

The Implementation of the Kasepekang Customary Sanction in the Customary Legal System of Bali and Subak from a Justice Perspective in Jembrana Regency, Bali Province

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ABSTRACT: One type of pamidanda, kasepekang, tends to require reexamination of its existence and application to align with societal developments. The aim of this research is to analyze the fairness of the application of kasepekang customary sanctions and their development in the modern era. The questions are: How can kasepekang customary sanctions be applied fairly in customary courts and subaks in Jembrana Regency? What are the benefits of kasepekang customary sanctions in the development of customary law in Bali? This research is classified as qualitative empirical research using a legislative approach, a case approach, a conceptual approach, and a customary law approach. The research results show: First, the determination of kasepekang is carried out through the paruman krama desa (village community leaders), not by a single group of individuals or village customary leaders (prajuru). To create balance, the wisdom of the customary leaders (prajuru adat) is required to lead the paruman when exercising judicial authority. Likewise, the krama desa can carry out a supervisory function as a "jury" by participating in determining aspects of wrongdoing and the relevance of sanctions. Second, the benefits of Kasepekang customary sanctions are to maintain and uphold the dignity of the norms stipulated in Balinese customary law and to serve as a "means of coercion" to maintain order in line with the objectives of those regulations

KEYWORDS: Kasepekang Customary Sanctions, Justice, Customary Law, Human Rights, Balinese Customary Law

I. INTRODUCTION

Indonesia is an archipelagic country with 38 provinces, rich in cultural, linguistic, racial, ethnic, and religious diversity. This diversity has a significant influence on the formation of laws across various regions, including the presence of highly diverse indigenous law communities. Some regions have special characteristics, such as Aceh Province, which enjoys special autonomy in the areas of religion, customs, and education, as well as the significant role of religious scholars (ulama). The Special Region of Yogyakarta operates under a monarchy-based system of governance. The Dayak people in Kalimantan and the Balinese people also continue to uphold their customary laws strongly. This paper will further discuss the lives of the Balinese people, who regard the awig-awig (customary village regulations) as a guiding principle for community life.

Customary law in Indonesia is officially recognized by the state, although its implementation is subject to certain limitations. This is reflected in Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that the state recognizes and respects traditional communities along with their traditional rights, as long as they are still alive, in accordance with the development of society, and do not conflict with the principles of the Unitary State of the Republic of Indonesia, and are regulated by law. Bali is one of the provinces in Indonesia where customary law continues to be practiced in everyday community life. Previously, the regulation of Customary Villages (Desa Adat or Desa Pekraman) was contained in Bali Provincial Regulation (Perda) No. 3 of 2001, which was later amended by Perda No. 3 of 2003. However, as these were deemed no longer in line with legal developments, Bali Provincial Regulation No. 4 of 2019 concerning Customary Villages in Bali was enacted. Customary law in Bali is closely tied to Hinduism, the religion embraced by the majority of the population. The leader of the Customary Village governance structure is called the Bandesa Adat, defined in Article 1 point 16 of the regulation as the highest official of the Desa Adat.

In the governance of Customary Villages (Desa Adat) in Bali, the Bandesa Adat is assisted by village officials known as prajuru. The primary responsibilities of the prajuru are to implement, enforce, and, when necessary, revise customary law within their

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jurisdiction, as stipulated in Chapter VI, Article 30 of Bali Provincial Regulation No. 4 of 2019. This customary law is known as awig-awig, which is formulated based on the teachings of the Vedic scriptures and adapted to the traditions of the Balinese people. Through the awig-awig, Balinese communities are able to live in harmony, maintain order, and achieve relatively stable socio-economic welfare (I Ketut Widia 2020).

The Balinese people have long embraced a village-based way of life. The concept of the Desa Adat (Customary Village) was first initiated by Rsi Markandeya and later refined by subsequent holy figures, including Mpu Kuturan. Mpu Kuturan clarified the functions and roles of the village in Balinese social life by introducing the concept of Tri Kahyangan as the main structural foundation of the Desa Adat system (I Ketut Seregig 2014). Traditionally, it is believed that Mpu Kuturan established the village system (pekraman) in Bali based on the worship of Tri Kahyangan. According to I Gusti Bagus Sugriwa (1976), Mpu Kuturan, who meditated in Silayukti, traveled around villages in Bali to teach and advise the community on ethics (silakrama), morality, cosmological philosophy, the law of karma, and reincarnation (punarbhawa). He also guided the community in constructing places of worship such as Pura Puseh, Pura Dalem, and Bale Agung, as well as organizing the village and banjar (community group) structures. His teachings were later documented in the palm-leaf manuscripts known as Widhisastra and Sangharayoga.

The arrival of the Dutch marked the beginning of modern influences in Bali, particularly in the fields of technology and visual arts, which subsequently enriched Balinese culture through a process of acculturation. Besides introducing foreign elements, the Dutch colonial government also implemented the desa dinas (official village) system in Bali without disrupting the existence of the Desa Adat (pekraman); both systems were able to coexist harmoniously. Although under colonial rule, the Balinese people remained free to preserve their arts, culture, customs, and religious ceremonies. However, entering the era of globalization, Balinese society has been confronted with global culture that often conflicts with local values. This wave of global culture demands that the Balinese people respond wisely, as reflected in changes to traditions such as the decline in the practice of meli ayahan and the emergence of cremation as a more common alternative to traditional burial practices.

Meli ayahan is a form of obligation for krama adat (members of the customary community) who live outside the Desa Adat territory to compensate for their absence in customary mutual cooperation activities, usually in the form of payment or specific contributions. Meanwhile, one of the important ceremonies in Balinese religious tradition is Ngaben (cremation), which also attracts both domestic and international tourists. However, the Ngaben ceremony cannot always be performed by all families due to high costs and customary factors, such as when a family is subject to the kasepekang sanction (customary exile). This situation has led to the emergence of Hindu crematoriums in Bali. Although initially met with both support and opposition, the implementation of Ngaben in crematoriums is now widely accepted because it is considered more affordable and efficient.

