

Damang's Existence as a Customary Justice of Peace in the Dayak Tribe Community in Palangkaraya

Arma Diansyah

Universitas Institut Agama Hindu Negeri Tampung Penyang Palangkaraya, Indonesia
E-mail: armadiansyah.plk72@gmail.com

*Correspondence: armadiansyah.plk72@gmail.com

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ABSTRACT

Demang is a customary leader who serves as the chief of customary region (kedemangan). The research method used in this research is based on empirical legal research on primary and secondary data. The data was qualitatively processed and analyzed. The overall results of the analysis are descriptively presented, that is describing the problems fully combined with critical commentaries. The theory used in this thesis is the theory of the Legal System Theory by Lawrence M. Friedman and some teachings on traditional case handling by Moh. Koesnoe. The discussion and the conclusion of this thesis, can be described as follows: (1).The existence of the position of Demang as a Peace Judge of indigenous communities judicially recognized in the legislation in force and still adhered to by the Dayak people in Palangkaraya, (2).In performing its functions, Demang as a Peace Judge of indigenous communities, always prioritizes the ways of peace settlement based on the principle of harmony, mutual grindstones, mutual love, mutual care, so as to solve the problem completely and the results can satisfy all parties, (3).In fact, the Dayak community legal culture in Palangkaraya strongly supports the effective execution of tasks of Demang as a Judge of Peace, from the cases that came to kedemangan, none of the cases has been brought to the level above kedemangan or appeal to local courts, (4).In current conditions, the role of Demang as a Judge of Peace needs to be enhanced in order to remain effective and not lose its function.

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Introduction

The Dayak tribe, one of the oldest tribes in Indonesia, has an old culture. They are indigenous people of Borneo, consisting of 7 major groups and 405 sub-tribes. The majority of Dayaks are in Palangkaraya. This agrarian society highly respects the values of ancestors, including religious, communal, and social values for harmonious living (Pelu et al., 2022). Their traditions and customs are strongly influenced by these values. Belief in sacred things is reflected in various traditional and religious ceremonies. Their

communal life emphasizes living together and personal sacrifice for the sake of society (Jarias, 2020). Mutual aid and cooperation are values that are highly upheld, with the principle that humans are bound to their society. Distinctive religious social institutions, such as kedemangan, play an important role in maintaining Dayak cultural identity and existence. "Belom Badat" refers to traditional values that live on, often discussed in the context of modernization. Kedemangan is a place of regular social interaction, but it also serves as a customary bodyguard. Customary law is the main guide in regulating social life, with customary justice by authoritative traditional leaders. The customary law system still prevails today (Abdurrahman, 2022).

During the Dutch colonial period, the Kedemangan institution was inaugurated by Besluiten van den Resident Zuider-en Oosterafdeeling van Boerneo on October 28, 1938 Number 349/c 7-1, which regulated the designation of kedemangan in Dayak land areas (Nofandi et al., 2022). The term Demang was used in that era, then changed to Damang in the Regional Regulation of Central Kalimantan Province No. 16 of 2008. Since 1938, demangan has been recognized as a semi-formal institution by citizens and governments. Tjilik Riwut explained that Damang Kepala Adat, born in 1938 as a successor to the position of traditional head in ancient times, is considered an ancestral recognition of customs by the Dayak community (Usop & Perdana, 2021). Kedemangan is believed to have existed since ancient times (11th century) based on the legend "Sansana Bandar". The Central Kalimantan Provincial Government pays broad attention and authority to demangan as a customary judicial institution. Regional Regulation No. 16 of 2008 specifically regulates demangan as a customary institution with territory, unity, and customary law in Central Kalimantan Province, being an inseparable part. Kedemangan is not just an ordinary customary institution, but an alliance of Dayak customary law communities. Damang Adat Head is tasked with maintaining the continuity of law in the alliance of indigenous peoples (Abbas, 2017).

Today, Damang Kepala Adat has a role similar to that of a Village Justice of the Peace, resolving customary cases as stipulated in Article 3a of the Rechterlijke Organisatie (RO) Staatsblad 1935 No.102. They settle customary matters and seek to reconcile the disputing parties. In Emergency Law No. 1 of 1951, the Indigenous courts and the Swapraja courts were abolished except for the Village Courts which continued to resolve customary conflicts peacefully (Diansyah, 2011). However, the implementation of these rules is often not optimal, and many Damang Chiefs are unaware or unable to carry out the role of Customary Justices of the Peace. Major government interference in various social aspects also weakened Damang's role in handling customary matters. The decline in the role of Damang could have an impact on customary law, as they are customary law stakeholders and customary builders (Akarmedia, 2013).

Legal development should include recognition of religious, customary law, and renewal of colonial legacy laws as well as discriminatory laws. Respect for local wisdom in legal development is essential. In Palangkaraya, there is a conflict resolution mechanism through customary institutions to prevent open conflict in Dayak communities (Safitri et al., 2023). Customary settlement of cases is expected to be an alternative to the country's judicial system which is often characterized by shortcomings, such as the judicial mafia and the lack of restoration of a peaceful atmosphere between disputing parties. In this context, Damang's role as a Customary Justice of Peace in Palangkaraya has important potential in resolving customary cases wisely (Hutapea & PAK, 2022). The academics also highlighted the importance of customary institutions and customary law in the lives of Indonesian people, affirming the important role of

Village Justices of Peace and local wisdom in resolving customary cases. Damang's existence as an Indigenous Justice of Peace in Palangkaraya needs to be studied further to see his role in formulating reality based on local wisdom (Asshiddiqie & Safa'at, 2016).

