

# The Impact of Lammu Bai Customary Sanctions on the Sa'dodoran Offense of the Tuo Mamasa Tribe, West Sulawesi, Indonesia

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## Abstract

Lammu Bai customary sanction is one part of the customary law that already exists in Indonesia. It is still being carried out by the Mamasa community in the Mamasa Regency, in the West Sulawesi Province. It is not an 'imported' law, which means that it has developed in the community and can be interpreted as a product of the customary civilization of the Mamasa community. This paper is based on the premise that Lammu Bai's customary sanctions provide philosophical, sociological and juridical notions in reforming criminal law in Indonesia.

The purpose of this study is to understand the Mamasa indigenous people and the Lammu bai indigenous sanctions in terms of philosophical, sociological and juridical aspects and the renewal of criminal law in Indonesia buttressed by local wisdom. The paper looks at the Lammu bai sanctions.

This is legal research that employs a socio-legal approach. Therefore, it uses qualitative research methods. The study aims to comprehensively understand the Mamasa indigenous people and the Lammu Bai indigenous sanctions regarding their philosophical, sociological, and juridical aspects.

Its findings indicate that customary criminal law rules and regulates wrongful events or acts that result in community imbalance. It takes the position that they must be resolved so that the balance of society is not disturbed. This paper provides insights to enable that the new Indonesian criminal law reflects the values that live in the society and its culture that comes from the spirit and character of the nation.

**Keywords:** Customary Law, Customary Criminal Law, Local Wisdom, Lammu Bai Customary Sanctions, Criminal Law Reform.

## Introduction

If destined to exist simultaneously, people interact with other people while at the same time hoping for order in the interaction patterns. Patterns that keep repeating themselves over

a long period eventually give birth to a form of habit (Goffman, 1983). Habits that keep repeating from time to time can also be equated with customs or can even be interpreted as a form of culture (Cannizzaro & Anderson, 2016). These customs or habits are not only characteristics of the 'perpetrator', but can also be a frame of reference on how behaviour should be regulated within specific standards and limits because adat contains the noble values of 'perpetrators' or can be called adat communities (Li, 2001).

Custom as a standard of behavior has the same meaning as the law from the perspective that the law is 'enacted' to support the 'perpetrator's' lofty aims. Ultimately, adat contains legal components that can be classified as customary law. Terminologically, customary law derives from the Snouck Hurgronje word *adatrecht*. On the other hand, van Vollenhoven uses juridical technical terminology (Bono, 2018). If you look at the use of customary law terminology during the Dutch East Indies era, customary law can be found in the provisions of the Article 11 which goes as follows:

“Algemene Bepalingen van Wetgeving voor Indonesia (AB) with the terminology *godsdiertige wetten, volksinstellingen en gebruiken*; the provisions of Article 75 paragraph (3) *Reglement op het Beleid der Regeling van Nederlands Indie (RR)* with the terminology *Instellingen en gebruiken des volks*; the provisions of Article 128 *Wet op de Staatsinrichting van Nederlandsch Indie or Indische Saatsregeling (IS)* which is termed *godsdiertige wetten en oude herkomsten*, and finally with *adatrecht* terminology in the provisions of *Staatsblad* (which is a Dutch term meaning "State Gazette" and is commonly used to denote official publications of laws and regulations in the Netherlands and its former colonies), 1929 Number 221 juncto Number 487”

(Nurdin & Affandi, 2021; Tolkah, 2021).

Customary laws are known in various terms in various perspectives in the Indonesian legislation in principles, norms, theory, and practice. They are: 'laws that live in society'; 'living laws'; 'unwritten laws'; 'customary laws'; and so forth (Mulyadi, 2021). Meanwhile, customary laws in the international community are known through the Article 15 paragraph (2) of the International Covenant on Civil and Political Rights (ICCPR). It states:

"Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations"

(Lillich, 1985:)

The acknowledgement of customary law's existence through national and international legal instruments shows that there is not only recognition attention but also a protective measure for the values that have grown and have developed in society before the presence of the positive laws as state laws.

The recommendations of the United Nations (UN) Congress on the Prevention of Crime and the Treatment of Offenders state that the criminal laws in several countries which are 'imported' products are obsolete and unjust or obsolete and unfair, or even outmoded and unreal or has fallen far behind and no longer corresponds to reality. This emerges because national legal instruments are not rooted in cultural values, which create large gaps between laws and communities. Thus, laws cannot respond to the growing social needs of the communities. The space between the two is ultimately referred to as the place of origin or the reason for the crime.

Customary and national laws based on their substance can be categorized into customary criminal, civil, and constitutional laws (Hanim & Noorman, 2018). Criminal laws and customary criminal laws specifically regulate social life (Syarhan et al., 2021). Customary criminal laws, and customary offences are rooted in customary laws (Tan, 2018). Based on the source, customary criminal laws can be in the form of written and unwritten laws. The written laws used as sources can be in the form of existing habits, followed, obeyed continuously and passed down from one generation to another by the indigenous people (Mulyadi, 2013).

Customary criminal laws contain values, feelings of justice and propriety as the core of indigenous people so that the violation of these habits causes unrest and disturbs the balance that has been formed among the indigenous people (Fathurokhman, 2010). Restoring balance and tranquillity is done through customary reactions. Maintaining customary criminal laws, where every problem can be resolved entirely, is realized because customary criminal laws focus on the goals and not on the provisions as regulated by the state criminal laws, namely togetherness and noble values that indigenous people have embraced.

The existence of customary criminal laws reflect the life of a community in each region in Indonesia. Thus, each customary community has a different customary criminal law and by the customs that exist in the area with its characteristics, such as Indigenous Offences Lokika Sanggraha in Bali, Bolitn Mate Namar Umar in West Kutai, and Bapeace tradition in the Banjar indigenous people (Immanuel, 2013).

Customs in people's lives are believed consciously. Every human being is bound directly or indirectly in a system that regulates their lives. They involve leadership patterns, social interactions between people, responsibilities of community members, ruling group's responsibilities to society, social justice in the society, guidance to people not to waver in their belief in the power of God Almighty, and social sanctions or customary sanctions against those who violate the customs.

This condition is not much different from the people in the West Sulawesi Province. This is a province on the Sulawesi Island whose population consists of four ethnic groups: Bugis, Makasar, Toraja, and Mandar. Many are still bound to the system of norms and customary rules in people's lives, which are sacred. Adat is not limited to habits (*gewooten*) and contains critical concepts in understanding people's lives. Adat reflects the personality of their culture. Moreover, adat is a way of life for the community. As a way of life and cultural personality, customs are considered the same as the requirements of human life.

One of the areas in West Sulawesi Province where the community is still a lot bound to the system of norms and customary rules is the community in the Mamasa Regency. In the Mamasa Regency, in addition to the application of general criminal law, certain aspects of social life are also seen, namely the application of customary criminal law. The Lammu Bai customary sanction is one form of applying the customary criminal law of the community in the Mamasa Regency.

Lammu Bai is a customary sanction imposed on couples who engage in family marriages (*sa'dodoran*) within the Mamasa Regency. The traditional Lammu Bai sanctions aim to mitigate the negative consequences associated with family marriages that violate established customary rules. In cases where individuals intend to formalize their familial relationships, commonly referred to as *poli' lulunboyo* (severing family ties) in the local language, the Lammu Bai customary sanctions are applied to them. These sanctions are intended to alleviate any potential misfortune or ill effects resulting from such unions.

The traditional Lammu Bai sanctions are applied because the families of those who carry out family marriages (*sa'dodoran*) consider this act a shameful thing (*mepakasiri'*). Thus, the family considers it as *siri'*. *Siri'* in the beliefs of indigenous people in the Mamasa Regency represents the pride or majesty of self-esteem that the ancestors have inherited to uphold the customs in which the noble values are also inherited. The strength of *siri'* owned by the community in the Mamasa Regency has implications for the amount of effort made by a family whose *siri'* is violated to restore the pride they have. The traditional Lammu Bai sanction is an effort to improve a family's good name.

