

Traditional Leaders and the Legality of Punishment for Violence in the Indonesian Criminal Justice System

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ABSTRACT

This study aims to analyze the position of customary officials and the legality of violent sanctions within the Indonesian criminal justice system. The research problem arises from the continued existence of customary punishment practices involving physical and psychological violence in customary law communities, while national criminal law establishes the state as the sole institution authorized to impose criminal penalties. This study employs a normative legal method with legislative, conceptual, and case-based approaches through a literature review of primary, secondary, and tertiary legal sources. The findings indicate that traditional officials possess sociological and constitutional legitimacy in maintaining order within traditional communities; however, their authority remains limited by the principle of legality and the protection of human rights. Restorative customary sanctions remain acceptable as long as they do not violate fundamental individual rights, whereas sanctions involving elements of violence can still be classified as criminal offenses under the Criminal Code. This study underscores the importance of harmonizing customary law with national criminal law through the strengthening of a *restorative justice* approach and the establishment of regulations that clearly define the limits of the authority of customary institutions.

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1. INTRODUCTION

The presence of customary law in Indonesia's legal order reflects a manifestation of legal pluralism that has evolved historically and become deeply embedded in community life. Constitutional acknowledgment of indigenous peoples and their traditional entitlements is embodied in Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which stipulates state respect for customary

law communities insofar as they continue to exist, remain compatible with contemporary societal developments, and are consistent with the foundational values of the Republic of Indonesia. In practical social relations, indigenous communities operate through their own institutional arrangements administered by customary authorities who exercise competence in preserving social stability, settling disputes, and imposing sanctions for violations of customary norms

[1]. Legal concerns emerge when sanctions grounded in customary practices incorporate elements of physical or psychological coercion that may contradict human rights principles and provisions of national criminal legislation.

Across numerous regions of Indonesia, the enforcement of customary sanctions continues to be encountered, particularly among communities that maintain a strong commitment to ancestral traditions. Such sanctions extend beyond customary fines and social exclusion, encompassing coercive measures including physical assault, restraint, public exposure of offenders, and other forms of corporal punishment regarded as legitimate under customary provisions [2]. This circumstance generates legal debate concerning the scope of authority possessed by customary officials in administering sanctions and the legality of violent measures under Indonesian criminal law. From one legal viewpoint, customary law constitutes a living legal order that continues to operate within indigenous communities; conversely, the state bears a constitutional obligation to safeguard citizens against all manifestations of violence and misuse of authority.

Discussion concerning interactions involving customary law and national criminal law has become increasingly significant alongside the strengthening of human rights protection frameworks. The doctrine of due process of law within contemporary justice systems places exclusive authority to impose criminal sanctions in the hands of the state through lawful judicial mechanisms [3]. Consequently, sanctions involving violence administered by customary authorities may be considered an overextension of authority where no formal legal foundation exists. Against this backdrop, a critical issue emerges as to whether violent conduct undertaken under customary justification may be accommodated as part of indigenous autonomy or instead classified as a criminal act under the Indonesian Criminal Code (KUHP).

A complex legal standing is frequently attributed to customary law within Indonesia's legal architecture. Scholarship on legal pluralism characterizes customary law as a dispute-settlement institution possessing substantial sociological legitimacy among indigenous groups. Other academic works reveal that customary institutions contribute to the preservation of social harmony through restorative mechanisms that are often more readily accepted by local communities than formal judicial processes. Nevertheless, the majority of existing studies concentrate on the effectiveness of customary dispute resolution while paying limited attention to the legality of coercive actions undertaken by customary authorities when assessed through the lens of contemporary criminal law. Accordingly, an academic gap remains concerning the legitimacy and permissible scope of authority underpinning repressive customary sanctions.

Normatively, Indonesian criminal law derives its foundation from the legality principle enshrined in Article 1 paragraph (1) of the Criminal Code, which stipulates that no conduct may be punished unless previously prescribed by law. This doctrine functions as the principal benchmark for assessing criminal liability, including violent acts perpetrated by customary officials. Simultaneously, customary law obtains normative legitimacy through numerous statutory instruments and judicial decisions recognizing the existence of living law within society. The intersection of the legality principle with state acknowledgment of customary law creates uncertainty regarding the legal status of customary sanctions involving violence within Indonesia's criminal justice framework [4].