Although the life of the customary community in Bali is governed by strict rules and traditions, Bali remains a renowned tourist destination both in Indonesia and worldwide due to its rich culture and natural beauty. Bali's image as the "Island of the Gods" became widely known since the arrival of Europeans in the 1920s, who also helped introduce and develop the tourism potential of the island (I Gde Parimatha 2013). Bali Province, which consists of 8 regencies and 1 city, has tourism areas in each of its regions. According to data from the Bali Provincial Statistics Agency, the number of foreign tourists arriving directly in Bali reached 503,194 in April 2024 impressive figure considering Bali's total area is only about 5,780 km². This influx of tourists and external influences drives Balinese traditions to adapt to the changing times. The Balinese people, who live according to the awig-awig, must still align with the 1945 Constitution as the highest law in Indonesia. This is where the important roles of the Kelian Dinas (leader of the official village community) and the Bandesa Adat (leader of the Customary Village) come into play in maintaining the balance between the desa dinas and the Desa Adat.

However, in social life, conflicts are inevitable disputes between two or more parties related to the fulfillment of rights and obligations. Customary conflicts usually arise due to violations of the awig-awig, which, despite warnings, are ignored by one of the community members. The customary community's response to such violations aims to uphold order and encourage the individual to fulfill their obligations. If the conflict persists, the issue is considered a customary dispute that requires resolution. Generally, the resolution is carried out through customary courts known as the "Sidang Kertha Desa" among the Balinese community.

In the practice of the judiciary in Indonesia, customary law has gained recognized status, as evidenced by numerous jurisprudences from the Supreme Court and lower courts. This demonstrates that customary law still holds relevance within the national legal system, particularly in civil litigation. Therefore, it is important to examine the extent to which the implementation of customary law is accommodated within Indonesia's civil justice system, in order to understand the scope of recognition and the actual position of customary courts.

Article 18B paragraphs (1) and (2) of the 1945 Constitution affirm that the state recognizes and respects regional government units with special or particular status, as well as customary law communities along with their traditional rights, as long as they still

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exist and do not conflict with the principles of the Unitary State of the Republic of Indonesia. This indicates that customary law, as part of the living law, is one of the legal sources that needs to be explored, respected, and implemented, especially by law enforcers.

In the context of Bali, customary sanctions are an integral part of the social system and norm enforcement. Some forms of customary sanctions in Bali include: Prayascita: Ceremonies to cleanse the village of negative elements or impurities, such as pamarisudan, pecaruan, or balik sumpah; this sanction particularly applies to priests, such as Metirta Gemana or Metirta Yatra. Meselong: Exile to a certain area. Kelebok ring segara: Banishment to the sea. Mengaksama / Mepilaku / Mengolas-olas: Public apology. Ngingu banjar: Hosting or paying respects to members of the banjar (village community). Kerampang: Confiscation of property. Kasepekang: Social ostracism or exclusion. Mebelagbag: Punishment in the form of physical restraint. Dedosan: Sanctions in the form of fines. These sanctions are not merely punishments but also serve as means to restore social and spiritual balance within the Balinese customary community (I Nyoman Serikat Putra Jaya 2005).

Philosophically, the imposition of customary sanctions within a community has profound and layered purposes, reflecting social, educational, and restorative functions. These purposes include: Maintaining Order and Social Harmony: Customary sanctions serve as a tool to uphold norms and values agreed upon together, in order to maintain order and harmony within the customary community. Resolving Conflicts: Customary sanctions act as a mechanism for conflict resolution aimed at preventing disputes from escalating and damaging the existing social order. Teaching and Strengthening Cultural Values: Through the application of customary sanctions, the community, especially the younger generation, is taught the importance of obedience to traditions, customs, and the noble values inherited from ancestors. Providing a Deterrent Effect: Customary sanctions are designed to exert moral and social pressure so that offenders do not repeat their actions, while also serving as a lesson for other community members. Restoring Social Harmony: Customary sanctions are not merely punitive but also aim to restore damaged relationships between individuals or between individuals and the community, in order to maintain long-term stability. Thus, customary sanctions play an important role in maintaining the sustainability of the social and cultural order of traditional communities.

Several cases of kasepekang customary sanctions in Bali have drawn media attention. In Banjar Mungsengan, Kintamani, a resident named I Nyoman M reported a suspected land seizure case to the Bangli Police. Afterwards, he was subjected to kasepekang sanctions for questioning his right to a piece of inherited family land that was claimed by the desa adat (customary village) and had already been occupied by dozens of people. Mediation efforts failed to reach a resolution. A similar case occurred in Telaga Village, Buleleng, involving two households who were ostracized following a conflict related to a family worship ritual. The dispute began with a misunderstanding during the ritual, which was later brought to a village forum. Although the conflict was not triggered by the local residents themselves, the two families were sanctioned after failing to resolve the issue through customary means. As a result, they faced expulsion and had their access to basic facilities disrupted.

Cases of kasepekang customary sanctions have also occurred in the Jro Kuta Pejeng Customary Village, Gianyar. Two residents, I Made Wisna and I Ketut Suteja, were sanctioned in August 2020 due to a dispute over the certification of teba land, which was claimed to be ayahan desa (village land). Although both individuals had verbally and in writing rejected the sanctions, there was no response from the customary village authorities. The Gianyar Customary Village Council is still reviewing possible solutions for this case.

Meanwhile, several cases in Jembrana Regency have become the focus of academic theses. For instance, in Budeng Customary Village, individuals subjected to kasepekang sanctions were denied access to customary services during a ngaben (cremation) ceremony. In Pengeragoan Daging Tukad Customary Village, sanctions were imposed on a resident who refused to serve as a subak (irrigation association) head, although the sanction was later revoked by the regency's customary authority. In Tuwed Customary Village, sanctions were imposed on an individual involved in the embezzlement of LPD (Village Credit Institution) funds, who was also subject to legal proceedings. This study aims to compare the implementation of kasepekang sanctions in Jembrana as a reference for addressing similar cases.

Based on the background above, it is important to conduct further research on the implementation of kasepekang customary sanctions within the customary justice system of Bali and the subak institution, from the perspective of justice in Jembrana Regency, Bali Province. This study aims to analyze the application of kasepekang sanctions in the Balinese customary judicial system and subak, particularly from a justice-oriented perspective in Jembrana Regency. The kasepekang sanction is intended to preserve social harmony and uphold community norms. This research is essential to assess the extent to which customary justice is capable of resolving civil conflicts in the customary villages of Jembrana.

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II. RESEARCH METHOD

The research method used is empirical legal research, which examines the law in terms of its application in society, rather than merely as written norms. The focus is on the imposition of customary sanctions within the judicial practices of desa adat (customary villages) and subak organizations in Jembrana Regency, Bali. It was found that in practice, customary sanctions such as kasepekang often have far-reaching impacts, affecting not only the individual but their entire family. Moreover, the application of such sanctions within subak institutions is considered inappropriate, as the legal basis of subak differs from that of desa adat. To gather relevant information on the issues under study, several types of approaches are employed: the statutory approach, case approach, conceptual approach, and customary law approach.