The form of sanctions or punishments for Lammu Bai is the provision of sanctions in the form of drifting a pig in the river, with the rule that those who are allowed to do Lammu Bai are people who have family/blood relations with those who carry out family marriages (*sa'dodoran*). The community recognizes that the Lammu Bai customary sanction has the same valid force as customary criminal law in general because the sanction is an agreement that their traditional ancestral leaders have determined. The application of Lammu Bai customary sanctions in resolving disputes over people's lives in the Mamasa Regency, especially in the Rambusaratu Village, Mamasa District, Mamasa Regency is one area that still adheres to the

customs. In this case, this involves the traditional *lammu bai* sanctions in resolving disputes in people's lives.

According to the local customary law, for every conflict that occurs in the community, if it is resolved by customs, then the community's life will remain well established and well maintained. It will eliminate hatred and revenge in the hearts of those who are at loggerheads. Since between communities in conflict will always arise revenge to bring down each other (Putra, 2019). *Lammu Bai* customary sanctions are one way to resolve the conflicts, especially in resolving family problems of those who carry out family marriages (*sa'dodoran*).

If we see broadly speaking, the traditional *Lammu Bai* sanctions are still being applied and are still firmly held by the people in Mamasa Regency, apart from the fact that the implementation has been passed down from generation to generation from their ancestors, it is also strictly regulated by several laws and regulations in Indonesia. One of them is the provision of Article 5 paragraph (3) sub b of the Emergency Law Number 1 of 1951 (State Gazette of 1951 Number (9)). In the provisions as mentioned above, it is stated that (Wotulo, 2017):

"Civil material law and for the time being the civil criminal material law which until now applies to the Swapraja regional subjects and people who were previously tried by the Customary Court, still applies to the subjects and the person with the understanding that an act which according to living law must be considered a criminal act, but there is no comparison in the Civil Code. It is considered threatened with a sentence of not more than three months in prison and/or a fine of five hundred rupiahs, namely as a substitute punishment if the customary punishment imposed is not followed by the convicted party and the replacement referred to is deemed commensurate with the amount of guilt of the convicted person, that if the customary punishment imposed according to the judge's opinion exceeds him with the confinement or fine referred to above, the defendant's guilt may be subject to a substitute sentence of up to 10 years in prison. , with the understanding that the customary according to the judge's understanding that it is no longer in harmony with the times. It is always replaced as mentioned above, that an act which according to the living law must be considered a criminal act which has an appeal in the Civil Code, then it is considered to be threatened with a punishment equal to the maximum sentence of the appeal. similar to the crime."

Based on the above provisions, it can be understood that customary criminal laws do not distinguish between legal fields as introduced by the European laws (Sulistiani, 2021). In customary criminal law, there is an assumption that if an act committed by a person or a group of people disturbs the balance of life of the indigenous people's group, then the act is seen as a criminal act according to the custom and is usually given customary sanctions based on the form of the act that has been done (Sabat & Mau, 2018). The provision of customary sanctions (customary reactions) aims to restore balance in the society due to these actions (Apriyani, 2018). In this case, the traditional *Lammu Bai* sanction is a form of customary reaction that aims to restore the community in the Mamasa Regency.

The existence of *Lammu Bai* customary sanctions, which are still recognized and implemented by the indigenous people in the Mamasa Regency shows that indigenous people without criminal law (positive law) have their way of resolving criminal cases in the society. This also reflects mainly that the community has standards for the value of justice, based on values passed down from generation to generation. Although the existence of (positive) criminal law cannot be ruled out, there is a need for a comprehensive review of the existence and relevance of *Lammu Bai*'s customary criminal sanctions from a positive law perspective. The noble values that reflect the state of society can ultimately be used in the renewal of the national criminal law that genuinely reflects the condition of the Indonesian society as a whole.

## Review of Literature

A group or culture may have its own set of unwritten laws and customs known as 'customary law' created over time and handed down from generation to

generation within that community or civilization (Erwin et al., 2021). It is built on long-standing traditions, practices, and norms that control numerous areas of social life, such as relationships, behavior, land rights, marriage, inheritance, and conflict resolution. These components include relationships, behavior, marriage, inheritance, and conflict resolution. The culture, history, and set of values of a particular society are the bedrock upon which customary law is built. A customary law plays a crucial role in the upkeep of social order and the regulation of behavior (Ndulo, 2011).

Hazairin (1968) says that customary law is a law that has the meaning of customary manners or 'law' as it is known to the outside by citizens. Haizairin emphasizes that customary law in its position in society can be a bridge that connects written law with morality (customs, habits, and customs) that exist in positive law, which so far seems to provide a distance between the values possessed by the community and the 'law' itself. In addition, Suriyaman Mustari Pide (2017) add that customary law is the whole of unwritten customs and lives in a society that accommodates moral values and what is declared common and unusual in the form of habits that have legal consequences.

Based on the description above, customary law is the fruit of 'original' people's thoughts that are firmly held because these results are a genuine reflection of the noble values in society. Van Vollenhoven (1918) uses the word *adatrecht* as the most suitable nomenclature to show that customary law is part of the original legal system by the reality of the people's thoughts who inhabit the archipelago. However, this nomenclature is not an original Indonesian name, but with such a basis of thought, *adatrecht* is sufficient to represent that customary law reflects the indigenous people of Indonesia. Habits or customs adopted by the community, of course, come together with sanctions or legal consequences. Hadikusuma (1992) explains that customary law is a custom or habit with sanctions. Habits or customs that are not accompanied by sanctions, according to Hadikusuma, are usually a form of behavioural rules which, if carried out continuously, can be said to be normative habits. Although the boundaries between the customary law and the customs are not delineated, both are philosophically the essence of noble values born, living, growing, and developing in a society.

Customary law philosophically represents the values and norms that live in society. A customary law contains religious and magical features reflecting the values of justice, togetherness, deliberation and consensus, and cooperation. A customary law has identical values and characteristics in the points of Pancasila, which are represented by magical religious values, values of justice, values of unity and togetherness, deliberation, and social justice in every customary law that exists in Indonesia. Pancasila, in this case, can also be interpreted as the result of the crystallization process of noble values in customs in the archipelago. Customary law can continue to adapt to the development of society from time to time because, as has been repeatedly stated, customary law originates from the core values of the community.

Customary law, in contrast to statutory law, which is written down and enforced by formal legal systems, is frequently passed down verbally and exists in the form of an unwritten collection of rules and practices (Phillips, 1955). It is formed by the accumulated knowledge, experiences, and customs of a community, and social norms maintain it: the pressure of the community, and the informal institutions of the community. The cultural, social, and historical settings of each community can substantially impact the formation of their respective customary legal systems, which can result in significant legal differences between the communities (Wardhani et al., 2022).

The ability of customary law to be malleable and flexible in response to shifting conditions within a community is one of its most essential characteristics. It is not static but changes through time as the community confronts new issues and comes into contact with the outside influences. Instead of focusing on vengeance or meting out punishment, customary law frequently precedes maintaining communal harmony, repairing damaged relationships, and fostering consensus (Maunatlala & Maimela, 2020).



Even though statutory law and customary law may coexist in many cultures, customary law continues to play a crucial part in indigenous and traditional groups when it comes to the protection of cultural identity, the resolution of disputes, and the upkeep of social cohesiveness. However, it is essential to remember that customary law's acceptance and applicability might change across different legal systems and jurisdictions. Furthermore, ongoing efforts are to balance the traditional customs of modern communities and the more comprehensive legal framework that governs those cultures (Fitzpatrick, 2002).

Customary sanctions are punitive actions or penalties imposed by a community or society based on its customary law system to address established norms, conventions, traditions and violations. This is done to protect the integrity of the group or the society. These punishments are meant to preserve social order, encourage accountability, and re-establish a sense of equilibrium within the society (Sudirga & Artha, 2019).