This research concentrates on the legal position of customary authorities in Indonesia while evaluating the legality of customary sanctions containing elements of violence through the lens of national criminal law. The issue warrants examination because violent customary punishment remains prevalent and generates friction between traditional norms and the values

underpinning a modern rule-of-law state. Moreover, explicit normative parameters defining the extent of customary institutional authority in sanctioning community members remain absent. Consequently, the operation of customary law carries the risk of generating abuses of authority and infringements of human rights when not guided by clear regulatory standards.

The objective of this study is to assess the legal standing of customary officials within Indonesia's legal system and evaluate the legality of violent customary sanctions from the standpoint of national criminal law. In addition, the research seeks to develop a normative framework capable of reconciling recognition of customary law with human rights protection and core doctrines of criminal law. The study adopts a normative legal methodology through the examination of statutory instruments, legal doctrines, and judicial decisions relating to customary law and criminal acts involving violence. Through this analytical framework, the study aspires to formulate a legal construction capable of ensuring legal certainty and fairness in the operation of customary law throughout Indonesia.

The distinctive contribution of this study resides in its critical assessment of the boundaries of legitimacy accorded to customary officials when imposing sanctions involving violence under Indonesian criminal law. Rather than treating customary law solely as a sociological phenomenon, the analysis situates it within the context of a contemporary rule-of-law state committed to legal supremacy and the protection of human rights. Accordingly, the findings are anticipated to enrich scholarly discourse on legal pluralism and customary criminal law while simultaneously offering practical guidance for national legal policymaking that accommodates indigenous communities without compromising the essential values of modern criminal justice.

2. LITERATURE REVIEW

2.1 *Customary Law and the Role of Customary Officials in the Indonesian Legal System*

Customary law constitutes a living legal order that continues to endure within Indonesian society as a manifestation of social values, cultural traditions, and local wisdom transmitted across generations. Its defining characteristic lies in its unwritten nature, emerging from communal customs and preserved through the collective legal consciousness of indigenous groups. The continued operation of customary law in Indonesia's legal architecture illustrates adherence to legal pluralism, namely the simultaneous operation of diverse legal orders throughout society. Within this perspective, customary law is understood not merely as a social norm, but equally as an instrument of social regulation deriving sociological legitimacy from particular indigenous communities [5].

Constitutional acknowledgment of indigenous peoples, their institutions, and traditional entitlements is provided under Article 18B paragraph (2) of the 1945 Constitution. The provision demonstrates state respect for customary rights insofar as they remain alive, adapt to social transformation, and remain aligned with the state's foundational principles. In practice, customary law is implemented by traditional leaders or customary authorities entrusted with maintaining public order, resolving disputes, and imposing sanctions for violations of customary norms. The continuity of customary law is sustained through decisions rendered by customary authorities who possess recognized authority within their respective communities [6]. Consequently, customary officials occupy a pivotal role in safeguarding the sustainability of customary legal systems.

The legal position of customary authorities frequently occupies an

intermediate space between sociological legitimacy and formal legal recognition. For indigenous communities, decisions issued by customary institutions are perceived as expressions of justice consistent with local values. Conversely, the state continues to place national law as the supreme legal standard applicable to all citizens. State acknowledgment of customary law does not imply the displacement of national legal supremacy, particularly in matters concerning human rights protection and public order. Consequently, the exercise of sanctioning authority by customary officials must remain bounded by national legal standards to avoid conduct inconsistent with rule-of-law principles [7].

Moreover, contemporary national legal development demonstrates an inclination toward combining customary law values with the modern criminal justice framework through restorative justice mechanisms. Such an approach perceives dispute resolution not solely as a tool for penalizing offenders but equally as an avenue for restoring disrupted social relationships within communities. In numerous situations, customary settlement mechanisms are regarded as more effective because they prioritize social harmony rather than relying exclusively on coercive state intervention. Nevertheless, implementation of customary mechanisms continues to require supervision to prevent their misuse as a justification for violence disguised as tradition [8].