The model of resolving cases by Customary Peace Judges is very important and strategic because it provides enormous benefits not only for litigants, but also very beneficial for the wider community. The customary peace settlement procedure is very simple, fast, spective, fair and at low cost will provide economic benefits for the litigants (Großmann, 2019). Settlement of cases through Customary Peace Judges, the result prioritizes peace between litigants, and allows the maintenance of good relations between the parties in the long term so as to bring peace not only to the disputing parties but also to the harmony of relations in the wider community. Moreover, the existence of the Customary Justice of Peace can reduce cases that go to the District Court so that the duties of the district court become lighter. With a lighter burden, it allows the district court to carry out its functions more effectively as the last bastion of legal order. From this aspect, there is a practical urgency of an in-depth study of the existence of this Customary Justice of the Peace. Another reason for the importance of this study is related to efforts to strengthen local wisdom and customary law in the legal system in Indonesia, as one of the doors to case resolution solutions that can be developed (Pujirahayu & Wulandari, 2021).

Based on the background of the thinking as described above, the author considers it is time for in-depth research on the existence of Damang Adat Chiefs related to their authority and function in solving cases among rural communities (Heryanto et al., 2022). The study of the existence of Damang Adat Chiefs in solving various matters in Dayak society not only covers the normative but also concerns the empirical aspects. From this thought, the author encouraged the author to conduct research, then put it in the form of a thesis entitled "The Existence of Damang as a Customary Justice of Peace in the Dayak tribal community in Palangkaraya". This study aims to critically examine the existence of Damang as an Indigenous Justice of Peace in the Dayak tribal community in Palangkaraya (SYAUFU, 2020).

Research Methods

This type of research is legal research with empirical aspects, (empirical legal research). Empirical legal research proceeds from the gap between (*das Sollen* and *das Sein*), namely the gap between theory and the world of reality. Soetandyo Wignjosoebroto as quoted by Bambang Sunggono stated that aspects of empirical legal research are also referred to as non-doctrinal research or socio-legal research. Empirical legal research is based on the gap between existing legal norms and their implementation in society. The gap between the legal provisions governing Damang's position and authority as a Customary Justice of Peace and its implementation in the field has not been fully realized. Field data collection was carried out using interview techniques and literature studies. The sampling technique used in this study is purposive sampling, which is based on the goals to be achieved by the researcher. The research was conducted in Palangkaraya, Central Kalimantan Province, which included 5 (five) demangan, namely: 1) Pahandut demangan, 2) Bukit Batu demangan, 3) Jekan Raya demangan, 4) Sabangau demangan, 5) Rakumpit demangan is the research population.

Results and Discussions

Juridical Foundation of the Existence of Damang Traditional Chiefs

To see the legal basis for Damang's position and authority as a Customary Justice of the Peace, it must first be seen the regulation in the constitution of the Republic of Indonesia. The Constitution of the Republic of Indonesia is a rule of law at the highest level in national law. Regarding the juridical existence of Damang's position and authority as a Customary Justice of the Peace, it will first be reviewed from the constitution of the Republic of Indonesia, namely the Constitution of the Republic of Indonesia Year 1945 (abbreviated as UUD 1945). The term "Customary Justice of the Peace" is technically juridical and there is no clear regulation in the form of laws and regulations, however, "Customary Justice of the Peace" is very synonymous with Village Peace Judges in small communities that are often used in academia.

To see the legal basis for Damang's position and authority as a Customary Justice of the Peace, it can be reviewed through applicable laws and regulations, including :

1. Constitution of the Republic of Indonesia Year 1945

The 1945 Constitution, Article 18B paragraph (2) expressly states that the state recognizes and respects the unity of indigenous peoples and their traditional rights as long as they are alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia as stipulated in the Law. From these provisions, it is very clear that there is strong attention and recognition of customary law communities, this is reaffirmed in the general explanation of the 1945 Constitution of the Republic of Indonesia Chapter VI concerning Regional Government, Article 18 point II which states that in the territory of the State of Indonesia there are approximately 250 *Zelfbestuurende landchappen* and *Volksgemeenschappen*, such as villages in Java and Bali, *nagari* in Minangkabau, hamlets and clans in Palembang and so on. These areas have an original structure and can therefore be considered as special areas. The State of the Republic of Indonesia respects the position of these special regions and all state arrangements concerning these regions will remember the rights of the origin of these regions. From the recognition of the 1945 Constitution for indigenous peoples with their traditional rights, it can be seen that the constitution implicitly recognizes the existence of *kedemangan*, because *kedemangan* can be classified as customary law communities (*Adatrechtgemeenschappen*) as mentioned in Article 18 of the 1945 Constitution mentioned above. As is well known, one of the traditional rights of customary law communities is the authority to settle matters between villagers peacefully, and such authority is none other than the function of the Damang Chief. Constitutional recognition of the existence of this *demangan* is very important and has a high juridical value in the national law of a country. In the 1945 Constitution, although there is no specific mention of Damang's authority as a Customary Justice of the Peace, considering that the Customary Justice of Peace is one of the functions played by the heads of customary law communities (traditional heads), the existence of Damang Customary Heads can be seen from the recognition of the customary law community itself. From the description above, it can be underlined that Damang's existence as a Customary Justice of Peace in resolving various disputes and disputes in the community has a strong legal basis because it has received recognition based on the constitution of the Constitution of the Republic of Indonesia Year 1945.