The formal legal sanctions imposed by statute law are not the same as the informal legal punishments imposed by custom (Tamanaha, 2021). They are rooted in a specific community's cultural values, traditions and beliefs and are enforced through informal processes and social pressure rather than through a centralized court system. In addition, they are upheld by the members of that group. Instead of focusing on vengeance or punishing criminals, customary punishments typically center on mending the damage caused by the offense, mending broken relationships, and reintegrating offenders into the community (Rochaeti et al., 2023).

The specific norms and practices of a community can significantly impact the kind of punishments handed out in addition to their level of seriousness. They might include penalties, actions to make up for the wrongdoing, public reprimands, banishment, temporary or permanent exclusion from community activities, or other forms of social ostracism. The type of sentence imposed is determined by several criteria, including the seriousness of the crime, the effect the offense has on the community, the offender's motivation, and the community's cultural norms (Hester & Seigny, 2016).

In most cases, the enforcement of customary sanctions requires the engagement of the community as a whole, the development of consensus, and the participation of respected members, elders, or leaders of the community. Community assemblies or councils may play a part in the decision-making process. In these settings, impacted parties will present their cases, evidence will be evaluated, and discussions will occur to conclude. The objective is to involve the community in the process of sanctioning, to guarantee that the process is fair, and to protect the cohesiveness and integrity of the community's system of customary law (Aryawan, 2006).

Within indigenous and traditional civilizations, a large part of the work that goes into preserving social order, resolving disagreements, and fostering communal harmony is done through individualized penalties. They reflect the shared ideals and expectations of the community as a whole, emphasizing restorative and reconciliatory practices rather than punishing ones. On the other hand, it is essential to keep in mind that the recognition and execution of customary sanctions can be variable depending on the legal structure of a given jurisdiction as well as the degree to which customary law is acknowledged within that jurisdiction (Manarisip, 2013).

In many indigenous civilizations, customary law and customary punishment play essential roles in the preservation of their traditions, as well as in the provision of a framework for the resolution of conflicts and the upkeep of social order (Elias, 1956).

This study focuses on the Tuo Mamasa Tribe. This community is located in a remote area. It investigates the possibility of Lammu Bai customary sanctions for Sa'dodoran offenses existing within the framework of the Tuo Mamasa Tribe's

system of customary law. The term 'sa'dodoran' refers to a group of customary guidelines and principles that are upheld by the tribe. We hope that by analyzing these punishments, we will be able to provide more insight into the tribal justice system and the critical role it plays in preserving communal harmony.

The Tuo Mamasa Tribe is an indigenous community that lives in a remote environment and maintains customary practices and cultural heritage that dates back for generations. They have always depended on what is known as 'customary law', which refers to a collection of unwritten laws that have been handed down from generation to generation to regulate their social interactions and settle disputes. The guiding philosophy of the tribe is called Sa'dodoran, and it incorporates many different aspects of life, such as behavior, marriage, inheritance, and land administration. When the Sa'dodoran is broken, it is deemed a violation against the community, which justifies the implementation of customary punishments (Silomba, 2022).

The Tuo Mamasa Tribe adheres to customary law as a means of maintaining social order and as an alternative to the more conventional legal system. It includes a collection of regulations, cultural values, conventions, and traditions, as well as the rules themselves. A fundamental component of this system is that the Lammu Bai customary sanctions must be adhered to. Lammu Bai is the name of a communal assembly that gets together to discuss infractions of Sa'dodoran and hand out punishments suitable for the offenses.

These traditional punishments are meant to put things back in order, make up for any damage done, and ensure that justice is served within the community. They can involve a variety of measures such as penalties, actions to make up for the harm done, public reprimands, temporary or permanent exclusion from the community activities, or expulsion from the area. The nature and degree of the violation and the offender's motive and behavior in the past all play a role in determining the severity of the sanctions.

The Lammu Bai assembly, which comprises venerable elders, clan heads, and other knowledgeable members of the tribe, is in charge of enforcing the customary sanctions. If a Sa'dodoran law is broken, members of the community who have been negatively impacted by the infraction can bring the matter to the notice of the assembly. The assembly will next investigate the incident, during which it will gather information, question all the parties involved, and consider their statements.

Building consensus and inviting engagement from the community is at the heart of the decision-making process. The assembly of Lammu Bai supports discourse and discussion to arrive at a fair and just conclusion. This kind of community engagement guarantees that every member of the community has a say in the decision-making process, which helps cultivate a sense of ownership and collective responsibility.

The Tuo Mamasa Tribe places tremendous value on the fact that the Lammu Bai Customary Sanctions are still in effect. Not only does it preserve their cultural history and identity, but it also promotes social cohesiveness, the resolution of conflicts, and the overall well-being of the community. The tribe can preserve its independence and reject outside influence because disagreements are settled within themselves and by its traditions.

In today's world, however, preserving and applying customary laws and sanctions might take much work due to the impact of the current circumstances. The ever-shifting dynamics of the society, more communication with the broader world, and the proliferation of legal systems all have the potential to become roadblocks for the efficient operation of these conventional systems. The Tuo Mamasa Tribe, as with many other indigenous tribes, faces the constant issue of preserving indigenous practices while integrating modern legal systems. This is a challenge that is shared by many other indigenous communities.

## Research Methods

This is socio-legal research and is qualitative. Socio-legal studies examine law and society within the legal literature. It still prioritizes the discussion of legal norms, then discovers them comprehensively by investigating non-legal sciences/factors beyond the law, such as history, economics, society, politics, culture, and others (Irianto et al., 2012; Sandholtz & Whytock, 2017). Socio-legal research encompasses all legal theories, processes, and systems (Banakar & Travers, 2005; Kubal, 2016). However, it does not contradict normative/doctrinal or empirical legal research (Leeuw & Schmeets, 2016). The socio-legal studies examine normative/doctrinal legal studies and then 'discovers' them through non-legal studies.

Normative research on written law encompasses theoretical, historical, philosophical, structure and composition, scope and material, and legal comparability. The two approaches are used to examine the written law and critical aspects of Lammu Bai customary sanctions on sa'dodoran in indigenous people in Mamasa Regency, West Sulawesi. Empirical research focuses on unwritten laws governing community social behavior of the members.

Rambusaratu Village in the Mamasa District hosted this study. Mamasa Regency, West Sulawesi, is a Level II Region. Mamasa, 340 miles from Makassar, is the district capital. Rambusaratu Village in Mamasa District lies 3 km North of the Mamasa City. Regency residents number 3,800.

Data was collected in Rambusaratu Village, Mamasa District, using various approaches. The procedure involved numerous persons and activities at various phases and locations in the hamlet. A research team of researchers and field workers familiar with the local setting and Tuo Mamasa Tribe customs was formed to gather the necessary data. The team collaborated with the community members and leaders to obtain accurate and culturally relevant data.

This study collected data using the following methods: daily conversations with the villagers let researchers and fieldworkers blend in. They observed and documented Sa'dodoran infractions' traditional activities, social dynamics, and connections through participant observation.

Structured and semi-structured interviews were conducted with key informants, community leaders, elders, and Sa'dodoran victims and witnesses. These interviews sought first-hand accounts, perspectives, and insights about Lammu Bai customary punishments and their use in resolving violations.

Community members of all ages and tribes met in groups. Participants discussed Sa'dodoran violations and the current penalties during these sessions.

The investigation evaluated existing documents. These included historical records, local customs, and literature about the Tuo Mamasa Tribe and their rites. This helped explain Lammu Bai's customary sanctions' historical context.

The data-gathering method was placed in Rambusaratu, a village in Mamasa District, West Sulawesi, Indonesia, over a predefined period. Researchers and fieldworkers conducted direct observation, interviews, focus group talks, and document reviews. Community people, researchers, and local officials collaborated on these techniques. This ensured an accurate depiction of the village's legal system and punishments.

