where the position of human beings appears as caretakers of the environment with the mechanism of etiquette that is not yet civilized or, in other words, comprehensive politeness, polite

towards visible elements and also polite towards invisible elements (not to mean worshipping the elements they care for) (Hilman, 2007).

Every form of event is not free from the law of cause and effect; its cause is always sought within or around one's own living environment, and its sacrifice and sustainability must be managed by the caretaker. The importance of understanding the law of cause and effect in the context of life and the environment. Every event that occurs has consequences that need to be considered, whether for the environment or the individuals involved. The manager is responsible for managing and maintaining the sustainability of the environment and its surroundings. This describes the philosophy that actions or decisions taken must consider their impact both in the short term and long term on all those involved, as well as ensure the sustainability and balance of the affected ecosystems and communities.

Regarding the adultery case that occurred in Mendawai based on the customary court's decision, the perpetrator of the adultery is subjected to a penalty in the form of a fine. The perpetrator must prepare a fine as determined by the head of the customary court and the customary council because they have committed adultery, which includes a fine of 30 and 45 *kati* of singer stones (2 to 3 *jipen*) to be paid to the head of the customary court and the customary council, or bear the cost of a customary peace feast to eat together, forgive each other, and reconcile.

The adulterer will also be given 3 days to comply with or pay the specified fine. If the perpetrator does not comply with this provision, they will be reported to the authorities for legal processing by the state. In addition, customary fines are also imposed, which can take the form of a butchered pig as an acknowledgment of the perpetrator's actions towards the victim and as payment of the customary fine to the chief. The *mantir* has the authority to impose or increase fines in accordance with the applicable customary policies for the offender. Thus, customary punishment in the Dayak Ngaju community not only serves as the enforcement of social norms that regulate the behavior of its members but also as an effort to restore and reconcile conflicts and promote reconciliation among individuals and groups within the community. Through the process of customary punishment, the Dayak Ngaju community strives to restore social balance and strengthen the values of justice and solidarity among them. Customary punishment is not merely a preventive measure against norm violations but also a tool to build and maintain social harmony, which is the essence of communal life in their culture.

Article 2 Singer Tungkun Balang, *palus sin* (failed to seize, but committed adultery) If a case occurs like Article 1 but C takes or receives back, then the *singer tungkun* becomes void. But A can be threatened with the sin of adultery (*zina*) amounting to 100-300 *kati ramu*. While considering the contents of the previous agreement between B and C, as well as the high and low status of B and C, the special incident was concluded with a traditional peace brotherhood feast, which was borne by

A or A, B, and C according to the judgment of the local customary officials. The fine, in its meaning of 30 *kati* and 45 *kati ramu*, represents the amount of the penalty in the form of singer or *jipen* that must be paid by the offender who is fined by the traditional chief. The fine must be paid in full in front of the traditional chief. The payment can be in the form of 2,500,000 in cash or a piece of land (Jayanti et al., 2021).

Based on an interview with Mr. Rudy Irawan, the customary leader of Jekan Raya, he stated that:

“The enforcement of customary criminal sanctions related to cases of crime and violations constitutes behavior that contradicts the sense of safety or legal norms that oppose order within society or the family. In the form of events, it is inseparable from the law of cause and effect, with the causes always within or around one's own living environment, and customary sanctions will be imposed to pay fines on those who have committed the crime of adultery. The head of the village in imposing customary sanctions can increase or impose the highest possible fines on the guilty party.”

Based on the results of the interview with Cardinal Tarung as the Damang Jekan Raya regarding the stage of Enforcing Customary Criminal Sanctions, he stated that:

“Against the adulterers, as long as the steps are fulfilled according to the formal customary law in the Province of Central Kalimantan, which is represented in the form of Regional Regulation Number 1 of 2010 concerning Amendments to Regional Regulation of the Province of Central Kalimantan Number 16 of 2008 concerning Dayak Customary Institutions in Central Kalimantan, whose formal law has regulated steps. Adultery is a complaint-based offense and will be subject to Article 1 of the Tungkun, which in this case involves taking someone else's wife/husband. It will be subject to Article Tungkun Balang Dusa Palus, meaning that although no marriage occurred with the one taken, the act of having sexual relations constitutes the sin of adultery. Then, a customary sanction will be imposed, which is to pay *kati ramu* ranging from a certain amount to 300 *kati ramu*.”

Based on the interview results with the customary leader Kardinal Tarung as the head of the customary court regarding the reasons for enforcing customary criminal sanctions against the Antang perpetrator in Palangka Raya City, Jekan Raya District, Central Kalimantan Province, he said:

“The reason for enforcing customary criminal sanctions against adulterers in the city of Palangka Raya is to provide mental guidance and also to give the indigenous community the perspective that adultery is an act that erodes customary norms, loyalty, togetherness, self-sacrifice, and other traditional customs due to human actions.”