III. RESULT AND DISCUSSION

A. Implementation of Kasepekang Customary Sanctions in Jembrana Regency

Article 6 of Law Number 15 of 2023 concerning the Province of Bali states that desa adat (customary villages) and subak in Bali are regulated through Regional Regulations of the Province of Bali in accordance with legal provisions. Desa adat is governed by Bali Regional Regulation Number 4 of 2019 concerning Desa Adat in Bali, while subak is regulated under Regional Regulation Number 9 of 2012 concerning Subak. Customary villages considers subak to be a part of its structure. Both entities possess legal status as formal recognition of their respective roles. Customary villages serves as a platform for the Balinese customary community to carry out religious and traditional activities. Typically, one desa dinas (administrative village) encompasses one desa adat, although there are instances where one desa dinas includes multiple desa adat, such as in the cases of Ketewel Village and Pengeragoan Village.

The existence of multiple customary villages within a single desa dinas reflects the diverse origins, traditions, and customary practices of Balinese indigenous communities. These differences necessitate clear grouping to prevent conflict. Based on their history and traditions, desa adat are classified into four types: Bali Mula/Bali Aga and Bali Apanaga (both considered traditional or ancient villages), as well as Desa Anyar (new villages) and Pemekaran (splintered villages), which are newer classifications. To maintain harmony in customary practices, the Majelis Desa Adat (MDA) was established as an institution that provides guidance and recommendations on customary matters, in accordance with Bali Regional Regulation No. 4 of 2019 concerning Customary villages. Although subak is often regarded as part of desa adat due to the expansive territorial reach of customary villages across Bali, subak is in fact a distinct organization with its own legal structure and specific functions, as regulated under Bali Regional Regulation No. 9 of 2012 concerning Subak. Nonetheless, desa adat often perceive subak as part of their customary domain.

As an autonomous organization, subak holds the authority to establish internal regulations in the form of awig-awig, sima, and pararem. Awig-awig governs the core principles related to spiritual relations (parahyangan), social relations (pawongan), and environmental stewardship (palemahan), while pararem contains the technical details of implementation. Awig-awig also outlines the rights, obligations, and sanctions for subak members. Conflict resolution is carried out through deliberation (musyawarah), based on the sanctions stipulated in these customary laws. According to Article 11 of Bali Regional Regulation No. 9 of 2012 concerning Subak, while desa adat considers subak to be part of its customary domain, the sanctions imposed within subak must not conflict with national law or the community's sense of justice.

Bali Provincial Regulation Number 9 of 2012 concerning Subak recognizes the view of desa adat that subak is part of the customary village structure. The regulation governs subak by emphasizing the principle of legal pluralism, which integrates elements of state law, religious law, and customary law. As a traditional irrigation management organization, subak is considered part of the indigenous law community unit (kesatuan masyarakat hukum adat) and is entitled to protection by the state. Subak and desa adat are two complementary institutions: subak focuses on agricultural and spiritual aspects, while desa adat is responsible for social and religious life. Their relationship reflects a synergy between Bali's agrarian tradition and customary practices, illustrating how local wisdom and legal traditions coexist and support one another in Balinese society.

Customary sanctions in Bali are a form of response to violations of traditional rules, aimed at restoring disrupted harmony. Their application is closely tied to adat (customary) law and Hindu religious teachings, as sanctions are often linked to the performance of religious ceremonies. There are two types of customary sanctions: Niskala sanctions (non-material), which are spiritual or symbolic in nature often related to rituals, exclusion from ceremonies, or spiritual cleansing. Skala sanctions (material), which involve tangible consequences such as fines, compensation, or restriction of access to communal resources. These sanctions are grounded in the Tri Hita Karana philosophy, which emphasizes the balance of relationships between humans and God (parahyangan), fellow humans (pawongan), and the environment (palemahan). This conceptual foundation ensures that the enforcement of customary law seeks not only justice but also the restoration of cosmic and social harmony. (I Gusti Ketut Ariawan 1999).

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The Balinese indigenous community, rooted in Hindu teachings, believes in the importance of maintaining balance in three core relationships as outlined in the Tri Hita Karana philosophy: between fellow humans, with the environment, and with God. Any disruption to this balance is considered a violation of adat (customary norms) and must be resolved accordingly. In social life, individual interests often come into conflict, making customary regulations like awig-awig essential for maintaining order. Customary conflicts can be categorized into criminal and non-criminal matters. Criminal customary conflicts are typically resolved through deliberation within the desa adat. However, if consensus cannot be reached, the case may proceed to the formal judicial system. Non-criminal conflicts, on the other hand, are addressed solely through customary mechanisms, aiming to restore cosmic and communal harmony, rather than to impose criminal sanctions. This dual system highlights the unique role of adat law in complementing formal law, with a strong emphasis on reconciliation and balance in the Balinese worldview.

Balinese hukum adat (customary law) is a set of rules both written and unwritten that governs the behavior of indigenous communities in maintaining their relationships with God, fellow human beings, and the environment, in accordance with the Tri Hita Karana philosophy. From birth even before and after life individuals are bound by law, reflecting a deeply spiritual and holistic view of justice and order. Customary law regulates interpersonal relationships as well as individuals' rights over surrounding property and resources. Over time, parts of hukum adat have been codified into state law through formal legislation, while the remainder continues to exist as living law hukum rakyat that remains active and respected within local communities. This coexistence underscores the dynamic relationship between adat and national law in Indonesia, especially in regions like Bali where local customs are deeply intertwined with religious and cultural identity. (Hilman Hadikusuma 2003a).

In Balinese customary society, customary sanctions are known as Pamidanda, which are classified into three types, collectively referred to as Tri Danda: Artha Danda: Material sanctions in the form of fines, either in money or goods, imposed to compensate for the harm or loss caused by the violation. Jiwa Danda: Sanctions that involve physical or psychological punishment for the offender, which may include public shaming, exclusion, or other forms of social pressure. Sangaskara Danda: Sanctions that require the offender to perform religious or purification ceremonies, aimed at restoring magical and spiritual balance believed to have been disturbed by the transgression. These sanctions reflect the integrative nature of Balinese customary law, which blends material justice, social harmony, and spiritual restoration in addressing violations. (I Made Suasthawa Dharmayuda 2001).