## Findings and Discussion

### Mamasa Indigenous People and Lammu Bai Indigenous Sanctions

Mamasa Regency is a Level II Region in West Sulawesi, Indonesia. Geographically, Mamasa Regency is located at coordinates between 119°00'49"-119°32'27" East Longitude, and 2°40'00" to 03°12' 00 South Latitude. Mamasa Regency has an area of 3005.88 Km<sup>2</sup> and administratively borders Mamuju Regency (North); Tana Toraja and Pinrang Regencies, South Sulawesi (East); Poliwali Mandar Regency (South); and Mamuju and Majene (West)



Regencies. It initially consisted of 4 sub-districts, namely Mamasa, Mambi, Sumarorong and Pana sub-districts. Then administratively, it developed into 17 sub-districts (Messawa sub-district, Sumarorong sub-district, Tanduk Kalua' sub-district, Nosu sub-district, Pana' sub-district, Mamasa sub-district, Tabang sub-district, Mambi sub-district, Tabulahan sub-district, Aralle sub-district, Rante Bulahan Timur sub-district, Sesena Padang sub-district, Balla sub-district, Tawalian sub-district, Bambang sub-district, Buntumalangka sub-district, and Mehalaan sub-district) and 181 sub-districts/villages. The total population of the Mamasa district is 149,809 people (Mansi, 2013).

Mamasa was initially part of the Polewali Mamasa Regency until, on March 11, 2002, it was declared a new district, namely the Mamasa Regency. Before the Dutch Colonial occupation, this area was known as 'Pitu Ulunna Salu'. Pitu Ulunna Salu means the upper seven rivers, symbols of the seven local leaders in the mountainous area. After that, this area was known as 'Kondosapata 'Uaisapalean', which means 'a wide rice field with flat water' which is a symbol of traditional leadership at the same level but has different functions in the society, and after Indonesian independence, it was known as Mamasa until today (Darwis, 2015).

Mamasa or mamase comes from 'love charm', meaning 'beautiful valley'. The locals gave the name as the name of a valley in the mountainous area of the Mamasa district. According to the local history, long ago, when this valley was a forest, many people came from outside to hunt and fish. The Mamasa people still practice their ancestors' traditional religion called the 'Mappurondo' or 'Aluk Tomatua' custom, which is passed down orally from one generation to the next. Thus, there is no written documentation that summarizes the inherited values or rules (Risal et al., 2021).

Mamasa is also well-known for its mystical values, demonstrated by the belief that local people can order corpses to walk home. They believe that all the corpses of a family or relative will be in the same place in the afterlife. Then, they have a typical barn house similar to the shape of a ship. People believe that their ancestors came from the sea in ships/boats and went to the river's headwaters. Legend has it that 'Grandmother' Torije'ne': (ancestor of the grandmother) came from the sea, and 'Grandmother Pongkapadang' (ancestor of grandfather) came from the eastern, mountainous regions of the island. Then, they met each other and moved to 'Buntu Bulu village' in Tabuhanan (near Mamuju district). People believe that they are the ancestors of Mamasa and its surroundings. The description that has been given can provide an understanding that the Mamasa indigenous community has inherited values that are still firmly held, including values or habits in resolving cases through the Lammu Bai sanctions.

There is evidence to support the assumption that the Mamasa indigenous community has inherited values that are still firmly held, including values or practices in settling problems through applying the Lammu Bai punishments. The Mamasa people strongly believe that they are the region's ancestors and have successfully transmitted their cultural traditions through generations. These characteristics include a strong feeling of community, respect for elders, and a willingness to settle disagreements through traditional procedures such as the Lammu Bai penalties.

The continuous practice of the Mamasa community to resolve problems through the Lammu Bai sanctions demonstrates the community's commitment to upholding the inherited values passed down to them. To resolve conflicts and carry out justice in society, these sanctions require using ancient rites and principles. The continuous importance of the values held by the ancestors may be seen in the Mamasa indigenous culture through the observance of several customs, which indicate the continued influence of those values.

In addition, numerous studies have demonstrated that indigenous tribes, in general, uphold and exemplify specific cultural values that have been handed down through the generations. The concepts of humanity, cultural responsiveness, educational responsibility, and respect for the collective are frequently included in this category of values. There is a good chance that members of the Mamasa indigenous group hold values inspired by their shared ancestral past.

The use of Lammu Bai customary sanctions can be observed in the village of Rambusaratu, which is included in the Mamasa customary area, which in the pre-independence

period was the place of the highest sovereignty of the Mamasa custom. Rambusaratu has the literal meaning of 'cooking place, which can be considered the centre for deciding essential issues in each of the *adat* found in the Mamasa and the *adat* in the Pitu Ulunna Salu region. Rambusaratu village itself is located in the Mamasa District with more than 3,800 people.

### **Sa'dodoran: Family Marriages and the Lammu Bai Sanction in the Tuo Mamasa Tribe**

Family marriages, also known as sa'dodoran in the context of the Mamasa Regency, occur between individuals who are closely related by blood or have close familial ties. This type of marriage is known as sa'dodoran. Marriages between siblings, cousins, or other relatives in the same extended family can fall under this category. The Tuo Mamasa Tribe adheres to a set of traditional norms and values, and family marriage is seen as violating those norms and values.

The phrase 'Lammu Bai' refers to a censure or penalty placed on couples that engage in family marriages in the social life of Mamasa Regency. This is the meaning that the term bears. It is a common notion that such marriages will bring individuals and their families unhappiness, misfortune, or other unfavourable outcomes. Using the Lammu Bai penalty is a way to improve the family's reputation and eliminate the imagined curse associated with family marriages to make marriages more acceptable.

Because the relatives of people involved in family marriages regard this act as a humiliating or dishonourable action known as mepakasiri', the customary Lammu Bai sanction is put into effect. The indigenous Mamasa people place a heavy weight on the idea of siri since it is symbolic of high-minded principles embedded in the community members at a fundamental level. It serves as a reminder of the importance of upholding one's honor, decency, and integrity within the community.

Couples participating in family marriages are subject to the Lammu Bai censure. This is done in an effort by the community to uphold and safeguard the siri' of the community. It is considered a technique for discouraging individuals from engaging in behaviors that are seen as destructive to the collective reputation and well-being of the community as a whole.

The cultural values, social dynamics, and traditional practices of the Tuo Mamasa Tribe in Mamasa Regency can be better understood with an awareness of the significance of family weddings and the administration of the Lammu Bai penalty. It underlines the emphasis placed on upholding the siri of the community as well as the community's commitment to maintaining and safeguarding their traditional rituals.

Lammu Bai can be interpreted as a form of settlement of cases; in this case, a family marriage is believed by the community to be not allowed or violates the customary regulations that have existed in the community. In order to legalize a marriage, it is necessary to terminate the family relationship of one of the spouses, which in the local language is called poli' lulunboyo (severing family ties). Severing family ties is done by imposing customary sanctions or Lammu Bai in the form of an obligation to hand over a pig to be washed away in the river, with the hope that the misfortune brought by the family marriage can be lost with the flow of water in the river.

The community recognizes that the Lammu Bai customary sanction has the same valid force as customary criminal law in general because the sanction is an agreement that their traditional ancestral leaders have determined. This means that the community has its mechanism in resolving legal cases or problems in their social life. Lammu Bai's customary sanctions to resolve cases can be linked to national legal instruments seen from various aspects, namely: philosophical, sociological, and juridical.

Lammu Bai customary sanction is one part of the customary law that already exists and lives in Indonesia, which is still being carried out by the Mamasa customary community in the Mamasa Regency, West Sulawesi Province. Customary law is not an 'imported' law, and it means that the customary law in question has eveloved in the community. It can also be interpreted as a product of the customary civilization of the Mamasa community.