A crime in Dutch is called strafbaarfeit. Strafbaarfeit consists of three words: straf, baar, and feit. Straf is interpreted as punishment and law, baar is interpreted as can and

may, while *feit* is interpreted as not, event, violation, and act. According to Halim, a crime is defined as "an act or action that is prohibited and punishable by law (criminal law)." Meanwhile, according to Lishi (2018), a criminal offense refers to an act or behavior that is prohibited or considered a violation of the law within a specific legal system. This includes various crimes or offenses that can be subject to legal sanctions, such as theft, robbery, fraud, or other crimes regulated by state law.

The reason for enforcement in the crime of adultery according to Simons, adultery is defined as the occurrence of sexual relations between a man and a woman that is unlawful according to the law, because one or both parties are involved in marriage with someone else. The term "*vleeslijk gemeenschap*" refers to the act of copulation or sexual intercourse that is completed between a man and a woman. This concept serves as the basis for criminal law to determine what is considered an act of adultery that can be subject to sanctions or punishment in accordance with the prevailing legal norms (Saleh, 1981).

According to Ahmad Bahiej, he explains that adultery is considered disgraceful or prohibited in many legal systems if it occurs within the framework of marriage. This is because marriage is considered an institution that binds two individuals who are legally committed to each other, and adultery is seen as a violation of the loyalty and trust that underlie the marital relationship. So, adultery can only occur if one of the parties is already bound by the marriage bond. Every form of adultery, whether bound by the ties of marriage or not, is a taboo act that violates moral values. A societal conception like this does not mean much if the upcoming national criminal law does not accommodate it in its provisions (Prodjohamidjojo, 2011).

The above view is not much different from Sahetapy's view, which holds that adultery is an unlawful act of intercourse, meaning intercourse that is not only committed by a husband or wife outside the institution of marriage but also intercourse committed by a man and woman who are not yet married, even if the wife is already married, although the male perpetrator commits adultery with a wife who already has a husband. Valid here must be interpreted as valid within the scope of the institution of marriage. Thus, adultery also includes fornication, which is sexual intercourse willingly performed between a married or unmarried person and someone of the opposite sex. Although the intercourse is voluntary and based on mutual consent, the act, whether unlawful or lawful, should only be performed within the institution of marriage. Thus, the understanding of adultery includes overspel, fornication, and prostitution (Subekti, 1978).

The act of adultery in the Western legal system has been codified in Article 411 of the Penal Code (KUHP). Specifically, regarding the crime of adultery, Article 411 states that sexual relations outside of marriage constitute a crime (adultery) only if the perpetrators or one of them is married, or if anyone engages in sexual intercourse with someone who is not their spouse, they are punished for adultery with a prison sentence

of up to 1 (one) year or a fine of up to category II. If the act is committed by two people or one person who is not married, then according to the KUHP, they cannot be said to have committed the crime of adultery (Soekanto, 1992).

The KUHP also stipulates that the crime of adultery falls under one of the absolute complaint offenses. If the husband does not file a complaint, then there is no legal case that can be processed against the adulterer. This shows that in Indonesian criminal law, adultery is considered a violation of marital norms and can be subject to legal sanctions according to the provisions in the Criminal Code (KUHP). This means that even if adultery has occurred as regulated in Article 411 of the KUHP, the perpetrator can be prosecuted because the husband has reported the matter to the authorities. The provision specifically regulating adultery is found in Article 411 of the KUHP.

Based on Article 411 of the KUHP, an act of adultery can only be subject to legal action/prosecution if there is a complaint from the husband, as the perpetrator has committed adultery against another person's wife and the perpetrator. Since Article 411 of the KUHP falls under the category of complaint offenses, the act can be prosecuted because the perpetrator has committed adultery against his wife and the complaint comes from the husband. In other words, without a complaint from the husband who has committed adultery, the act of adultery can be subject to legal action or receive customary fines.

The enforcement of customary criminal sanctions against adulterers can be applied if the adulterers have been reported or caught in the act by others or the community. After the perpetrators are identified, they must be ready to receive *jipen* (punishment) to the best of their ability and be willing to be summoned by the head of the customary *damang* or *mantir*. At the meeting, customary law will be conveyed to the perpetrator, who must then be willing to be prosecuted and accept several customary criminal sanctions in accordance with the applicable law. This process not only enforces customary rules but also serves as a means of education and prevention, ensuring that the social and moral norms prevailing in the Dayak Ngaju community are respected and upheld.

The policies established to bind the community to comply with the customary criminal laws of the Dayak Ngaju aim to preserve and maintain the continuity of traditional values and social order within the community. This may include counselling and education about customary law to community members, the formulation of clear and enforceable customary regulations, and the consistent application of customary sanctions or punishments against violators. These steps are not only aimed at enforcing existing regulations but also at ensuring that traditional values and local wisdom continue to be respected and applied in the daily lives of the Dayak Ngaju community (Nugraha & Wardani, 2021).