In indigenous communities, sanctions are commonly referred to as customary sanctions, customary corrections, or customary responses. In Bali, the terms most frequently used are danda or pamidanda. These sanctions are imposed by the desa adat (customary village) or other customary institutions upon individuals, groups, or even entire families who violate customary norms and Hindu religious values. The primary purpose of such sanctions is to restore balance in both the physical realm (skala) and the spiritual realm (niskala). This dual focus reflects the deeply spiritual and communal nature of Balinese customary law, where justice is not only about resolving conflict but also about healing the unseen disruptions to cosmic harmony. (I Wayan P. Windia dan Ketut Sudantra 2006). The primary purpose of customary sanctions is to restore the balance that has been disrupted by a violation of adat norms. Since such violations may affect both the tangible (skala) and intangible (niskala) aspects of life, Balinese customary law recognizes a variety of sanctions aimed at achieving recovery in both dimensions. These sanctions are not merely punitive but are deeply rooted in the Balinese worldview, which sees every disturbance whether social, spiritual, or environmental as something that must be harmonized through appropriate customary responses. Thus, customary sanctions serve not only to correct individual behavior but also to heal communal and cosmic harmony.

The various forms of pamidanda (customary sanctions) in Bali can be grouped into three main categories: Artha Danda: Material sanctions, such as dosa or dedosan, which involve fines in the form of money or goods. Jiwa Danda: Personal or social sanctions, such as kasepekan (ostracism), which affect the individual's physical or psychological well-being through social exclusion or humiliation. Sangaskara Danda: Spiritual sanctions, such as maprayascita or nyarunin desa, which require the offender to perform religious purification ceremonies to cleanse spiritual impurities and restore cosmic balance. The primary goal of pamidanda is not to retaliate, but to restore harmony in both the physical (skala) and spiritual (niskala) realms. This reflects the core values of Tri Hita Karana, which emphasizes balanced relationships between humans, the divine, and the natural environment.

From the perspective of adat (customary law), the purpose of punishment is to restore cosmic balance between the physical (lahir) and spiritual (gaib) worlds, and to foster peace between the individual and the community. Punishment (pemidanaan) must also be fair and acceptable to all parties involved the offender, the victim, and the broader community so that the conflict or imbalance can be resolved comprehensively and sustainably. This restorative approach emphasizes reconciliation and harmony over retribution, reflecting the deeply spiritual and communal values embedded in Balinese customary justice. (I Made Widnyana 1993). Customary sanctions serve as a balancing or stabilizing force to restore harmony between the physical world and the spiritual realm. In Bali, the role of customary sanctions is crucial in maintaining this balance.

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The Majelis Desa Adat (MDA) is an institution established by and for Indigenous Villages (Desa Adat) in Bali, serving as a forum for coordination, consultation, and facilitation in the administration of customary governance, as stipulated in Bali Regional Regulation No. 4 of 2019. The MDA holds a strategic position within the regional governance system; however, this has sparked various interpretations and questions regarding the rights of Indigenous communities. The MDA's role and authority are considered broad, although the regulations provide only general explanations of its duties. The MDA operates at three levels: sub-district, regency/municipality, and provincial, with tiered authority. The provincial level, being the highest, plays the most significant role in policymaking related to customary matters in Bali.

The provincial-level MDA holds comprehensive responsibilities concerning Indigenous Villages (Desa Adat) across Bali, as stated in Article 76 paragraph (1) of Bali Regional Regulation No. 4 of 2019. Its duties include customary guidance, providing advice to the government, assisting in the formulation of awig-awig (customary laws), as well as promoting culture and local wisdom. These duties are broad and general in nature, lacking specificity. To carry out these tasks, the provincial MDA is also granted certain authorities, such as interpreting customary norms, establishing customary institutions, regulating customary business entities, resolving customary disputes at the provincial level, and issuing decisions on violations involving prajuru (customary officials) or those that span across Indigenous Villages.

In public law, there is a distinction between authority and power. Authority refers to the formal power granted by law, usually originating from legislative, executive, or administrative bodies. Meanwhile, power is a component of authority it is the right to issue commands and the capacity to demand compliance (Gde Agus Erry Sukresna Arna 2016). When linked to the concept of wewenang in the Regional Regulation on Indigenous Villages (Perda Desa Adat), the authority of the MDA can be understood as authority that is, the right to issue commands and the power to demand compliance. Thus, the MDA's authority encompasses two key elements: the ability to command and the power to ensure that such commands are obeyed.

Subak is recognized as a customary agrarian institution with spiritual, social, and ecological values, and it often falls within the legal domain of the Indigenous Village (Desa Adat). Although it does not fall directly under the structure of the MDA, the MDA plays an important role in fostering coordination between Subak and the Indigenous Villages, including in the management of resources and traditional ceremonies. The MDA can also mediate jurisdictional conflicts and facilitate Subak's interests in formal forums. Additionally, the MDA advocates for legal protection of Subak, particularly in the face of threats such as land-use conversion. Structurally, the MDA does not govern Subak, but its role is coordinative and supports the sustainability of Subak's customary values.

Each Indigenous Village (Desa Adat) in Bali has its own customary rules known as awig-awig, which are used to address customary matters within its territory. The sanctions in awig-awig not only regulate rights and obligations but also include fines (danda), physical punishments, and moral sanctions. A distinctive feature is the presence of spiritual sanctions, in which offenders are required to perform rituals to restore natural harmony. In practice, Indigenous communities uphold the principles of propriety and social harmony, known as Paras Paros Salulung Sabayantaka, to maintain social cohesion (Deli Bunga Sarasvitha 2022).

Customary rules in Bali serve as a guiding framework for life within Indigenous Villages (Desa Adat), and their enforcement is handled by the Kerta Desa Adat, a specialized body that adjudicates violations of awig-awig within the customary territory. The Kerta Desa imposes sanctions through customary hearings, and its decisions must be obeyed to restore balance. This institution is effective because it understands the traditional and spiritual values of Balinese society. According to Bali Regional Regulation No. 4 of 2019, Article 1 point 18 and Articles 36–37, the Kerta Desa is established by the prajuru adat (customary leaders) and consists of members who are experts in customary law. Its role is to resolve customary disputes (wicara), prioritizing peace based on the principle of druwenang sareng-sareng (collective decision-making). If a dispute cannot be resolved at the village level, it may be referred to the MDA according to the appropriate level.