The customary law is an overview of the customs of the community that have been passed down from ancestors continuously and persist to this day. Although customary law is

not tangible in writing, it is still obeyed and implemented based on trust. It can be stated that the community believes that these habits are standards that can create and maintain order in society.

Customary law is a rational consequence of customs firmly held by the community. Although it does not have the same form as written law based on the substance of the sanctions, customary law emphasizes morals and materials. Generally, customary law does not recognize imprisonment as a form of the sanction imposed on the violator. According to Bushar Muhammad (1981) Law, Customary law is a law that regulates human behaviour in building relationships between one human being and another human being, which includes the whole habit of decency and the prevalence that exists and lives in the society. It is adhered to and maintained by the community concerned. It also contains sanctions for violations stipulated in its decisions.

Customary leaders have a central role related to efforts to maintain the authority of the customary law; usually, traditional leaders are capable and trusted figures as supervisors and decision-makers on matters directly related to the customs of the community concerned. Traditional leaders can also be represented as village heads, religious leaders, village assistants, land guardians, judges, and traditional heads.

### **The Harmonious Coexistence of Customary Law and Philosophical Foundations: A Case Study of Lammu Bai Sanction in Indonesia**

In addition, when we take into consideration the understanding that was mentioned earlier, and if we were to interpolate this understanding back to the 1945 Constitution of the Republic of Indonesia, customary law would emerge as a tangible manifestation of the diverse thoughts held by the community, while also upholding the principles of justice and the highest ideals of society. This is because customary law would emerge as a tangible manifestation of the diverse thoughts held by the community. Whether it is written down or not, the concept of the Indonesian state, which is referred to as Pancasila, and the legal foundation of Indonesia, which is the Constitution of the Republic of Indonesia from 1945, do not come into conflict with the application of customary law in this specific circumstance. As a result, it is plausible to assert that Indonesia's traditional legal norms can maintain a peaceful coexistence with the philosophical concepts that serve as the nation's constitutional bedrock.

Lammu Bai, a customary sanction, is one instance of customary law congruent with the principles articulated in Pancasila. Lammu Bai is an example of this congruence. According to the definition of the body of customary law offered by the specialists, Lammu Bai is included in that body, and it possesses a philosophical underpinning that agrees with the fundamental doctrines of Pancasila.

The cultural and religious beliefs of the Mamasa people provide a strong foundation for the value symbolized by the Lammu Bai sanction of their community. It is imbued with a mystical and religious significance that is in keeping with their perspective on the universe and their comprehension of reality. The Mamasa people view the river as a metaphor for the progression of life itself, seeing it as a representation of both the beginning and the end of one's life.

The Mamasa people have demonstrated their dedication to maintaining and protecting their cultural legacy by including this idea in their traditional legal system. Based on this value, they can construct their understanding of the world and their place in it. It emphasizes the need to protect and preserve their cultural legacy and their relationship to the natural world.

The Mamasa people deeply respect their traditions, as seen by the fact that this viewpoint was included in the Lammu Bai sanctions. They also have a strong desire to uphold their traditional values. It is a symbol of their unwavering commitment to the customs and beliefs of their ancestors as well as the continuation of their cultural traditions.

In addition, the Mamasa community's traditional rituals and customs firmly commit to the principle of justice at their core. They have a deep-seated conviction in justice as it is interpreted and upheld in their culture. In addition, they place a high value on unity, collective decision-making, and cooperation, all of which are fundamental components of their cultural

makeup. These principles are ingrained in the lifestyle of the Mamasa people. As a result, they are represented in their traditional legal system, which includes the sanctions that Lammu Bai administers.

Based on the facts that have been shown, it is possible to argue that the traditional sanctions of Lammu Bai, a component of customary law, are intellectually tied to the standards of Pancasila, which serves as the philosophical foundation of the Indonesian state. There are many parallels between customary law's philosophical underpinnings and the ideas firmly ingrained in the five pillars that make up Pancasila. The philosophical basis of customary law encompasses the fundamental ideals of legal nature.

Sukarno, the first President of Indonesia, founded Pancasila as the guiding concept of the Indonesian state. Pancasila is a word that literally translates to "Five Principles" in Indonesian. It plays the role of the fundamental philosophy that helps shape the nation's identity, legal system, and social order. Belief in one God, a just and civilized humanity, the unity of Indonesia, democracy guided by the inner wisdom of discussions, and social justice for all Indonesian people are the five elements that makeup Pancasila.

When we consider these principles in light of the customary sanctions of Lammu Bai, we can identify philosophical linkages that demonstrate the customary law and national ideology's ability to coexist in a congruent and harmonious way. First and foremost, the Mamasa people's religious and magical beliefs, exemplified by their conception of the river as a source of life, are congruent with the first principle of Pancasila, which is the belief in one God. This belief is the foundation of Pancasila. The belief in a higher power and the symbiotic relationship between humans and their natural environment is at the heart of the spiritual significance ascribed to Lammu Bai.

The idea that fairness and justice should pervade all aspects of customary law is grounded in the second principle of Pancasila, which states that humans should be just and civilized. Within the Mamasa community, Lammu Bai is a mechanism for maintaining social equilibrium and settling problems between the group members. The traditional penalties reflect the quest for a just and civilized society as envisioned in Pancasila. Their goals are to restore harmony and safeguard the well-being of the community.

The Mamasa people's traditional ways of doing things strongly connect to the unity of Indonesia, which is the third and final principle of Pancasila. Within their society, the customary law, which includes the Lammu Bai punishments, is important in promoting social cohesion and a sense of solidarity among its members. The Mamasa people make a significant contribution to Indonesia's rich diversity and cohesiveness by adhering to their traditional practices and conserving their cultural heritage.

The participatory aspect of customary law can be understood as a counterpart to the democratic nature of the fourth principle of Pancasila, which is that the inner wisdom of deliberations should direct democracy. Discussions and consultations are vital components in resolving legal disagreements under customary law, which requires the active participation of all community members in the decision-making process. This democratic procedure is congruent with the tenets of Pancasila, according to which the decision-making process should be shaped by the collective intelligence and inclusion of its participants.

In conclusion, the fifth principle of Pancasila, social justice for all individuals in Indonesia, is consistent with the principles ingrained in the Lammu Bai punishments. The purpose of traditional punishments by customary law is to deter misconduct and ensure that community members feel treated fairly and equitably. The people of Mamasa respect these sanctions to promote social justice. This is done by ensuring that behaviors that upset the equilibrium are adequately handled and that corrective actions are implemented.

There will be substantial repercussions due to the incorporation of customary law into the legal system of Indonesia. It recognizes that diverse communities in Indonesia have unique norms, practices, and legal traditions, and it shows both acknowledgment and respect for the diversity and pluralism that exist within the society of Indonesia. The legal system of Indonesia becomes more inclusive and representative of the complex structure of the country when it

acknowledges the legitimacy of the customary law while recognizing the primacy of statute law.

This strategy is inclusive, and as a result, it not only helps protect cultural heritage but also makes it easier for the under-represented groups to gain access to the court system. The legal system in Indonesia can handle the specific requirements and concerns of different cultural groups because of the recognition of the customary law. This helps to ensure that these groups' views are heard, and their rights are respected.

In addition, adopting customary law helps strengthen the notion of subsidiarity, which encourages decision-making authority to be placed in communities that are geographically nearest to and most directly impacted by a given issue. This idea acknowledges that local communities are frequently better suited to comprehend and respond to the unique issues and dynamics in their particular settings. The Indonesian state encourages local groups to exercise their sovereignty and contribute to the general governance of the nation by offering legal recognition of customary law. This gives customary law the same status as other legal systems.

However, the incorporation of customary law into the legal system of Indonesia also presents several obstacles to overcome. The necessity of maintaining consistency and coherence between customary law and statute law presents one of the possible challenges. Even though customary law is an essential source of legal standards, it must be reconciled appropriately with statute law to eliminate the possibility of conflicting interpretations or results. This necessitates the establishment of a solid foundation for the interpretation of legal language as well as a transparent system for the resolution of potential problems.