2. Emergency Law No. 1 of 1951

According to this law, Village Justices of the Peace are still empowered to settle cases according to customary law as stipulated in Article 3a of the *Rechterlijke*

Organisatie (RO). Article 3a of the RO states that "Village Courts" can try cases according to customary law, but they cannot impose sentences, but can only determine customary reactions to restore balance or harmony in community life. The punishment that should not be imposed is a punishment whose form and type are the same regulated in state law (KUHP, etc.) so that there is no obstacle for Village Peace Judges (customary judges) to impose customary sanctions as stipulated in customary law, both the form of settlement and the settlement mechanism of the customary case. According to Dayak customary provisions, any disputes, disputes and violations of law related to the scope of customary law must in principle be resolved by means of customary peace deliberation. All customary cases that have been processed through the decision of the density of adat kedemangan are the final decision that is final and binding on the parties.

3. Law Number 39 of 1999

In Article 6 paragraph (1) of Law No. 39 of 1999 concerning Human Rights (HAM), it states that in order to uphold human rights, differences and needs in customary law communities must be considered and protected by law, society and government. Meanwhile, paragraph (2) states that the cultural identity of customary law communities, including customary land rights, is protected, in line with the times. From the provisions of Law No. 39 of 1999, it provides an explanation that customary law communities are recognized for their existence, precisely in this Law expressly and clearly that customary law communities must be protected both through legal regulations, as well as by their own communities and by government agencies. For the Palangkaraya region in particular and Central Kalimantan in general, kedemangan can be classified as customary law communities, as stated in Article 1 point (25) of the Regional Regulation of Central Kalimantan Province No. 16 of 2008 states, that kedemangan is a unity of indigenous peoples who have customary territories in Central Kalimantan Province consisting of a collection of several villages/kelurahan/kecamatan and cannot be separated. Thus, as an alliance of indigenous peoples of regional customary law, this demangan must be protected and preserved its existence.

4. Regional Regulation of Central Kalimantan Province Number 16 of 2008

Damang's existence as a Customary Justice of Peace received recognition in the Regional Regulation of Central Kalimantan Province No. 16 of 2008 concerning Dayak Customary Institutions in Central Kalimantan. The term "Customary Peace" is reflected in Article 7 paragraph (4) of the Regional Regulation of Central Kalimantan Province No. 16 of 2008 which expressly states that Damang the Traditional Head because of his position, automatically becomes the chairman of the customary peace density and as the last level of customary justice. Furthermore, Article 27 paragraph (2) states, that in the settlement of disputes, disputes, conflicts related to the scope of violations of customary law are in principle resolved by means of customary peace deliberation both by the density of customary kedemangan. Then Article 28 paragraph (1) which states that all disputes, disputes and violations of customary law that have been reconciled and given customary sanctions through customary peace decisions are final and binding on the parties. One thing that needs to be underlined from this explanation is that every dispute, dispute and problem related to the scope of violation of customary law must in principle be resolved by means of customary peace deliberation.

Confession To The Position of The Custom Head of The Head

The existence of Damang Adat Chiefs in Palangkaraya in particular and Central Kalimantan in general has been known since ancient times, until now it still exists and exists, although here and there it has undergone changes. Factually in practice there are

three aspects that concern the position of Damang Adat Chiefs and religious institutions in Dayak society in general, namely:

1. Historical Standing

Historically, the existence of Damang Adat has also experienced its golden age as something to be proud of, namely the Tumbang Anoi peace meeting in 1894 whose implementation was under the coordination of a famous Damang Traditional Chief at that time, namely Damang Batu (1821-1918). Damang Batu was appointed as Damang Traditional Head in Tumbang Anoi village in 1873 at the age of 52 years. The existence of the large meeting of Tumbang Anoi was held from May 22 to July 24, 1894 for approximately three months, attended by officials of the Dutch East Indies Government, indigenous leaders, representatives from 400 Dayak tribes including representatives from the North Kalimantan region (Serawak) so that thousands of people attended the meeting. There is a connection between the implementation of the Tumbang Anoi peace deliberation and efforts to stop the war with the Dutch, because before the Tumbang Anoi meeting in 1894, resistance from the Dayak tribe against the Dutch Colonial was being intensively carried out in various regions of the island of Kalimantan. One of the Dutch strategies was through negotiations to suppress attacks from Dayak chiefs led by Damang Kepala Adat, being one of the reasons for holding the 1894 Tumbang Anoi peace meeting. Another thing that was quite a concern from this meeting was related to the internal problems of the Dayak tribe, because culturally social there are still frequent wars between fellow Dayak tribes (habaleh bunu), hunting for human heads (mangayau), the system of slavery (hajipen) and various tribal customs. Therefore, in the deliberations of the Damang Chiefs, the settlement, abolition and synchronization of customary law were held without ignoring the fact that there was diversity in each region.