Pesamuhan Agung is a strategic forum organized by the Provincial MDA of Bali to discuss issues concerning Indigenous Villages (Desa Adat), and is led by the Bandesa Agung, Panyarikan Agung, and Patengen Agung. One of its key outcomes is the establishment of guidelines for the customary sanction known as kasepekang, which is the temporary exclusion of an individual from village membership (krama desa) for defying the awig-awig, pararem, or village agreements after all peaceful efforts have failed. During the kasepekang period, the individual loses the right to receive services from the customary community. If the person fails to fulfill their obligations in three paruman (village meetings), a heavier sanction may be imposed kanorayang, or expulsion from village membership. Due to its severity, kasepekang is applied only as a last resort, after other sanctions have been considered. According to I Gusti Made Ngurah, Deputy Chair of MDA Bali, kasepekang must not be imposed based on personal interests, but rather must be decided through a paruman krama desa (village assembly). A kasepekang decision is invalid if made solely by a small group or village officials (prajuru desa adat). Ideally, the sanctioning process should be witnessed by all krama desa or at least by a majority, to ensure that the sanction truly reflects a collective agreement.

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There are two notable cases in Jembrana involving the application of the customary kasepekang sanction due to the misuse of LPD (Village Credit Institution) funds by the heads of the institution in two Indigenous Villages: Desa Adat Tuwed and Desa Adat Budeng. Although the core issue was the same, the sanctions imposed differed due to the differing responses of the perpetrators. In Budeng, the case was resolved through customary mechanisms without involving state law, whereas in Tuwed, although initially addressed through customary means, the case was eventually handled by the state despite no formal complaint from the village.

In Desa Adat Budeng, the embezzlement of funds by the head of the LPD, identified by the initials IWS, was uncovered during the COVID-19 pandemic. Following an internal audit, IWS was found to have used approximately IDR 400 million for personal purposes. The village agreed to resolve the matter through customary means under a repayment scheme, but the perpetrator failed to fulfill his obligations. When his child passed away near the end of 2023, IWS's request to use the village cremation ground (setra desa) was denied due to his repeated absence from customary meetings. As a result, the village imposed the kasepekang sanction, and the cremation was ultimately carried out outside the village.

Similar to the case in Desa Adat Budeng, the head of the LPD in Desa Adat Tuwed, identified by the initials DPA, along with the LPD cashier NNS, embezzled funds amounting to IDR 989 million in 2019. The case was initially resolved through customary means; both perpetrators agreed to a fine, handed over land assets valued at IDR 700 million, and jointly paid the remaining losses in installments to avoid harsher customary sanctions. However, a client reported the case to the Denpasar Corruption Court (Pengadilan Tipikor). As a result, on April 5, 2022, DPA was sentenced to three years in prison and NNS to two years. Although the jro bandesa (customary leader) came under scrutiny, he was not prosecuted, thanks to the support of the community (krama). Ultimately, the perpetrators faced both customary and state legal sanctions.

In an interview on November 26, 2024, with the Head of the Jembrana MDA, I Nengah Subagia, he stated that the MDA had conducted evaluations and engaged in dialogue with the Indigenous Villages that imposed kasepekang sanctions. According to him, the sanction imposed by Desa Adat Budeng was unavoidable because the perpetrator refused efforts at familial mediation. The MDA, in accordance with Article 1 point 24 of Bali Provincial Regulation No. 4 of 2019, plays a role in providing advice and guidance in the areas of customs, traditions, and customary law, as well as assisting the regional government in the implementation of autonomy. Meanwhile, regarding the case in Desa Adat Tuwed, the jro bandesa explained that the customary sanction had been imposed based on the awig-awig of Desa Tuwed (Pawos 72 Palet 7), which regulates sanctions for krama who fail to meet financial obligations to the LPD. However, the involvement of state law was considered contrary to the intent of customary sanctions, which ideally should only come into effect if customary resolution fails.

In Desa Adat Pengeragoan Dangin Tukad, a case arose involving INYA's refusal to accept the position of kelihan subak (head of subak), as he felt unqualified due to being unmarried (dereng mebulu angkep), not being a krama mipil (registered member), and having poor health. This refusal sparked conflict during the selection process, eventually prompting the Indigenous Village (desa adat) to intervene in resolving the issue. However, this led to a new problem, as the subak and the desa adat are two separate institutions, each with its own structure and authority.

The jro bandesa of Desa Adat Pengeragoan Dangin Tukad explained that the Indigenous Village became involved in the kelihan subak case because subak leadership is directly tied to the performance of yadnya (rituals) at the subak temple. As a result, the village imposed the kasepekang sanction on INYA. However, INYA considered the sanction unfair, arguing that the procedure did not follow proper customary stages. He stated that he was not yet registered as a krama because he was unmarried, suffered from health issues, and believed the matter should have been resolved under subak's awig-awig, not the authority of the desa adat. On the other hand, the bandesa argued that the sanction was in accordance with the village awigawig (Pawos 123), as INYA had received three warnings but remained uncooperative, and was deemed healthy enough to carry out the role.

I Ketut Ari Yudistira, Penyarikan of the MDA Alitan in Pekutatan Subdistrict, stated that the kasepekang sanction imposed by Desa Adat Pengeragoan Dangin Tukad in the subak case was inappropriate, as it should have been resolved through subak's internal regulations. He argued that the bandesa's reasoning linking subak leadership to temple affairs was not relevant, as subak membership is open across religious and desa adat boundaries, as long as the individual owns agricultural land within the subak area. The Head of the Jembrana MDA also emphasized that kasepekang sanctions should be avoided, especially considering the ongoing public debate and concerns regarding human rights.

To maintain balance in the enforcement of customary law, prajuru desa (customary officials) must exercise wisdom in leading paruman (village assemblies) and fulfilling their judicial function. The imposition of the kasepekang sanction must be carried out with great caution, following the correct procedures and stages. Before imposing such a sanction, the desa adat should first consider alternative solutions. In addition, krama desa (village members) play an important role as observers or 'jurors' in deliberations, helping to assess the offense and evaluate the appropriateness of the sanction being imposed (I Made Suwitra 2025).

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B. The Benefits of the Kasepekang Customary Sanction in The Development of Customary Law in Bali

Indigenous law communities are groups residing in specific territories with distinct cultural identities, living their lives based on customary laws passed down from their ancestors. They have their own rules, leadership structures, and legal systems which, although unwritten, are consistently observed. As legal subjects, indigenous communities are recognized as having legal rights and obligations similar to those of individuals or legal entities.