In addition, traditional legal systems need to be subjected to ongoing analysis and improvement to ensure that they are compatible with the social realities of the modern world and the growing ideas that underpin them. As societies evolve and progress, it is necessary to examine and modify long-standing habits to accommodate the requirements and goals of the present moment.

It is essential to analyze customary law to resolve any potential conflicts between the core ideas underlying human rights and cultural practices. Even while customary law is an expression of cultural identity and community values, it should not infringe upon individuals' fundamental rights and liberties. This is because customary law expresses cultural identity and community values. It is of utmost importance to make certain that the principles of human rights contained in various international conventions and treaties are reflected in the principles of customary law. The human rights norms that have been established give a worldwide framework that can act as a guide for the examination and improvement of the principles of customary law.

Detecting and fixing any discriminatory or unfair components in a customary practice is feasible by looking at it through human rights principles. This is done by studying the practice through the perspective of customary practices. It is possible to evaluate whether or not customary practices are compatible with the fundamental concepts that underpin human rights. This makes it possible to identify areas where possible enhancements should be made. This strategy ensures that cultural identity and community values are honoured while maintaining and advancing individuals' fundamental rights and liberties. Moreover, it does all of this without compromising either of these goals.

During the process of analyzing customary law, one must also take into account the influence that it has on gender equality and the protection of women's rights. Frequently, strongly ingrained gender roles and hierarchies are reflected in traditional customs, which can perpetuate gender-based discrimination and violence. As a result, it is essential to conduct an in-depth analysis of traditional behaviors through the lens of gender and to rectify any practices that work against the achievement of gender equality. In order to guarantee that their points of view and concerns are considered, this evaluation process should encourage the active engagement of women and members of underrepresented groups.

In addition, revisions to customary law may become necessary due to shifts in social mores and evolving concepts of fairness. As communities grow more interconnected and are exposed to a greater variety of cultures and legal systems, traditional behaviors may need to be



modified to account for these new circumstances. As part of this modification, the ideas of equality, justice, and inclusivity might be included in the customary legal system to bring it into line with society's broader ideals and goals.

Traditional communities, legal experts, academics, and legislators must work together to evaluate and develop customary law. This will make the process easier for everyone involved. Participating in meaningful discourse and consultations might assist in locating areas of customary law that can benefit from being modernized or amended. Because traditional communities are the keepers of their cultural and legal traditions, it is essential to ensure that this process respects and cherishes traditional communities' knowledge, wisdom, and autonomy. This is because traditional communities are the primary sources of this information.

### **Living Law: Sociological Relevance and Recognition of Lammu Bai's Customary Sanctions**

Sociologically, Lammu Bai's customary sanctions can be seen from the interaction between these sanctions and the people who implement the law because customary law is the living law. Customary law as the living law can be interpreted in this way because the Lammu Bai sanctions live in the Mamasa community. A law can only be declared as the living law if the law is obeyed by the community concerned, even though the law in question does not have a form as a written law. Even though the Lammu Bai sanctions are recognized and obeyed by the Mamasa community without going through the promulgation procedure in the state gazette, Lammu Bai can still be declared the living law because it is obeyed by the community, in this case, the Mamasa community. In other words, the customary sanction of Lammu Bai as customary law can be said to be the living law.

Lammu Bai is a way of life for the Mamasa community that has been internalized and used as customary criminal law. This law is interpreted through sociological or teleological perspectives, which can be further rationalized through humanistic practice and positive law. However, in some cases, specific benchmarks may not be found. Even without these benchmarks, the use of customary criminal law brings the community closer to the law itself and serves as a source of social balance. Violations of these laws are seen not only as rule-breaking but also as disturbances to the cosmic balance of the community. Consequently, customary sanctions are used as a form of reaction, and correction efforts are made through customary administrators in the community.

Essentially, Lammu Bai is a way of life that is deeply intertwined with the Mamasa community's socio-cultural identity and practices. Although it is not always explicitly defined or codified in positive law, it is still valued and eagerly enforced by the community's customary administrators. Any violations of Lammu Bai are viewed not just as breaking rules but also as disrupting the very balance of the community. Therefore, customary sanctions serve as a means of redress and correction within the community.

It has been mentioned that it is essential to have a comparative measure between customary law and positive law so that various customs regulations can be interpolated into national laws and regulations so that customary law can be recognized. Talking about the recognition of customary law in positive law in Indonesia can be started through the periodization divided between the Dutch and Japanese colonialism and the Indonesian independence period. During the Japanese colonial period, there was an Osamu Sirei regulation Article 3, which stipulates that the previously in effect regulations are still in effect. This refers to the new Article 75 RR provisions, which was promulgated in Stb Number 415 jo 577 in 1925 and came into force on January 1 1926, which was later included in Article 131 IS (Indische Staatsregeleing) or wet op de staatsinrichting van Nederlands Indie. The provisions contained in the article are a refinement of the old Article 75 paragraph (3) of RR 1854 (Regeringsreglemen) or Reglement op het beleid der regering van Nederlands Indie (Regulation on government policy in the Dutch East Indies) Stb no. 2 of 1854 (Netherlands) and Stb number 2 Jo 1 1855 (Dutch East Indies). Article 75 of the old RR consists of 6 paragraphs that outline the possibility of applying customary law in the enforcement of civil and criminal law, or in this case, the line is referred to as the law owned by Bumi Putra.

The mention of customary law during the periodization is carried out in several ways: Religious Laws, Institutions of the Bumi Putra Group and the Habits of the Bumi Putra Group as long as they do not conflict with generally recognized principles of propriety and justice. If customary law does not or has not regulated a matter, its enforcement refers to regulations with general principles of European law. Furthermore, Article 131 paragraph 2 sub b of IS stipulates that their customary law applies for the male and foreign land law groups but with some restrictions. Restrictions can be in the form of the application of specific laws depending on the interests they have. Laws that can apply are European Law, European Law which has been amended, and the law for several groups together can even be applied to an entirely new law, namely the law which is the result of a synthesis between European Law and Customary Law.

Although the formulation of customary law in that period was limited to the Religious Law, institutions, and customs of the Bumiputra group, it is clear that customary law was recognized long before Indonesia's independence. Lammu Bai's customary sanctions are still being carried out to this day. This shows that there has been recognition of customary law in Indonesia. This is reinforced through Article 18 b paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which recognizes and respects customary law community units and their traditional rights as long as they are still alive and by community development and the principles of the Unitary State of the Republic of Indonesia. Historically, the basis for the application of customary law based on national legislation can be found in the MPRS Decree Number II/MPRS/1960 in Attachment A Paragraph 402; Emergency Law Number 1 of 1951 concerning Temporary Measures to Organize the Unity of Structure, Power and Procedure of Civil Court; Law Number 5 of 1960 concerning Basic Agrarian Laws; Law No. 41/1999 on the subject of forestry; Government Regulation Number 21 of 1971 concerning Forest Concession Rights and Forest Product Collection Rights; Law Number 48 of 2009 concerning Judicial Powers; and others.

Customary law in legislation in Indonesia is generally stated as unwritten law or as legal values and a sense of justice that live in a society which can be found in Law Number 48 of 2009 concerning Judicial Power, especially in Article 5 paragraph (1) which reads: "Judges and constitutional judges are obliged to explore, follow, and understand the legal values and sense of justice that live in a society" and Article 50 which reads: "The court's decision must not only contain the reasons and basis for the decision, it also contains certain articles. from the relevant laws and regulations or unwritten legal sources that are used as the basis for adjudicating." Through these two articles, it is illustrated that there is an acknowledgement of legal values and a sense of justice that already exists and lives in a society that can be used as judges' considerations in giving a decision on a case, even though it is in the form of an unwritten law.