2. Culturally Positioning

Since ancient times, humans have lived in groups and have their leaders, leaders of groups of human beings are called traditional heads. It is the traditional chief who is responsible for appearing as the "steward" of his group's environment both outward and inward. In the Dayak indigenous community, the leader of the group is Damang Kepala Adat. For the Dayak people themselves, the role of Damang Kepala Adat is in addition to leading the alliance as well as a stakeholder of customary law, so that if his role becomes weak, it will also affect the customary law system itself so that its existence is maintained. As the leader of the indigenous people, Damang is obliged to protect the continuity of Dayak customs, customary law and culture in the relevant demangan area. The position of Damang Adat Head in the past was strongly influenced by the belief system (religion) and ancestral customs of the ancestors. In the past, the existence of Damang Kepala Adat received strong support from the Kaharingan religion (the indigenous religion of the Dayak tribe) that they professed and the customary law system and customary values that prevailed. With the occurrence of Christianization which considers Kaharingan to worship the sky, worship the earth, worship ancestral spirits, worship idols so that it is considered contrary to the values of Christianity and Islam resulting in the fading of Kaharingan beliefs. In fact, it is not a matter of what is worshipped by the Kaharingan adherents that is in question but noble traditional customs, concerning relationships between humans, relationships with the environment and the relationship of living humans to their ancestors including supernatural spirits. The existence of religious panaticism is one of the most fundamental causes of the Dayak cultural system began to shift. Most Dayak people who have converted, they tend to break away from the bonds of ancestral traditions and culture, this is what causes Dayak people to almost lose their

identity. Indeed, there have been several Damang who are Christian or Muslim, but some of the respondents think that ideally a Damang Traditional Head should be Kaharingan. Considering that the ancestral customs system of the Dayak tribe is rooted and sourced from the religious system (Kaharingan religion). Therefore, the religious system has also become the basic joint of the Dayak customary law and culture system which has now begun to undergo changes and shifts.

Authority and Function of Damang Chiefs in Society

Damang is the traditional head of a kedemangan who is appointed and elected based on the results of elections by village heads, traditional mantir and sub-district officials. Demang Adat Head has the authority and function in integrating the social control process of Dayak indigenous people. Authority in Indonesian dictionary is defined as the right and power to do something. According to Philipus M. Hadjon there are two ways to obtain authority, namely attribution and delegation, in addition there is also a mandate. Attribution is an authority obtained from the Law. Delegation is defined as authority obtained because there is a transfer of authority by government officials to other parties. Mandate is defined as a delegation of authority to subordinates. These three components are designated as the legal basis for the existence of authority standards, namely general standards for all certain types of authority and specific standards for certain types of authority.

Referring to the opinion of Philipus M. Hadjon above, the authority and function of Damang the Traditional Head as a Customary Justice of Peace is based on the authority of attribution, delegation authority or mandate. The term "function" refers to the work done in this case Damang's work as a Customary Justice of the Peace assigned by law because of his position. According to the provisions of Article 3a RO which regulates the authority of Village Reconciliation Judges (customary judges) in rural areas is to examine and adjudicate according to customary law cases that occur in small communities (indigenous peoples). From this understanding, it is presumed that authority is one of the requirements in carrying out functions and regulating the course of a customary government. Thus, Damang the Traditional Head in carrying out his function as a Customary Justice of Peace is closely related to the authority possessed.

The existence of the Regional Regulation is appointed as the standard basis for the authority of the Damang Customary Head in carrying out customary court functions. However, in carrying out his duties, the Traditional Head must not be too rigid and fixated on existing norms, considering that what is contained in the Regional Regulation is still general. It has thus been mentioned by Van Vollenhoven that the obligation of customary judges to *aanvulling van het adatrecht* (add customary law) is based on the consideration, that considerable changes (*aanmerkelijk veranderde levensomstandigheden*) in the living situation of the people require the establishment of new legal regulations. Because as a law that lives in society, customary law will experience ups and downs, there is a period when it experiences development, there is a period when the law has shrunk, and it always experiences changes and shifts along with changes that occur in the pattern of community life. Customary law consists of three parts, namely the part that has begun to be abandoned, the current customary law and the newly formed customary law, therefore it is impossible to force the enforcement of customary law that has been abandoned, which is not necessarily in accordance with current conditions. It is very accurate to say Van Vollenhoven who stated that even if the ruler declares a provision of the law invalid but the society concerned recognizes and maintains the law, the law will still apply. Vice versa, if the ruler maintains the enactment of a legal provision but the community has

abandoned it, then the effort will be in vain. Thus, Damang as a Customary Justice of Peace is not obliged to base his decisions on positive legal regulations that have been in force, therefore Damang is authorized to make decisions according to his assumptions in accordance with the wishes of the community, meaning that the application of customary law must be flexible.

Community Attitudes and Attitudes Towards Kedemangan as an Indigenous Justice Institution

Culturally, kedemangan is rooted in the local cultural system or culture of the Dayak people, has a close relationship with various belief systems and customs that prevail in Dayak society. Dayak people actually highly uphold the values of the customs inherited from their ancestors. This can be seen in the attitudes and behaviors of people who are open to making peace in a familial manner whenever there are problems or disputes in the community. In this thesis, it is more focused on the legal culture of the community in Pahandut and Sabangau. It should be pointed out that the conditions between Pahandut's demangan and Sabangau's demangan are actually not much different. The people of Pahandut and Sabangau are very heterogeneous and multicultural, so their views on the demangan institution are very diverse as well. Especially for immigrants (non-Dayak) prefer to bring the resolution of their cases outside the demangan such as religious courts and local district courts. As for the Dayak people themselves, they still entrust the resolution of their cases through traditional institutions. Immigrants do not feel any direct attachment to the traditional institution, because they think the institution is only for the benefit of the Dayak people. Even though it is expressly stated in Article 1 number (18) of the Regional Regulation of Central Kalimantan Province No. 16 of 2008, which states that the Ministry has the right and authority to regulate, manage and resolve various cases that occur in the community based on applicable customs and customary law, it means that the Regional Regulation applies generally to every citizen of Palangkaraya and Central Kalimantan in general. However, according to Suhardi Monong that in carrying out the duties of Damang the Traditional Head cannot impose his will on the parties to resolve their cases through the kedemangan institution, it depends on the parties to the dispute if they ask for a settlement through demangan it will be resolved according to the provisions of the applicable customary law.