As legal subjects, indigenous law communities have the capacity to hold rights over ulayat lands and natural resources within their customary territories (R.G.Kertasapoetra & A.Setiabudi 1985). Because they hold rights over ulayat lands and natural resources, indigenous communities have the authority to manage their territories in accordance with customary law, as long as it does not conflict with national law. As legal subjects, they are entitled to enter into agreements with the government, companies, or individuals, and have the right to sue or be sued in court on behalf of their community. The legal basis for recognizing indigenous law communities as legal subjects is found in Article 18B Paragraph (2) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), which states that "the state recognizes and respects traditional communities along with their traditional customary rights as long as these remain in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, and shall be regulated by law." Recognition of ulayat rights and similar customary rights is also affirmed in Law No. 5 of 1960 on Basic Agrarian Principles.

Not all indigenous communities are automatically recognized as legal subjects by the state; official recognition from either the central or regional government is required. This recognition necessitates evidence of an existing customary structure, acknowledged traditional leaders, the active practice of customary law, and clearly defined customary territorial boundaries. The formal recognition process is generally regulated through regional regulations (Perda) and may vary between regions. Local governments collaborate with academics, customary institutions, and community members to verify the existence of the indigenous community and its territorial boundaries. Following this verification, recognition may be granted through a regional regulation or a decree issued by the regional head. Once recognized, the indigenous community can proceed to register its rights such as rights over customary lands with relevant institutions like the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) or the Ministry of Environment and Forestry.

Indigenous communities are unique legal subjects due to their dual character: they function both as private legal entities and public legal entities. In the private sphere, they can engage in civil actions such as owning property, entering into agreements, and initiating or responding to legal claims in court. In the public sphere, they have the authority to maintain order, establish and enforce customary laws, and exercise sovereignty over their customary territories through the concept of *beschikkingrecht* (customary land rights). This status is recognized both constitutionally and through juridical interpretation. A clear example is the Customary Villages (*Desa Adat*) in Bali, which are formally acknowledged as public legal entities with their own rights and responsibilities. The Balinese indigenous communities, known as *desa adat* or *desa pakraman*, represent one of the most concrete examples of state recognition of indigenous law communities, where their legal systems, governance structures, and authorities operate in parallel with the state system.

In the era of modernization, marked by technological advancements, urbanization, and globalization, the existence of Balinese customary law faces various challenges. On one hand, modernization presents opportunities to strengthen customary law such as through documentation, codification, and digitalization which help preserve its sustainability and legitimacy. On the other hand, changes in lifestyle, the flow of information, and shifting social values can erode traditional practices and weaken the authority of customary institutions. Thus, modernization has a dual impact: positive in the form of revitalizing customary law, and negative in the potential erosion of traditional values (Maria Dominika Melani Hastuti 2023).

Modernization has encouraged the Balinese community to document customary law in both written and digital forms. Many customary villages now possess *awig-awig* (customary regulations) in the form of books or digital files, which enhances legal certainty and facilitates the transmission of values across generations. The Balinese regional government also provides support through policies such as Law No. 6 of 2014 on Villages and Bali Regional Regulation No. 4 of 2019 on Customary Villages, which serve as strong legal foundations for the existence of customary law. Moreover, modernization has contributed to greater cultural awareness through the rise of cultural tourism trends. Tourists' interest in Bali's customary systems and traditions has encouraged indigenous communities to preserve customary law as part of their identity and as a key element of local cultural appeal.

In addition to its positive impacts, modernization also brings various negative effects on Balinese customary law. One such impact is commercialization and deculturation, where tourism as a main driver of modernization has shifted the meaning of customary law. Many traditional ceremonies and customary norms that were once sacred have turned into tourist attractions, diminishing the spiritual value and moral function of customary law in community life. In daily life, modernization has triggered lifestyle changes, especially among the younger generation in Bali. Exposure to modern values such as individualism and hedonism

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often conflicts with the spirit of collectivism that underpins the customary system. As a result, youth participation in customary activities has declined, with many opting to work in the formal sector or the tourism industry rather than actively engaging in customary village life. In governance, modernization has also led to conflicts of authority between formal government systems and customary village structures. Land disputes provide a clear example, where ulayat (customary) land rights clash with formal land certificates recognized by the state. In many cases, customary law becomes subordinated due to its weak position within the national legal system, making it vulnerable to marginalization in dispute resolution processes.

Modernization presents various challenges for the preservation of Balinese customary law by the krama adat (customary community members) themselves. The consistent implementation of awig-awig (customary regulations) is becoming increasingly difficult, especially when customary rules are applied only symbolically without firm sanctions, or when they conflict with the state's positive law. Moreover, the dualism between desa adat (customary villages) and desa dinas (administrative villages) often creates confusion over authority, as communities are required to follow two legal systems that are sometimes misaligned particularly in areas such as public services and resource management. Economic pressures and the wave of commercialization have also weakened the position of customary law. Many indigenous people are compelled to sell customary land to investors for economic reasons, gradually eroding customary control over their own territory. As a result, customary spaces that form the basis for the application of customary law are slowly disappearing. This, modernization brings a dual impact on Balinese customary law. On one hand, it offers opportunities to strengthen institutions through documentation, formal recognition, and increased appreciation of local culture. On the other hand, it also threatens the existence of customary law through shifting values, commercialization of traditions, and conflicts of authority with the formal legal system.

Customary sanctions are a component of legal substance that is, the collection of principles, norms, and legal rules, whether written or unwritten, that influence the effectiveness of law within society. The substance of customary law itself reflects the values, norms, and traditions of indigenous communities that regulate various aspects of life, such as land, inheritance, marriage, and dispute resolution, and includes systems of sanctions and restorative justice.

Socio-cultural values represent the cultural teachings, beliefs, and local religions practiced by the community, encompassing principles of justice, deliberation, balance, and harmony. The recognition of customary law aims to affirm the importance of deliberation in maintaining balance and harmony within indigenous communities, in line with the fourth principle of Pancasila. The normative rules of customary law contain provisions that govern relationships among individuals, groups, and their interactions with the environment (Soerjono Soekanto 2016). An example of the application of customary law can be seen in the rules governing inheritance, marriage, the management of ulayat (communal) land, and social sanctions based on the beliefs, traditions, and customs of indigenous communities. In Bali, these elements are shaped by the local social structure and religious teachings. Sanctions in customary law are social and moral in nature, such as fines, ostracism, or the restoration of one's good name, with the aim of maintaining balance rather than merely imposing punishment. Dispute resolution is typically carried out through deliberation or decisions made by customary elders, emphasizing peace and the restoration of social harmony.