Customary law or the living law is strongly correlated with the existence of land because, as it is known that culture and human life, the recognition of customary law through land regulations has an essential role in the recognition and as the basis for customary law. Recognition of customary law through land regulations in Indonesia is shown through the Basic Agrarian Law Article 2 paragraph (4), which regulates the delegation of authority back to customary law communities to exercise control rights over land so that indigenous peoples are the implementing apparatus of the state's right to control over land. Manage the lands in their territory. Furthermore, Article 3 of the Basic Agrarian Law states that the implementation of customary rights of customary law communities as long as in reality must be in such a way that it is by national and state interests based on national regulations and may not conflict with laws or higher regulations. These two articles show a legal acknowledgement of the correlation between land and culture (customary law), although there are limitations, namely its conflict with higher regulations.

Lammu Bai customary sanctions as customary law correlate with the community's right to occupy their lands and practice their customs. This has been recognized through laws and regulations in Indonesia, although indirectly the settlement of criminal cases using customary criminal law (Lammu Bai customary sanctions) is regulated in the Law on Judicial Power, and the correlation of adat and land has also been regulated in the Basic Agrarian Law. Moreover,

Lammu Bai customary sanctions as customary criminal law in philosophical, sociological, and juridical dimensions have a solid basis to be maintained.

### **The Existence of Indonesian Customary Criminal Law: Lammu Bai Customary Sanctions as Criminal Customary Law**

Customary criminal law often exists in "existing" and "non-existent" conditions. If the assessment is carried out in this context, the study of customary criminal law can be studied based on two aspects: the principle of formal legality of the principle of legality; and aspects based on the perspective of the Emergency Law Number 1 of 1951, which recognizes the existence of the Customary Court. Article 5 paragraph (3) sub b of the Emergency Law Number 1 of 1951 recognizes the existence of a Customary Court but after the existence of the Law concerning the Basic Provisions of Judicial Power (Article 10 of Law Number 14 of 1970) which was amended by Law Number 35 of 1999 concerning Judicial Power, amended again by Law Number 4 of 2004 and Law Number 48 of 2009 concerning Judicial Power of Customary Courts is no longer known in Indonesia at the level of legislative (national) policy. However, there is recognition of the Customary Courts in Indonesia. Nangroe Aceh Darussalam, which is applied as a criminal law enforcement mechanism, is known as the Gampong Court of Peace Court.

Although based on the formulated policies contained in the Law on Judicial Power (since Law Number 14 of 1970 to Law Number 48 of 2009), the Customary Court is no longer recognized, but in practice studies at the *judex facti* level (First Level Court) and the *judex juris* (Supreme Court) level, namely through jurisprudence. The Customary Court is still recognized, for example, the Supreme Court Decision Number 1644 K/Pid/1988 on May 15, 1991, in the ratio decided section which states that if someone violates customary law, the Head and Leaders Adat imposes customary sanctions. So the violator cannot be brought back as a defendant in a trial at the District Court with the exact charges as customary law, which is violated and sentenced to criminal according to the provisions of the Criminal Code. In such a context, the delegation of case files and the demands of the Prosecutor's Office at the District Court must be declared unacceptable (Maryano et al., 2021).

Through the Supreme Court's decision above, it is known that although formally the Criminal Court is no longer recognized, but based on the jurisprudence of the Supreme Court (which is the highest judicial body in Indonesia), the Customary Court still has a place to continue to exist in Indonesia and still respects traditional leaders who impose customary sanctions. Against violators of customary law. It is not justified that the Judicial Body will try a second time by imposing imprisonment on violators of customary law who have been tried through the customary court before. In this context, for violators of customary law who are not tried using customary sanctions, the Judge of the State Criminal Court has full authority to try the violator based on the provisions of Article 5 paragraph (3) sub b of the Emergency Law Number 1 of 1952 in conjunction with the Articles of the Criminal Code.

The existence of Customary Law is normative, theoretical and the principles and practices are based on the provisions of Article 5 paragraph (3) sub b of the Emergency Law Number 1 of 1951 (LN 1951 Number 9), which states that:

Material & civil law and for the time being the civil criminal material law which until now applies to the subjects of the Swapraja area and people who were previously tried by the Customary Court, still applies to the subjects and the person with the understanding that an act which is legally life must be considered a criminal act, but there is no comparison in the Civil Criminal Code, it is considered threatened with a sentence of not more than three months in prison and/or a fine of five hundred rupiahs, namely as a substitute punishment if the customary punishment imposed is not followed by the other party. the convicted person and the replacement referred to is deemed commensurate with the amount of guilt of the convicted person, that if the customary punishment handed down according to the judge's mind exceeds him with the confinement or fine referred to above, then the defendant's guilt may be subject to a substitute sentence of up to 10 years in prison. with the understanding that the customary according to the judge's understanding that it is no longer in harmony with the times, it is always

replaced as mentioned above, that an act which according to the living law must be considered a criminal act which has an appeal in the Civil Code, then it is considered to be threatened with a punishment equal to the maximum sentence of the appeal. similar to the crime."

Based on the above jurisprudence, the recognition of the existence of customary law is carried out based on the principles of justice or unwritten law as stated in the excerpt of the verdict above. In traditional sanctions, Lammu Bai is an approach to resolving criminal cases through peaceful means or peace courts. Although the traditional Lammu Bai sanction is not a written law, the settlement of cases through customary criminal law can accommodate problems in a progressive society. Lammu Bai customary sanctions as customary criminal law are an alternative for resolving criminal cases in the context of marriage, namely marriage in one family. Family marriages within the framework of national laws and regulations, namely Article 8 of Law Number 1 of 1974 in conjunction with Law Number 16 of 2019 concerning Marriage, are regulated as marriages that are prohibited by law which through Lammu Bai customary sanctions are resolved by severing family relations through throw the pigs into the river. In the Mamasa community belief, the customary tradition of the Mamasa people *me' bulle bai* has been applied since recognizing the name there is *tuo* (humanizing each other) where any violation that is contrary to the values of to Mamasa such as fights that cause the victim to bleed or in a romantic relationship such as impregnating a man. If the man does not want to be responsible, he will be subject to customary sanctions in the form of *ma' bulle bai* or *ma' renden tedong*. For the fight itself, *ma' bulle bai* or *ma' renden tedong* must also pay attention to the social strata of the victim. If the victim's social strata fall into the *tana bulawan* category (the title of noble descent), then the punishment (customary sanctions) must at least bring a buffalo. However, if the social status is mediocre, the perpetrator can bring *bai* (pig).

According to the research findings, when it comes to romantic relationships, men who refuse to accept responsibility are punished in a manner analogous to that of the Mamasa tradition. In addition, the social status of the woman's family is something that the man's family must consider. Washing a pig or buffalo in the river is known as *ma' lammu pemali*, a sign of bad luck. This activity comprises the washing of the animal. This practice is often carried out when two people involved in a romantic relationship have a strong familial connection yet breach Mamasa norms in some way, such as by becoming pregnant before getting married, which would necessitate them to get married.

The pig or buffalo is set free in the field as part of the traditional process of putting Lammu Bai or *tedong* into practice. This element of the process is considered to be part of the traditional process. After that, the family would spear or slaughter the animal as a symbol of letting go of their resentment toward one another. After that, the flesh from the animal is not allowed to be consumed by the offender's family, and the animal is then washed away in the river. In this practice, also known as *poly lulun boyo*, the perpetrator's familial relationship is evaluated before moving forward with an official marriage, regardless of the circumstances. This is done even if the perpetrator is already married.

This research shed light on the traditions and practices that members of the Mamasa community adhere to regarding romantic relationships and family ties. It exemplifies the priority placed on respecting social norms and keeping family honor while simultaneously addressing transgressions and resolving issues. Additional investigation and investigation of primary sources within the Mamasa community would be required to acquire a full understanding of this particular custom and its cultural value.