In general, Dayak people have a tendency to solve things through customary norms that live in the community. Most Dayaks do not want to get caught up in formal and legalistic methods, but rather highly value the ways of heart-to-heart resolution and avoid dealing with the laws of the land. This way of law cannot be separated from the social character of Dayak society itself. Because in the view of Dayak people, a person is always seen as an inseparable part of his social environment (society). In Palangkaraya, especially in rural areas, one is understood as part of a social participant always bound by a strong tribal and kinship identity, one is largely determined by the social relationships one establishes. Dayak people have a culture of relent, openness and very compromise. Related to this, Sabran Ahmad stated that:

If many Palangkaraya community members choose to use customary peace settlement procedures, because they believe that the settlement of customary peace judges provides a better or more profitable solution compared to formal channels. In general, no one forces the use of case resolution procedures through customary (village) courts. Because the nature of settlement through customary justices of the peace is not formal and rigid, litigants have the ability to negotiate the terms of their use voluntarily.

Sabran Ahmad, further explained that if the cooperative relationship in the future is important for both parties, then dispute resolution through the institution of Customary Justice of Peace (*kedemangan*) is beneficial. In the settlement of cases by *Damang* as a Customary Justice of the Peace, it is always open for agreements to be negotiated voluntarily by taking into account the needs of the parties involved in the case. Therefore this process is much better able to maintain social relations for the foreseeable future than the lose-win procedure as occurs in court.

Peaceful settlement of cases through the institution of Customary Justices of the Peace, among the Dayak community are formats that facilitate community units with autonomous authorities and traditional institutions and local wisdom to 'punish' according to the distinctive form of social life. This is in accordance with the spirit that laws must be formulated on the basis of the principle of social harmonization which aims to accommodate the interests of all plural societies. Efforts to resolve cases through *demangan* as an institution of customary justice are aimed at maintaining a balance of relationships between human beings, humans and their environment based on communal thoughts or family spirits. In this mindset, society is seen as a large family of mutual love, mutual tolerance, solidarity and strong togetherness where individuals are an inseparable part of their society that is freely bound. They are a unanimous unity in facing the outside world, both positive and negative (threats) from outside, so that good deeds done by individuals also make the whole society praiseworthy, so that negative things experienced by individuals from outside should also be felt by the whole community. Like a family, in relation to interests, in society there is no prominence of individual interests. Such a mindset, in fact, does not only apply locally in Dayak society, but is a universal realm of thought adopted by Indonesian society in general. According to Soepomo, in maintaining the balance of human and human relationships, Indonesian society is based on a communal mind or family spirit.

For the Dayak community of Palangkaraya, the manifestation of this communal or familial principle can be seen from the principles that are very strongly adopted by the Dayak community in community life, such as the principle of '*penyeng hinje simpei*' which requires togetherness in joys and sorrows, the principle of '*hapakat bulat sagulung segaling*' which requires an atmosphere of mutual giving and receiving one in a round life. Then the principle of '*bahandep haruyung harubuh*' which wants to cooperate and help, then in decision making based on '*barembuk or hapakat*' means deliberation. Then the traditional saying "*hatangu manggetu bunu, hanangjika penang mangun betang*" (united with the community to solve problems, agreed to build togetherness). These principles are the embodiment of the concept of "*belom bahadat*". Thus, it can be said that in essence the purpose of solving a matter according to the mind of the Dayak community is to maintain, maintain an atmosphere of security, peace and peace in the life of the people in the village not only in the lives of fellow humans, but also in relation to the surrounding natural environment and God. In short, to realize a safe, peaceful and peaceful life, physically and spiritually which in the concept of Dayak society is called '*ruhui rahayu*'.

The settlement of cases through customary courts (*kedemangan*) is a solution that is not only based on the 'logic of rules' but also based on other logics. The logic of rules is only one aspect of case resolution, and if the resolution of cases is based solely on the 'logic of rules' it will stop at applying the articles in the law alone, which can lead to the grave error of forgetting the spiritual bases that are the spirit of a just settlement of cases. This spirit, often immersed in the process of solving things using only 'regulatory logic'.

Regarding this right, Satjipto Rahardjo stated that there are other logics besides 'regulatory logic' in law. First, it is the 'logic of social reasonableness' that considers whether what is to be done is in accordance with the propriety in society, the process of solving the matter has entered the 'logic of social propriety'. Secondly, that is, the 'logic of justice' such logic cannot be immediately sought in regulations, but requires deep reflection because in the process of solving cases must be free from interests. The settlement of cases through the Village Peace Judge institution in Palangkaraya is one of the legal development efforts. Then it is expected to be a contribution in the national scope, where local wisdom is still lived and guided because by residents it is considered as a force for strengthening the community.

Community Attitudes and Attitudes Towards Damang's Ruling as Customary Justices of Peace

Dayak society, like other societies, is not static but dynamic. The attitudes and behaviors arising from the people of Palangkaraya towards the decisions given by Damang as Customary Justice of Peace caused different responses or reactions among the community. This different community response or reaction arises because there is no common understanding of the position and function of the Traditional Head Damang, both understanding, role and performance. The results of research on Pahandut demangan and Sabangau demangan related to the legal culture (attitude, behavior) of the Dayak community towards the decisions given by the Traditional Head Damang turned out to get mixed responses and responses.