2.2 *The Legality of Violent Sanctions from a Criminal Law Perspective*

Within contemporary criminal jurisprudence, the legality principle occupies a pivotal role by establishing that criminal liability may arise only when conduct has previously been criminalized by legislation. This doctrine is codified in Article 1 paragraph (1) of the Indonesian Criminal Code, which stipulates that no person may be

punished except pursuant to existing criminal law provisions. The principle aims to secure legal certainty while simultaneously restricting the exercise of punitive authority [9]. Accordingly, violent conduct lacking a formal legal basis may qualify as a criminal offense, including when undertaken under the banner of customary law.

At its core, customary sanctions function as social instruments intended to restore equilibrium within indigenous communities. Such measures may involve customary fines, social exclusion, formal apologies, or ritual obligations. Nevertheless, certain customary practices have included sanctions characterized by physical or psychological coercion, including assault, restraint, or public humiliation. Conduct causing physical injury or mental suffering may be categorized as criminal behavior whenever the constituent elements of an offense under the Criminal Code are fulfilled [10]. Consequently, customary legitimacy does not automatically eliminate criminal responsibility for perpetrators of violence.

From a human rights standpoint, violence as a punitive mechanism conflicts with the principle of respect for human dignity. As a state governed by law, Indonesia bears responsibility for protecting every citizen from treatment that degrades human worth, as stipulated in Law Number 39 of 1999 concerning Human Rights. Contemporary constitutional democracies place human rights protection at the core of the exercise of governmental authority and other forms of social power [11]. Consequently, customary sanctions incorporating violence require critical scrutiny to ensure consistency with constitutional mandates and national criminal law.

Nevertheless, several progressive perspectives maintain that customary law retains substantial relevance in resolving social disputes, particularly within regions where

traditional structures remain influential. Law is perceived as a dynamic social institution that evolves alongside society rather than merely a rigid collection of written rules [12]. This understanding enables recognition of customary mechanisms provided they do not infringe fundamental human rights or violate essential doctrines of contemporary criminal law.

2.3 *Legal Pluralism and the Harmonization of Customary Law with National Law*

Legal pluralism refers to a theoretical framework explaining the operation of diverse legal orders within a single social environment. Such circumstances emerge when state law coexists alongside non-state normative systems, including customary and religious law [13]. Within Indonesia's setting, legal pluralism constitutes an unavoidable reality owing to the country's extensive cultural diversity and variety of social structures. Customary law continues to function as a living legal order possessing strong legitimacy within local communities despite the establishment of a generally applicable national legal system.

In law enforcement practice, interactions involving customary law and the national legal order frequently generate jurisdictional tensions, particularly in criminal matters. Such tensions emerge when resolutions grounded in customary mechanisms are considered inconsistent with criminal law provisions or human rights principles. National criminal law must operate as an instrument for safeguarding society while simultaneously providing room for recognition of social values existing within communities [14]. Consequently, customary law cannot be entirely detached from the national legal framework, nor may it exercise unrestricted authority.

Efforts directed at aligning customary law with national law are indispensable for maintaining legal

certainty while preserving local cultural values. Such alignment may be realized through restrictions on permissible customary sanctions, supervision of customary authorities, and incorporation of restorative justice principles into the national criminal justice framework. Through this model, customary law may continue to receive recognition as an element of community cultural identity without compromising human rights protection or rule-of-law values in criminal matters [15]. Accordingly, the interaction of customary law and national law should be understood not as opposing legal orders, but as complementary components operating within Indonesia's rule-of-law framework.

3. METHOD

This research adopts a normative legal research design employing statutory, conceptual, and case approaches as analytical instruments. The methodology was selected to assess the legal standing of customary authorities and the validity of sanctions involving violence within Indonesia's criminal justice framework based upon prevailing positive law. The object of examination encompasses legal instruments concerning customary law, criminal law, and human rights protection, while the analytical focus is directed toward the authority exercised by customary officials in imposing sanctions containing elements of violence. Conducted in 2026, the study evaluates Indonesia's national legal system alongside customary legal practices that continue to develop within society.

The research design relies on documentary analysis and literature-based inquiry involving primary, secondary, and tertiary legal sources. Primary legal sources comprise the 1945 Constitution of the Republic of Indonesia, the Criminal Code, Law Number 39 of 1999 concerning Human Rights, and statutory provisions recognizing indigenous legal communities. Secondary legal sources consist of legal literature,

scholarly journal articles, prior research findings, and expert opinions possessing substantive relevance to the subject matter. Tertiary sources encompass legal dictionaries, legal encyclopedias, and additional academic references intended to reinforce the analytical structure. Selection of research materials was undertaken purposively with reference to literature and judicial decisions directly connected to the legality of customary sanctions and the authority exercised by customary institutions within Indonesia's criminal justice framework.