The focus of customary law lies in resolution and restoration, rather than retribution. This positions customary law as an early foundation for the modern concept of restorative justice (Yakub Biyagi Panjaitan 2024). Modern restorative justice is a dispute resolution approach based on deliberation, without relying solely on positive law. In practice, customary law plays a crucial role as a primary foundation for reaching mutual consensus. Customary law and restorative justice share common principles namely, non-punitive conflict resolution that emphasizes the restoration of social relationships and communal balance. In fact, customary law is often regarded as the origin of the restorative justice concept. For generations, customary law has embodied the values of deliberation, reconciliation, and social reintegration principles that are now being adopted within modern restorative justice approaches in Indonesia.

The kasepekang sanction within the Balinese customary law system holds a legitimate and authoritative position as a form of non-formal law enforcement. This sanction is not merely symbolic; it carries real and tangible consequences (Gede Yoga Paramartha Duarsa 2020). Although customary law is not codified like state law, the kasepekang sanction holds strong legitimacy because it is based on awig-awig (written customary regulations), pararem (implementation rules), as well as the deliberations and agreements of the customary community (krama desa). This sanction reflects the important role of customary law in maintaining order and social harmony within Balinese society. However, its application needs to be monitored and aligned with national law to ensure substantive justice and the protection of human rights. Kasepekang functions as a social instrument to create a deterrent effect, foster compliance with customary norms, and maintain social order. As a form of sanction, it also serves as an enforcement tool to achieve the intended social regulatory goals.

Although this sanction is effective within the context of traditional customary communities, several challenges and criticisms have arisen regarding the kasepekang customary sanction. One major concern is the potential violation of human rights (HAM),

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especially in cases involving extreme social ostracism (I Ketut Sukadana 2021). The application of the kasepehang sanction often restricts basic individual rights, such as the right to information and the right to socialize, thereby potentially violating human rights principles. A major weakness of this sanction is the absence of an adequate appeals mechanism or legal protection for individuals subjected to it. Since decisions are usually made in *paruman* (customary meetings) and are final, there is no formal channel to file objections. As a result, individuals sentenced to kasepehang can become isolated from social, economic, and even spiritual life. The lack of synchronization between this sanction and the national legal system raises issues in enforcing citizens' rights, including the potential for discrimination and stigmatization. In some cases, the sanction can last a lifetime, severely impacting the individual's socio-economic status, and may even be exploited for local political interests or unfair social pressure.

The existence of the kasepehang customary sanction presents its own challenges in implementation, primarily because it is inherently part of traditional restorative justice aimed at restoring social harmony, rather than merely imposing repressive punishment. As a component of customary legal substance, kasepehang functions as a social control tool grounded in local values and norms. Although it is legitimate according to customary law and enjoys community support, the main challenge arises when this sanction needs to be aligned with national legal principles and human rights protections, which demand substantive justice, accountability, and guarantees for individual rights..

The era of modernization has shaken the relevance and effectiveness of the kasepehang sanction as a form of customary law enforcement in Bali. The national legal system, which is more legalistic and individualistic, places this ostracism sanction in a difficult position because it is seen as potentially violating human rights, such as the right to socialize and access public services. Several cases that have attracted national media attention reveal that kasepehang is often criticized as a discriminatory sanction that does not provide a fair opportunity for defense, prompting customary institutions to exercise greater caution in its application.

Modernization has also brought significant social changes. The younger generation in Bali, especially those living in urban areas or working in the tourism sector, are increasingly detached from the customary system. They are economically independent and have social networks beyond the customary villages, making the social impact of kasepehang less significant. Whereas in the past ostracism meant losing one's identity, spiritual access, and livelihood, today many individuals are still able to live decently despite being subjected to this sanction.

In addition, the institutional dualism between *desa adat* (customary villages) and *desa dinas* (administrative villages) causes the impact of sanctions to be incomplete. In some cases, individuals subjected to kasepehang can still access administrative services and social assistance from the *desa dinas*, which ultimately weakens the enforcement power of customary sanctions. Nevertheless, kasepehang retains historical and cultural value as an important part of Bali's customary legal heritage. It reflects the social and spiritual integrity of traditional communities. However, to remain relevant in the modern era, this sanction needs to undergo transformation. Adjusting its form such as limiting certain types of participation with clear durations and conditions could serve as an alternative more aligned with modern justice principles and respect for human rights. The sustainability of kasepehang heavily depends on its social legitimacy and moral support from the community, not merely on customary authority. By positioning it as a symbol of local morality and a contextual social corrective tool rather than an absolute punishment, kasepehang can continue to exist and play a role in maintaining social harmony without conflicting with national legal values and modernity.

Customary law is a living and binding law, where every violation is met with sanctions in accordance with the prevailing norms. These sanctions can be moral or material in nature, differing from written laws that typically impose imprisonment. As a legal norm, customary law contains commands and prohibitions that must be obeyed by the community within the scope of the customary village (Bushar Muhammad 2006). Hilman Hadikusuma explains that customary law (*hukum adat*) is a form of *adat* (custom) accompanied by sanctions (Hilman Hadikusuma 2003).

Sanctions aim to create a deterrent effect on offenders and serve as a lesson for the community to prevent the repetition of similar actions. The primary goal is to prevent future violations. According to Lesquillier in his dissertation *Het Adat Delictenrecht in de Magische Wereld de Beschouwing*, customary sanctions are a reaction intended to restore magical tranquility and neutralize the harmful effects arising from violations of customary law (Soerojo Wignjodipoero 1992). The kasepehang sanction is a form of temporary social ostracism in Balinese customary law, imposed before a heavier sanction called *kanorayang* which is the permanent termination of membership in the customary village is applied. This sanction serves an important social function as a symbol of enforcing customary norms. Before kasepehang is enforced, offenders are usually first given lighter sanctions such as *panikel-panikel* (multiplied fines). If these sanctions are ignored, kasepehang is then imposed, which is a temporary suspension from membership in the *banjar* (local community group), rather than total ostracism.

As a legal norm, *desa adat* (customary villages) in Bali actually face a dilemma regarding the kasepehang sanction. The karma the community members who form part of the *desa adat* along with access to its facilities experience restrictions in using these

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communal facilities, which serves as both the rationale and the enforcement strength of desa adat in applying the kasepehang sanction (I Putu Sastra Wibawa 2022). The main purpose of the kasepehang sanction is to encourage the community to maintain harmonious relationships and comply with customary rules to achieve collective order. The application of this sanction reflects the role and authority of the desa adat in regulating and nurturing its members, while also strengthening the prestige of customary institutions. Typically, kasepehang is imposed after a deliberation process, serving as a form of familial resolution without immediately involving state law. In Balinese society, which is closely tied to the desa adat, various non-criminal violations are generally resolved through customary deliberation forums.