In this connection, as stated by Salim (76 years old) and Mrs. Efrida D. Luhing (51 years old) as people who have experienced litigation in Pahandut demangan in an interview at his home on October 22, 2010 stated that in principle they agree and can accept the decision of Damang Kepala Adat, as long as it does not go out of its main function, which is to maintain the stability of social relations between community members. Because in the internal legal culture of demangan, Damang Adat Head has a very large contribution to the resolution of various disputes or disputes, not only applies to Dayak people but also applies to all residents of Palangkaraya community in general. However, according to Efrida D. Luhing, Damang Adat still needs to be maintained for the continuity of Dayak tradition and culture. In contrast, a resident named Talisman D. Daya (55 years old) who is also the chairman of Pahandut RT, expressed his opinion that the current figure and quality of Damang Kepala Adat is still unsatisfactory, especially regarding knowledge and experience in the field of customs and customary law. In fact, most Damang are still passive in the sense of being less creative, because they only carry out what they are told. This concerns the low quality of human resources owned by the Damang Traditional Chiefs.

A Christian community leader who is also the anti-traditional Panarung, namely Willy Bungai (53 years old), in an interview conducted on October 18, 2010 expressed his attitude, that the decisions given by the Damang Traditional Chiefs have been considered quite effective and can be accepted by the wider community, so far it has always run smoothly because there has been a Regional Regulation of Central Kalimantan Province No16 of 2008 as a legal umbrella for the Damang Traditional Heads in carry out its duties. In the settlement of customary cases, what Damang Adat did was not much different from the way cases were resolved as usual in public courts. Then the same thing was also stated by Siun Ibat, who is also the traditional mantir of Pahandut, who expressed his view that although there are still many shortcomings, the role of Damang Adat Head in resolving disputes or disputes between community members in Palangkaraya is very

effective. Therefore, Siun Ibat, agreed to make efforts to empower Damang Traditional Heads and traditional institutions so that they can be more reliable as expected by the community.

Sabran Ahmad (76 years old), a Dayak community leader who is Muslim and lives in the Pahandut demangan area, gave a positive response when interviewed on October 22, 2010, that in terms of determining customary decisions and in imposing customary sanctions against guilty citizens, Damang Chiefs are always based on custom and not coercive and therefore always accepted by community members. According to Sabran Ahmad, all Palangkaraya people regardless of their religion and beliefs must submit and obey the local customary system and customary law, as the saying 'where the earth stands there the sky is upheld' if this is done well, there will undoubtedly be no conflict. Because not a few local tribes (Dayak tribes) feel tress with the presence of non-Dayak tribes, who feel 'work areas' are taken by migrants. Do not let conflicts such as the eccentric conflict in 2001 which made the situation of mutual grudges against the people. Because with the principle of respecting local customs and culture, the potential for conflict, both hidden and open, does not surface.

The views of the Damang themselves as expressed by Damang Pahandut (Suhardi Monong), then Damang Sabangau (Basel A. Bangkan) and Damang Jekan Raya (Sulman Jungan), in an interview on October 25, 2010 they stated that the position and role of Damang Traditional Chiefs is still important and needed, especially to maintain the preservation of Dayak customary and customary law. Because if the role of Damang Adat Head becomes weak, it will affect the customary law system and Dayak culture because Damang is the stakeholder of customary law. Thus, if there is a dispute or violation of custom, he is asked for a settlement by the community of Kedemangan, based on that request Damang the Traditional Head can hold a customary court at his home. For Dayak community groups who adhere to Kaharingan Hinduism in carrying out traditional ceremonies and marriages, they still need a lot of 'services' of a Damang Traditional Head in determining the validity and absence of their marriage ceremonies. Most of them think that the position of Damang Kepala Adat should continue to be maintained in the Dayak customary law system.

Then from the perspective of the government, especially the sub-district heads as stated by Edie (41 years old), a Pahandut sub-district head in an interview that the author conducted on October 16, 2010, expressed his opinion that to deal with the influence of the globalization era which is marked by various changes in various aspects of people's lives, the community should be able to adapt to these changes. Similarly, the Damang Chiefs are required to be able to adapt to social changes. This means that the rules of customary law are maintained and the rules of customary law which need to be adjusted to the demands of the community. Meanwhile, according to Nurani Mahmuddin (42 years old), a Sabangau sub-district head who considers the existence of Damang the traditional head has more or less helped the sub-district in succeeding development, especially those related to local customs and culture. In principle, Nurani also strongly agrees to make efforts to empower Damang Traditional Heads so that they can play a role as expected.

Based on the response of the community that arose in the Pahandut demangan and the Sabangau demangan, both the people who had been litigants and the surrounding community and the local government, who knew about the existence of the demangan institution. It is recognized that the position of demangan and the role of the Traditional Head Damang at this time has undergone a process of groceration while on the other hand there is still a tendency to defend it with various considerations and reasons, while on the

other hand there are still political elites and officials in the region who are still ambiguous about this issue. In this connection, if examined through the theory of the legal system, especially the legal culture of Lawrence M. Friedman, which clearly states that legal culture is a social mood that determines how the law is used, avoided or abused. Legal culture includes ideas, attitudes, beliefs, expectations and views about the law. Legal awareness here is defined as the legal perception of an individual or community towards customary law. According to Friedman, the form of decisions given by the demangan institution through a customary density using the spokesperson of the customary experts and a fast process, this is a legal culture that indicates that the community supports the decision of the demangan institution. This is a form of case resolution that is in accordance with the needs of the community and brings the community closer to welfare. This concept can prevent prolonged disputes or disputes or if there is a dispute or disagreement can be resolved properly without having to hurt the feelings of the parties. The settlement of cases through Customary Justice of Peace is intended to actualize the role of existing customary institutions such as kedemangan institutions.