Data collection proceeded through an extensive literature review encompassing identification, categorization, and examination of legal materials closely associated with the study's focus. All materials gathered were subsequently subjected to qualitative descriptive-analytical examination. The analysis involved interpretation of legal norms governing customary law and criminal law, followed by correlation with legal pluralism theory, the legality principle, and human rights protection principles. Through this methodological approach, the study seeks to formulate a coherent legal argument concerning the limits of customary authority and the legality of sanctions involving violence under Indonesia's criminal justice system.

4. RESULTS AND DISCUSSION

4.1 *The Role of Traditional Officials in the Indonesian Legal System*

Traditional officials occupy a pivotal role in the organizational structure of indigenous communities across Indonesia. Their responsibilities encompass social leadership, enforcement of customary norms, and preservation of public order. Within numerous indigenous societies, such authorities are empowered to settle disputes, restore social equilibrium, and impose sanctions for violations of customary rules. This authority originates from sociological legitimacy transmitted across generations within the

community [16]. Accordingly, the presence of customary officials reflects the continuing operation of customary law as a living legal order that evolves alongside Indonesian society.

Constitutional legitimacy accorded to indigenous communities and customary institutions derives from Article 18B paragraph (2) of the 1945 Constitution. The article affirms state recognition and respect for indigenous legal communities and their traditional rights, provided their existence persists and remains consistent with the principles of the Republic of Indonesia. In practical application, the constitutional provision creates legal space for customary officials to function as integral actors within indigenous social structures. Nevertheless, such recognition is not absolute because it remains subject to rule-of-law requirements and human rights safeguards [17]. Consequently, the exercise of authority by customary officials must remain confined within the boundaries established by national law.

To this day, traditional officials continue to play a dominant role in dispute resolution across various regions in Indonesia. Many indigenous communities tend to prefer traditional dispute resolution mechanisms over formal litigation processes because they are considered faster, more economical, and more in line with local social values. Additionally, traditional rulings are viewed as more effective in maintaining social harmony compared to state court rulings, which are often associated with a repressive approach. This reality demonstrates the strong sociological legitimacy of customary law in community life. However, the dominance of customary mechanisms raises issues when the sanctions imposed involve elements of physical or psychological violence [18].

From the perspective of national law, the authority of customary officials cannot be equated with the authority of

state law enforcement officials. In essence, customary officials do not derive their authority directly from legislation to impose physical punishment on community members. The authority they exercise is grounded in the social and cultural legitimacy embedded within the indigenous community [19]. Therefore, any action involving violence must still be evaluated in accordance with national criminal law provisions. This step is crucial to prevent the abuse of authority that hides behind traditional legitimacy.

The study's findings indicate that in certain cases, customary sanctions function effectively as instruments of social control to maintain community order. Such sanctions may take the form of customary fines, social ostracism, public apologies, or the obligation to perform specific customary rituals. These various forms of sanctions are fundamentally aimed at restoring social balance within indigenous communities. However, practices of customary punishment involving elements of violence—such as beating, binding, or public humiliation—still persist. Such practices raise serious concerns when viewed from the perspective of modern criminal law [20].

From a sociological perspective, some indigenous communities view sanctions involving violence as part of a tradition that serves both educational and preventive functions. In certain indigenous communities, specific physical actions are considered to represent the restoration of traditional honor previously violated by the perpetrator. However, the evolution of contemporary legal paradigms places the protection of human rights as the primary principle in the exercise of both social and state power [21]. On this basis, punitive practices that cause physical or mental suffering cannot be justified merely because they derive legitimacy from customary law. The state remains obligated to ensure the protection of every citizen from all forms of violence.

Currently, there are no clear normative boundaries regarding the scope of authority that customary officials possess in imposing sanctions for violations of customary norms. This regulatory vacuum gives rise to diverse interpretations in the practice of customary law across various regions. Some indigenous communities believe that all forms of customary sanctions are fully legitimate as long as they receive the consent of the relevant community. Conversely, state law enforcement officials often view acts of violence committed in the name of custom as criminal offenses that must be prosecuted under the provisions of the Criminal Code. This divergence of views highlights a clash between customary law and national law [22].