The main principle behind imposing customary sanctions, including kasepehang, is not to seek revenge but to serve as a means of awareness and learning, helping the community grow into a law-abiding society independently. Without collective awareness, these sanctions risk triggering prolonged conflicts that damage social harmony in Bali. Although designed as an educational mechanism, in practice kasepehang is often misunderstood and its meaning distorted. This misuse is exacerbated by arbitrary actions from certain individuals who exploit it for personal gain, sometimes leading to violence and disrupting the stability of the customary village.

To restore customary law to its proper path, Koesnoe emphasizes the importance of three principles in resolving customary issues: rukun (harmony), laras (balance), and patut (appropriateness). These principles should serve as guidelines to ensure that customary law does not lose its essence and can operate in harmony with modern law. Education for indigenous communities about their constitutional rights is also key to preventing misunderstandings in the application of sanctions. As an ancient social system that still persists, kasepehang faces significant challenges in the modern era, particularly in balancing the preservation of customary values with respect for human rights. Therefore, the enforcement of customary law must be carried out wisely, fairly, and in accordance with the principles of truth to avoid violations of national law or social fractures at the local level.

The kasepehang sanction in Balinese customary law is categorized as a severe sanction because it causes the individual subjected to it to lose the right to participate in customary activities and to receive services from the desa adat for a certain period. This sanction is usually imposed on those who commit serious violations or repeatedly breach customary regulations (awig-awig). During the kasepehang period, the individual is prohibited from interacting with other customary community members, is not allowed to give or receive assistance from anyone, and is barred from receiving any form of customary services.

The kasepehang sanction, although part of the Balinese customary law mechanism, fundamentally has the potential to conflict with Human Rights (HAM) principles as stipulated in national regulations. As a form of temporary ostracism or suspension from membership in the desa adat, this sanction can lead to discriminatory actions by restricting individuals' rights to communicate, access services, and participate in social life. According to Article 1 Paragraph 3 of Law Number 39 of 1999 concerning Human Rights, discrimination includes restrictions or exclusions that result in the reduction or elimination of fundamental human rights in various aspects of life. In the context of kasepehang, prohibiting communication and denying customary services even extending to access to governmental services can be viewed as a form of restriction that violates these provisions.

Furthermore, Article 28F of the 1945 Constitution guarantees every individual the right to communicate and obtain information, as well as to develop themselves within a social environment. Social exclusion through kasepehang, which results in an individual being deliberately ignored or cut off from access to information and social interaction, can indirectly hinder the fulfillment of these rights. Therefore, although kasepehang is part of a cultural heritage that emphasizes collective values and customary harmony, its implementation must be carried out with caution to avoid violating constitutional principles. A balanced approach is required one that preserves customary values while respecting individual fundamental rights. One potential solution is to reformulate the procedures for imposing sanctions to ensure they remain respectful of human rights, including providing avenues for appeal, customary mediation, and limiting sanctions to prevent excessive or prolonged consequences. In this way, customary law can continue to be practiced with dignity, without creating conflicts with state law or causing disproportionate suffering to the sanctioned individual.

Human rights (HAM) in Indonesia are based on the values of Pancasila, which emphasize not only freedom but also justice. In Bali, human rights values are reflected in the teaching of Tat Twam Asi, which promotes mutual respect and non-harm toward others (Gede Yoga S. Wibawa, dan Wiradnyana 2017). The regulation and implementation of customary law must align with human rights principles. However, customary sanctions such as kasepehang remain controversial, as they are perceived to violate human rights particularly Article 34 of Law No. 39 of 1999, which prohibits arbitrary treatment and social exclusion. This sanction also contradicts the values of Pancasila, especially the principle of just and civilized humanity, and violates the principles of justice, kinship, and equality as stipulated in Article 2 of Bali Regional Regulation No. 4 of 2019 on Customary Villages.

In theory, the customary sanction of kasepehang contradicts the principles of progressive law, which views law as a means to achieve human well-being, not as a tool to inflict suffering. Although customary law requires sanctions to uphold its norms, the

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goal is to restore social balance, not to punish as in the criminal justice system. In resolving customary disputes, there are three key principles in customary law that should serve as guidance *laras* (harmony), *rukun* (social cohesion), and *patut* (propriety) to ensure that the enforcement of customary law remains rational and just. Therefore, the application of *kasepekang* should be reconsidered to align with the spirit of peaceful and fair dispute resolution.

The *kasepekang* sanction within the *awig-awig* (customary regulations) of a customary village should not be immediately regarded as incompatible with human rights. It must be viewed historically, as the sanction emerged from a long process of customary law formation, in line with Ter Haar's concept of "*beslissingenleer*" (the theory of judicial decisions). If this sanction is to be applied, its implementation must be fair and must not conflict with national law. Fundamentally, customary sanctions aim to restore social order, not to impose permanent punishment. As long as they do not violate citizens' rights, *kasepekang* remains relevant as a means of upholding social norms and serving as a form of social education within customary communities.

IV. CONCLUSIONS

Based on the discussion of the main issues outlined above, the researcher can draw the following conclusions:

- 1) The imposition of customary sanctions is a traditional response to the violation of customary rules. The purpose of these sanctions is to restore the balance that has been disrupted due to such violations. The implementation of the *kasepekang* sanction in Budeng Customary Village against individuals who are uncooperative in resolving the LPD (Village Credit Institution) embezzlement case has the potential to escalate to the next level of sanction, known as *kanorayang*, which involves handing over the case to state law. In the case of LPD fund embezzlement in Tuwed Customary Village, although it was resolved through customary means, the involvement of state law in the settlement contradicts the fundamental purpose of customary sanctions, which is to restore balance. State law is applied only when customary law is unable to resolve the issue and thus refers the matter to state authorities.
- 2) The benefit of the *kasepekang* customary sanction lies in its role in preserving and upholding the dignity of the norms stipulated in the *awig-awig* (customary law), as well as functioning as an "instrument of enforcement" to maintain order in alignment with the objectives of these regulations. The principle behind imposing customary sanctions is not one of revenge, but rather serves as a means of raising awareness. Beyond awareness, customary sanctions also serve as a learning process for civil society by fostering a law-abiding community through voluntary compliance.

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