With the implementation of this policy, adulterers can be given appropriate punishments commensurate with their actions, thereby providing a deterrent effect for adulterers and preventing similar actions in the future. This policy also serves to maintain order and harmony within the community, ensuring that customary norms are respected and properly implemented. Moreover, with the implementation of strict and fair punishments, the community will become more aware of the importance of adhering to customary rules, thereby creating a safe and orderly environment. This policy reflects the efforts of the Dayak Ngaju community to preserve their cultural and moral values and protect social integrity from destructive actions.

In the various customs spread across Indonesia, there are different rules governing the act of adultery. Thus, the punishment for adultery will actually elicit different reactions from the people of Palangka Raya City. The fact that often occurs is that the influence of customs in community life in this country is very strong, especially for the people living in the city of Palangka Raya. With the belief that adultery can bring disaster or misfortune to the Jekan Raya District community, the Dayak customs impose different levels of material penalties, such as singer or jipen fines. With the implementation of these customary punishments by the Dayak tradition, it can be said that adultery is a prohibited act that can cause disaster. Customary law is an unwritten law that lives and develops within society; according to customary law, to determine whether an action is right or wrong, it can be examined based on the issue at hand.

In the society of Palangka Raya City, the prevailing legal principle emphasizes that adultery is considered an immoral and dirty act. This concept reflects the moral and ethical values highly upheld in that community, where fidelity in marital relationships and respect for social norms become very important. The judgment of adultery as bad and dirty can also reflect the view that violations of the sanctity of intimate relationships can disrupt the social and moral order in that society. Adultery is sentenced as an act that goes against the interests of customary law, opposes a family, and is considered a disgraceful act that tarnishes the family's reputation. Therefore, the punishment given to the adulterer by the *damang* or *mantir*, who are the local customary law enforcers, aims to uphold justice and maintain the honor of the community and the family tarnished by the act. These policies aim to bind the community to comply with the applicable Dayak Ngaju customary criminal laws. With the implementation of this policy, adulterers can be given appropriate punishment in accordance with their actions, thereby providing a deterrent effect for adulterers and preventing similar actions in the future. This policy also serves to maintain order and harmony in society, ensuring that customary norms are respected and properly implemented.

Law enforcement against adultery cases among the Dayak Ngaju tribe in Central Kalimantan is a significant effort to address moral violations caused by adultery. The punishment for adulterers is not only retributive but also has curative and educational purposes. This punishment is designed to cure mental or psychological illnesses that

may underlie deviant behavior, as well as to correct the perpetrator's behavior to prevent reoffending. Through the imposed sanctions, it is hoped that the violators of customary law can understand the negative impact of their actions and gain valuable lessons that will lead to better behavioral changes. This punishment also serves to uphold honor and morality within the indigenous Dayak Ngaju community, as well as to encourage the creation of a more orderly and harmonious environment.

The policies that have been established aim to bind the community to comply with the applicable Dayak Ngaju customary criminal laws. The law that prevails in Indonesian society holds the principle that adultery is a taboo and immoral act, and is deemed an act against the legal interests of society, with very severe penalties. With the implementation of this policy, adulterers can be given appropriate punishments in accordance with their actions, thereby providing a deterrent effect for adulterers and preventing similar actions in the future. In the city of Palangka Raya, Central Kalimantan, adultery is classified as a type of Dayak customary case known as *mengampang*, which means adultery. This policy also serves to maintain order and harmony in society, ensuring that customary norms are respected and properly implemented.

CONCLUSION

Based on the discussion, the following conclusions can be drawn. First, the customary criminal sanctions against adulterers, there are several sanctions imposed in the Kedamangan Jekan Raya, Palangka Raya City, including singer fines. The singer fines imposed can be in the form of money or goods agreed upon by the head of the customary *damang* and the *mantir adat*, in the form of sanctions given, namely singer sanctions of 100 and 300 *kati ramu* in Article 1 of the Tumbang Anoi Customary Law 1984 with Article Singer Tungkun. If someone commits adultery, it can be resolved with a peace feast and settled according to custom. Second, the enforcement of customary criminal sanctions against adulterers in the Kedamangan area of Palangka Raya City, Jekan Raya District, Central Kalimantan Province, is partly due to the presence of customary law factors in household matters. In the enforcement of customary criminal sanctions against individuals committing adultery, the couple must follow the steps outlined in the formal customary law in the province of Central Kalimantan, which is represented in the form of a Regional Regulation Number 1 of 2010 concerning the Amendment of Law Number 16 of 2008. Customary criminal law is a law that addresses events and actions that must be resolved because these events and actions have disturbed the balance of society.

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