The conflict of authority between customary institutions and the state becomes increasingly apparent when victims of customary sanctions file criminal complaints with law enforcement. In several cases, the police have continued to process acts of customary violence as criminal acts of assault, even though the perpetrators argued that their actions were part of customary tradition. This situation underscores that national criminal law remains the primary instrument in determining the legality of an act. Thus, customary legitimacy does not automatically negate the unlawful nature of acts of violence. The state retains the authority to assess and adjudicate such acts [23].

The existence of legal pluralism in Indonesia gives rise to a dynamic yet complex relationship between customary law and national law. On the one hand, customary law is recognized as part of a cultural identity whose continuity must be preserved. On the other hand, the state is obligated to ensure legal certainty and the protection of human rights for all citizens. On this basis, harmonizing customary law and national law is an urgent necessity to ensure that

recognition of customary law does not evolve into a justification for acts of violence.

Most indigenous communities generally prioritize peaceful resolution over the application of physical punishment. Sanctions involving violence are typically imposed for specific violations deemed severe and harmful to the honor of the indigenous community. However, social developments and increasing public awareness of human rights have raised increasingly strong questions regarding the legitimacy of physical punishment. Many indigenous leaders have begun to align traditional dispute resolution mechanisms with contemporary legal values. This development demonstrates that customary law is adaptive and capable of evolving to meet the needs of society.

4.2 *The Legality of Violent Sanctions from the Perspective of Indonesian Criminal Law*

The principle of legality occupies a central position in the framework of Indonesian criminal law, affirming that an act can only be deemed a crime if it has been previously defined in statutory provisions. This principle serves to establish legal certainty while preventing the arbitrary exercise of authority against citizens. In relation to the application of customary sanctions, the principle of legality serves as the primary criterion for assessing whether acts of violence committed by customary authorities are justified under the law. Based on research findings, the use of violence on the grounds of customary practice can still be classified as a criminal act as long as it meets the elements of an offense as defined in the Criminal Code (KUHP) [24]. On this basis, the existence of customary legitimacy does not automatically absolve the perpetrator of criminal liability.

Several forms of customary punishment exhibit characteristics identical to the offense of assault as

defined in the KUHP. For example, the act of striking a violator of customary law to the point of causing pain or physical injury still fulfills the elements of that criminal offense. Similarly, the practice of humiliating someone in public as a form of customary punishment has the potential to infringe upon an individual's right to dignity and honor. From a criminal law perspective, the assessment of an act is based on the nature of the action and its consequences, not solely on justifications rooted in tradition or cultural customs. Thus, the use of violence within customary mechanisms remains subject to the national legal regime [25].

In the enforcement of the law, law enforcement officials often find themselves in a dilemma when dealing with cases involving customary violence. On the one hand, they are required to respect the existence of customary law communities as recognized by the constitution. On the other hand, the obligation to consistently enforce national criminal law provisions cannot be ignored. Research findings indicate that some law enforcement officials tend to prioritize a persuasive approach and mediation in resolving cases related to customary law. This approach is adopted to maintain social stability and avoid conflict between indigenous communities and the state.

Nevertheless, the use of a persuasive approach cannot serve as a basis for disregarding the rights of victims of customary violence. In the concept of a modern rule-of-law state, all citizens are equal before the law, regardless of their social background or cultural identity. On this basis, every victim who suffers physical or psychological harm as a result of the application of customary sanctions remains entitled to legal protection from the state. Research findings indicate that victims' interests are often overlooked due to the intense social pressure prevalent within indigenous

communities. This situation leads many victims to accept indigenous punishments even though they personally feel wronged.

The human rights perspective sets clear limits on the application of customary punishments that involve elements of violence. The right to be free from cruel, inhuman, or degrading treatment is a fundamental constitutional right guaranteed by the Constitution and various international legal instruments. Consequently, customary punishments that result in physical or psychological suffering cannot be justified solely on the grounds of preserving tradition. The state has an obligation to ensure that all forms of punishment are carried out in accordance with the principles of humanity and the rule of law. As a result, recognition of the existence of customary law must remain subject to the protection of human rights.