On the other aspect, Damang the Traditional Head has the right and authority to the demangan institution he leads, does not want to be intervened by certain parties to be forced so that the implementation of the demangan task must fully refer to the Regional Regulation of Central Kalimantan Province No. 16 of 2008, because the Regional Regulation only regulates general matters, therefore it needs more specific elaboration and Damang is obliged to dig, following, understanding the legal values and sense of justice that lives within society. Within the framework of the customary law system, Demang as a Customary Justice of Peace is even obliged if on a matter there is no positive legal regulation to give a decision that reflects the people's sense of justice that is growing newly, must pour into concrete decisions what according to his beliefs is in accordance with the flow of society. Every action of Damang Kepala Adat, both in terms of preventing violations of the law and in terms of restoring the law, gives birth to conclusions about the enactment of a customary law regulation. With this decision, Damang Adat Head does concrete and gives concrete form to what lives in his village community as a sense of justice or a sense of people's awareness of justice. However, Damang must not neglect the universally applicable principles and principles of common law.

Effectiveness of Case Resolution by Damang Customary Heads

Based on the results of studies in Pahandut demangan and Sabangau demangan, it shows that case resolution through the institution of Customary Peace Judges is more effective in achieving the above objectives compared to settlement through court channels. This effectiveness can be measured from three aspects, namely in terms of the quality of cases that have been successfully handled at the level of demangan compared to cases resolved outside the customary institutions of demangan, from achieving the objectives of case resolution, namely cases can be resolved properly so that an atmosphere of peace, peace and peace in the community can be maintained, and in terms of acceptance of the litigants to the results of case resolution. Judging from the first measure, it is clear that the implementation of the function of Customary Peace Judges in Pahandut and Sabangau districts is still effective, because from the number of cases or cases handled by Damang as Customary Peace Judges, it turns out that only 2 (two) cases have continued the process to the district court even though from the number of cases that occur quite a lot. Related to this, it is very appropriate to be said by Ter Haar, that in the life of Indonesian people litigation to the Court is not something common, although it does not

mean that there is absolutely nothing. Furthermore, Ter Haar, stated that matters that occur within the Indonesian population, especially civil cases, are mostly still in the hands of traditional chiefs and elders of a tribe. Although often the powers of Hakim Perdamain Adat (hakim adat) are reduced or changed to become a more or less hidden court, in most areas cases are tried by formal judges such as district courts through the filter of village peace judges.

As happened in Pahandut and Sabangau demangan, all cases that occur in the community are tried as much as possible so that they can be resolved at the demangan level, so that all cases that have occurred both cases in the form of violations of the law and in the form of disputes or disputes can almost all be handled without involving outside parties. Not only that, litigants through kedemangan (customary judicial institutions) decisions are binding, punal, customary sanctions are not in the form of imprisonment. From the point of interest of the parties, settlement at the demangan level is seen as more beneficial to all parties because it can obtain a fast, straightforward, low-cost settlement and can maintain good relations. When viewed from the point of view of the interests of indigenous leaders (Damang and Mantir Adat) and indigenous peoples, the resolution of cases in Kedemangan is considered to be able to maintain the prestige of adat and the honor of Kedemangan, because if it is resolved outside Kedemangan, Damang Adat Head is considered to have failed in carrying out his function of maintaining peace and peace of the community, that is why the leaders of Kedemangan always try everything that happens not to continue to the process The law is beyond demanism. In this case, it takes the ability and expertise of a traditional Damang and Mantir as a Customary Justice of the Peace. If there are actions that are contrary to customary law, then Damang Kepala Adat acts to enforce the law and restore balance in the village atmosphere.

When viewed in terms of achieving goals, the implementation of Damang's function as a Customary Justice of Peace in Pahandut and Sabangau villages has generally been quite effective, but not really satisfactory. Because there are still many community members who directly bring their cases to the public court without the knowledge of the local Damang Chief, then there are still cases that have not been resolved completely. These cases are cases involving individuals against individuals and between individuals against groups, such as the case of the sale of grave land by the heirs of the landowner to the Palangkaraya market developer. This graveyard dispute has been going on for quite a long time, can be classified as a prolonged dispute and has involved local government officials (police and courts). However, the existence of one or two cases that cannot be resolved by the Ministry of Agriculture does not mean that the implementation of the functions of the Damang Traditional Head is ineffective, because in fact outside of these cases in many cases the Damang Traditional Head has been able to carry out his functions properly.

Then, in terms of the acceptance of litigants or parties who have litigated through damangan, the results of the settlement by the Traditional Head Damang in general the parties can accept well and obey it. This can be seen from the responses of residents who have litigated in Kedemangan, they can accept all decisions of Damang and there have never been other legal remedies, such as continuing the case to court, as long as these cases are entrusted with resolution through the demangan institution there has never been a conflict. That way, they consider the matter finished and they return to normal life, and enter into relations with the other party without any hostility. In this case, the character of a Damang Traditional Head is very decisive so that the parties to the dispute can respect every decision given. According to custom, a Damang must understand the ins and outs

of customary law, have extensive knowledge, have a good personality, have sufficient experience of community life, thus making a Damang more valued and respected in the community and every decision will be followed voluntarily. But for now such pigur has been felt scarcity.