On the other hand, not all forms of customary sanctions conflict with national criminal law. Customary sanctions oriented toward the restoration of social relationships and the peaceful resolution of conflicts remain acceptable as long as they do not diminish an individual's fundamental rights. Forms of punishment such as customary fines, apologies, or peace rituals are, in essence, consistent with the concept of restorative justice in contemporary legal developments. Such an approach places greater emphasis on the restoration of social relations rather than the imposition of physical punishment on the perpetrator. On this basis, the incorporation of restorative values from customary law into the national criminal justice system holds strong relevance.

In a number of cases, judicial institutions have also considered customary resolutions as a mitigating factor in sentencing offenders. This consideration indicates that national law still allows for customary mechanisms in the resolution of social conflicts. However, this allowance cannot be

interpreted as justification for all actions carried out in the name of custom. The courts continue to rely on national criminal law as the primary foundation for determining an individual's criminal liability. Thus, customary law can only be accommodated to the extent that it does not conflict with the fundamental principles of national law.

One factor contributing to the persistence of traditional violent sanctions is the lack of regulations that clearly define the limits of customary institutions' authority. This ambiguity has led some indigenous communities to maintain punishment practices passed down through generations without considering developments in national law. Such a situation can trigger legal conflicts as well as human rights violations. On this basis, more comprehensive regulations are needed to guide the relationship between customary law and national criminal law. The presence of such rules is crucial in creating legal certainty for both indigenous communities and law enforcement officials.

In addition to normative factors, cultural aspects also influence the continuation of traditional violent sanction practices. In some communities, physical punishment is still perceived as a symbol of customary authority as well as an instrument for maintaining the group's honor. The dominance of collective values often places the common good above individual rights. However, the tide of globalization and the growing legal awareness of the public are gradually driving a shift in perspectives regarding the resolution of customary disputes. Currently, an increasing number of indigenous communities are replacing physical punishment with mediation and reconciliation mechanisms.

Thus, from the perspective of Indonesian criminal law, the legality of traditional violent sanctions is, in principle, unacceptable if such actions

constitute a criminal offense. State recognition of customary law cannot be used as a justification to set aside the principle of legality or the protection of human rights. Nevertheless, the restorative dimension inherent in customary law remains significant for the reform of the national criminal justice system. Therefore, regulatory harmonization is necessary to accommodate local cultural values without disregarding the principles of a modern rule-of-law state.

4.3 *Harmonization of Customary Law and National Criminal Law*

The harmonization of customary law with national criminal law is a strategic step in managing the reality of legal pluralism in Indonesia. Research findings indicate that conflicts between these two legal systems generally stem from the lack of clarity regarding the scope of authority of customary institutions. In social practice, indigenous communities often view customary law as a system possessing independent authority over its community. Conversely, the state positions national law as the supreme rule binding all citizens. This difference in perspective frequently creates tension in the implementation of law enforcement.

In essence, legal pluralism acknowledges the existence of diverse legal systems coexisting within the same social space. In the Indonesian context, legal pluralism is a logical consequence of the diversity of cultures and traditions within society. Nevertheless, legal pluralism does not imply that all legal systems hold equal standing without specific limitations. The state retains primary authority in establishing standards for public order and the protection of human rights. On this basis, the existence of customary law must remain within the framework of the constitution and the national legal system.

A restorative justice approach can serve as a common ground between

customary law and national criminal law. Fundamentally, customary law places greater emphasis on restoring social balance rather than punishing the perpetrator. This orientation aligns with the concept of restorative justice that has emerged within contemporary judicial systems. Through this approach, dispute resolution involves the perpetrator, the victim, and the community to achieve just peace. In this way, the constructive values of customary law can still be adopted within the national legal system.

In practice, the incorporation of customary law into the national criminal justice system requires clear boundaries regarding the types of sanctions permitted. The state must recognize customary dispute resolution mechanisms that are oriented toward peace and restoration. Conversely, any form of punishment involving violence must be prohibited as it contradicts human rights principles. Research findings indicate that indigenous communities are generally open to changes in dispute resolution mechanisms as long as customary values are respected. This suggests that the process of legal harmonization has a strong potential for success.

In addition to the establishment of regulations, legal education for indigenous communities also plays a crucial role in the harmonization process. Various customary sanction practices involving violence are still maintained due to the community's limited understanding of human rights and national criminal law. Therefore, the state needs to implement capacity-building programs for customary institutions through dialogic and participatory methods. A purely repressive approach risks provoking resistance from indigenous communities. Through adequate capacity building, indigenous communities can adapt their legal practices to align with developments in national law.

The role of traditional leaders is crucial in driving the transformation of customary law toward a more humanistic direction. Indigenous leaders wield significant social influence in shaping policies and legal practices within their communities. When they advocate for peaceful dispute resolution, the community generally follows this approach. Therefore, the involvement of indigenous leaders in the legal reform agenda is a key strategy for curbing violent practices within customary law. This transformation is necessary to ensure the sustainability of customary law amidst the dynamics of modern society.

On the other hand, the state must also avoid overly centralized policies in governing indigenous communities. Recognition of the existence of customary law is part of respecting Indonesia's cultural diversity. Thus, legal harmonization must not be interpreted as an effort to eliminate customary law. Instead, the state must formulate regulatory models that maintain a balance between legal certainty and respect for local culture. Such an approach is crucial for building harmonious relations between the state and indigenous communities.

The harmonization of customary law and national criminal law can be achieved through the establishment of specific regulations regarding the authority of customary institutions. These regulations must specify the types of sanctions permitted, procedures for resolving customary disputes, and the limits of authority for customary officials. The existence of clear rules will reduce the potential for conflict between customary law and national law. Furthermore, such regulations can also provide legal protection for indigenous communities as well as victims of the abuse of customary authority.

From the perspective of modern criminal law, recognition of customary law should be directed toward

strengthening restorative values, not as a justification for violent practices. The national criminal justice system must make room for local values that support peace, deliberation, and the restoration of social relations. However, the state must consistently reject any form of punishment that degrades human dignity. On this basis, the harmonization of customary law and national law must be oriented toward the protection of human rights and the realization of substantive justice.

Overall, this study demonstrates that the role of customary officials remains relevant in Indonesian society. Nevertheless, such authority must be exercised within parameters consistent with national law and human rights principles. The legality of customary sanctions involving violence cannot be justified if they conflict with the principle of legality and respect for human dignity. Therefore, harmonizing customary law with national criminal law is a crucial solution to maintain a balance between respect for local culture and the enforcement of modern rule-of-law principles.

5. CONCLUSION

Based on the findings of this study, it can be affirmed that the position of customary officials within Indonesia's legal system derives legitimacy both sociologically and constitutionally as part of the customary legal community whose existence is recognized by the state. Customary officials play a vital role in maintaining social order, resolving disputes, and preserving the cultural values of the community through the living and practiced mechanisms of customary law. Nevertheless, this authority is not unlimited, as it must remain subject to the principles of the rule of law, the principle of legality, and the protection of human rights. The study's results indicate that the application of customary sanctions involving physical or psychological violence is fundamentally unacceptable under

Indonesia's criminal law regime if such actions meet the elements of a criminal offense as defined in the Criminal Code (KUHP). Recognition of the existence of customary law cannot be used as a justification to disregard criminal liability for acts of violence that violate human dignity and honor. On the other hand, the restorative dimension of customary law remains relevant to the development of the national criminal justice system, particularly in achieving dispute resolution oriented toward the restoration of social relationships, peace, and social balance. On this basis, the harmonization of customary law with national criminal law must be achieved through regulations that clearly define the scope of authority of customary institutions and strengthen dispute resolution mechanisms based on restorative justice that align with the principles of human rights and the rule of law.

Referring to the results of this study, it is recommended that the government

immediately establish specific regulations that clearly define the status, authority, and limits of the application of customary sanctions within the national legal system to prevent the abuse of authority by customary officials. Additionally, educational and legal awareness programs should be implemented for indigenous communities and traditional leaders regarding the importance of human rights protection and the prohibition of violence in resolving customary disputes. Law enforcement officials also need to develop a more dialogic and participatory approach when resolving cases related to customary law to create a balance between respect for local culture and the enforcement of national law. Thus, the existence of customary law can continue to be preserved as an element of the nation's cultural identity without neglecting the fundamental principles of modern criminal law and the protection of human dignity.

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