In the context of maintaining an atmosphere of harmonious living in community life, the resolution of cases through the institution of Customary Justices of Peace is more likely to maintain good relations between litigants so that an atmosphere of security, peace and peace in community life can be maintained. The maintenance of good relations is possible because the resolution of cases at the demangan level prioritizes methods of deliberation and consensus rather than the aspects of right-wrong and lose-win, as is generally the case in court. Settlement of cases in a customary peace manner, by the Dayak community is a way of solving cases that are in accordance with the original Dayak cultural values and has, and are very compatible with the values contained in their local culture, able to maintain the peace of solidarity of residents who are cross-warped. Peaceful settlement of cases has spiritual power derived from the pearls of Dayak cultural wisdom. This means that between the peaceful settlement of customary cases and the pearl of Dayak Buddhist wisdom "belom bahadat" is something inseparable from each other, and is a down-to-earth traditional case resolution style of Dayak people, because it is carried out with agreed local wisdom. The resolution of cases in Palangkaraya has an impact on creating harmony, harmony, and decency between citizens, because the background that animates such life is cosmic. One member of society is considered to be linked to the other, so one cannot be separated from the other. Truth and meaning depends on the place, the location where the members of society are. Thus, the settlement of cases through Customary Justices of the Peace takes place adequately so that it becomes culturally meaningful, harmonious, harmonious and appropriate in the development of progressive law.

The bases of local wisdom guided in solving customary cases in Palangkaraya are a 'cultural visit' that can be used to introduce local wisdom of the local community. For the Dayak community, the model of traditional peaceful case resolution that relies on local wisdom, has an urgency to be developed in today's life. In the current context, where various forms of violence are rampant everywhere, in certain groups of society there is an impression that violence is a legitimate effort to resolve cases or conflicts of interest. Such patterns are symptomatic, both at the local and national levels. Society is caught in one-sided claims, claiming itself to be the most correct, so that it leads to forcing the "truth" on others and the path of violence is considered legitimate to use, even though violence will lead to new violence. Such a fact for the Dayak community gives the impression that the settlement of cases in a peaceful customary manner which is a model for solving cases carried out by community members can be done in a more substantial way. That is why Tjok Istri Putra Astiti, professor of customary law at the Faculty of Law Unud, also admitted that the settlement of cases through public courts does not necessarily solve the problems faced by the parties. Although a case can be resolved in court, it is not certain that a peaceful atmosphere between the parties can be restored, so that such a settlement does not solve the problem completely. According to him, complete resolution of the problem means the return of the situation of the parties to an atmosphere of harmony and peace as before. Such an atmosphere is the core of people's lives in rural areas and it is the responsibility of every citizen to participate in making it happen. In this case, Damang Adat Chiefs play a very important and decisive role

Conclusion

The arrangement of the position and authority of Damang Kepala Adat as a Customary Justice of Peace in Dayak society has its own historical and polar background long before the Dutch colonial era in Dayak land. Article 18B paragraph (2) of the 1945 Constitution states that the state recognizes and respects the unity of indigenous peoples with their traditional rights. The recognition implicitly acknowledges the position of demangan, because demangan can be classified as an alliance of customary law communities. In Emergency Law No. 1 of 1951, Article 1 paragraph (3) it can be noted that Village Peace Judges (customary peace judges) are not included in the abolition. Thus, Damang's position as a Customary Justice of Peace has a strong legal basis to resolve customary matters that occur in the demangan area he leads. Jurisically, Damang's position and authority as a Customary Justice of Peace received recognition at the Regional Regulation level, based on the Regional Regulation of Central Kalimantan Province No. 16 of 2008 concerning Dayak Customary Institutions in Central Kalimantan. However, the Regional Regulation is considered to still have many shortcomings and weaknesses, because in the Regional Regulation in addition to regulating the demangan institution, it also regulates the institution of customary assemblies which actually have a different vision and mission. Kedemangan is a religious social organization based on authenticity and traditional, while the customary assembly institution is an organization that is deliberately formed and has its own articles of association and bylaws, how can it be regulated in the same local regulation. In the implementation of his duties Damang as a Customary Justice of Peace in the existing reality shows that Damang is less creative in exploring and finding customary laws that apply in the Dayak community where he serves, seems to be just implementing what is assigned to him. Most Damang Chiefs are unaware of his position as Customary Justice of the Peace, or once realize he is incompetent to serve. A Damang mostly takes care of various traditional ceremonies and other ceremonial events, while previous tasks related to solving cases have been taken over by many bureaucratic officials, such as police, prosecutors and courts, as well as from local government elements have the effect of weakening the role of Damang Traditional Chiefs in Dayak society, while if Damang's role becomes less it will affect the position of customary law, remembering that Damang is a stakeholder of customary law and as a coach of custom. The legal culture (attitude, behavior) of the Dayak community in relation to the position and function of the Traditional Head Damang as a Customary Justice of the Peace, in this case is highly dependent on the level of needs of the community in accordance with their traditions and beliefs in the need for traditional settlement of cases by Damang. Dayak communities have also undergone changes, including in terms of solving cases, so Damang Adat is not the only option to solve problems in the community. The shift in people's legal awareness is evidenced by the tendency to settle cases to district courts, when in fact there is a local (traditional) wisdom for peaceful and familial settlement of cases, and more cultured. On the other hand, the influence of codifying national law penetrated into the community, because it systematically killed the strategic role of Damang Adat Chiefs in the lives of Dayak people.

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