### **Lammu Bai as Applied in the Village of Rambusaratu in the Mamasa District**

The traditional Lammu Bai sanction is still being applied in the village of Rambusaratu, recognized by Arfah as one of the traditional leaders that the customary sanction still exists and must be applied in the event of a family marriage (*sa'dodoran*). Lammu Bai customary sanctions are still applied to prevent the recurrence of acts that violate customary law, primarily family marriages, and legalize traditional re-bonds. The Lammu Bai customary sanction is one form of applying the customary criminal law of the community in the Mamasa district. Lammu Bai is a customary sanction imposed on couples who carry out family marriages (*sa'dodoran*) in the



Mamasa district. The traditional Lammu Bai sanctions are carried out to get rid of bad luck due to family marriages (sa'dodoran) that violate applicable customary rules. For example, those (who perform family/sa'dodoran marriages) have good intentions to legalize their ties/relationships, traditionally known as the local term poli' lulunboyo (severing family ties). Then the traditional Lammu Bai sanctions will be applied to them.

The traditional Lammu Bai sanction is applied because the family of those who carries out family marriages (sa'dodoran) considers their actions shameful (mepakasiri'). So the family considers it as siri'. Where we know that siri' is the pride or majesty of self-esteem that the ancestors have inherited to uphold the customs in which these joints are also imprinted, the strength of siri' which is owned by the community in the Mamasa district, is very clearly seen. If others violate their dignity, then the person whose dignity is violated will do anything to improve his family's name in the community. The traditional Lammu Bai sanction is an effort to improve the family's good name.

The form of sanctions or punishments for Lammu Bai is the provision of sanctions in the form of drifting a pig in the river, with the rule that those who are allowed to do Lammu Bai are people who have family/blood relations with those who carry out family marriages (sa'dodoran). The community recognizes that the Lammu Bai customary sanction has the same valid force as customary criminal law in general because the sanction is an agreement that their traditional ancestral leaders have determined. Applying Lammu Bai customary sanctions in resolving disputes over community life in the Mamasa district, especially in Rambusaratu village, Mamasa district, and Mamasa district, still adhere to customs. In this case, Lammu Bai customary sanctions in resolving disputes in community life.

According to local customary law, every conflict that occurs in the community if is resolved according to custom, then the life of the community will remain well established and well maintained and eliminate hatred and revenge in the hearts of those who are in conflict if resolved according to criminal law, the life of the community will always be a prolonged conflict. Because between communities in conflict will always arise revenge to bring each other down. Lammu Bai customary sanctions are one way to resolve conflicts, especially in resolving family problems of those who carry out family marriages (sa'dodoran). If we see broadly speaking, the traditional Lammu Bai sanctions are still being applied and are still firmly held by the people in the Mamasa district because the implementation has been passed down from generation to generation.

People in the village of Rambusaratu strongly believe in the customary rules and sanctions that exist and still maintain the customary values that apply to this day so that the community continues to preserve and pass them on to their children and grandchildren. However, they do not want a family marriage (sa'dodoran) anymore because the sanctions are hefty and embarrass the family. The last incident of a family marriage occurred about five years ago in the Pa'to hamlet, Rambusaratu village, Mamasa district.

The traditional Lammu Bai sanction is considered to help the government with the legal registration of marriages by the religious affairs office or civil registry office. One of the traditional leaders who serve as a private employee at the Toraja Mamasa Church Synod Working Body named Dominggus said this sanction will be imposed for anyone who performs a family marriage (sa'dodoran) and wants to enter or leave the village of Rambusaratu. After that is required to register his marriage at the civil registry office or the office of religious affairs according to the religion concerned, this helps the government implement positive law in Indonesia and the codified law. If it is not registered, the marriage is known only by religion and custom. If it is not through a legal, unregistered and customary religion, it is subject to the law of adultery or is considered adultery.

Likewise, in an interview with the village head, Mr Albert Palangi, emphasized that if one carries out family marriages (sa'dodoran), one can be punished by the court and imprisoned because the positive law strictly regulates this. Family marriages (sa'dodoran) in the codification of the Criminal Code and the Burkhelijk Wetbook and the unification of Law Number 1 of 1974 concerning Marriage are not explicitly regulated. However, if there is one party who objects and does not accept it, it can be subject to punishment by a judge in the



District Court because the act can be categorized as adultery or in Article 8 of the Law, it is categorized as a marriage which is prohibited by law.

Customary criminal law does not separate legal violations that must be prosecuted criminally or civilly. Thus, the customary law system only recognizes the procedure for resolving cases and does not distinguish the case as a criminal case or civil case. This has implications for the responsibility of the customary head to prosecute violators of customary law in both customary criminal law and customary civil law. The responsibility for law enforcement is only carried out by one party, namely the customary head or customary judge. Law enforcement is carried out to restore the previously established balance. Responses to restore this balance can be divided into two categories:

- (1) The enforcement of customary law which only manifests in one action, for example, there is a debt that has not been paid, the response to customary rational sanctions imposed on violators are: paying debts that have not been paid.
- (2) The enforcement of customary law is manifested in several actions, such as escaping the daughter of a Dayak family in Kalimantan, restoring balance in two stages, restoring the honour of the girl concerned and restoring peace in the community.

In the second condition, efforts to restore balance consist of two efforts: paying a fine to the family concerned through the delivery of a sacrificial animal to the group for a traditional meal so that balance and purity in society are restored. Customary officers in enforcing customary law are not always the party who takes the first initiative against law violators. In some cases, customary officers will only act if there are 'reports' and 'requests' for action from disputing parties or even vice versa. Customary officers can take the initiative to enforce customary law when a violation occurs. Indicators that determine whether adat officials can take the initiative or vice versa are not always the same as indicators used in positive law. In violation of customary criminal law, adat officers are obligated to act if the act of violation damages the public interest, although sometimes the definition of 'public interest' is not the same as what is defined by positive law. This is because everything is based on the social and cultural awareness of the community concerned in customary law.

As mentioned above, customary offences are defined as a rule of customary law that regulates an event or wrongdoing that disrupts the balance of society so that it needs to be resolved (punished) to restore the balance of the disturbed society. To make the enforcement of customary criminal law effective, it must be carried out with a solid legal basis or source so that the objectives of customary criminal law can be realized without overriding the positive law that applies in a country (Indonesia).

The term Judiciary or *rechtspraak* in Customary Courts means 'talk about law and justice', which is carried out by a deliberation system, while in full, the Customary Court means that the settlement of cases is carried out outside the court and before the district court. When referring to Law Number 21 of 2001 concerning Special Autonomy for the Papua Province, the Customary Court is a criminal court within the customary law community that has the authority to examine and adjudicate civil disputes and customary crimes among the members of the customary law community concerned. As one of the stages of enforcement of customary law, the Customary Court can be carried out by members of the community's family individually, by family/neighbours, the head of customary head or customary judge, village head or by the board of an organization responsible for custom.

I was referring to Soepomo's (1959) opinion that customary criminal law is a law that regulates all actions or events that disturb the inner peace of the community, or all actions or events that pollute the inner atmosphere, namely the sanctity that is believed by the community so that these things are offences against society as a whole. Meanwhile, according to Haar (1960), an offence is considered as a disturbance that causes a disturbance in the balance and disturbances in material or immaterial goods related to the lives of other people or the unity of people, which causes a form of customary reaction to arise through which the balance is damaged. Must be restored. Traditional offences are related to feelings of justice and obedience that live and develop in society. The balance that already exists in society is disturbed by

destroying these feelings, so it is necessary to restore this balance through various forms of customary reactions, including customary sanctions.

Customary law based on Widnyana's (2013) opinion has five essential characteristics, namely: first, customary criminal law is comprehensive and unifying because customary law is imbued with the cosmic nature of interconnected communities so that customary law does not distinguish between criminal and civil violations; second, have transparency so that all provisions in customary law can adapt to events or actions that may occur; third, looking at a violation from various perspectives and not limited to what was done and the consequences, but also assesses the background and who is the violator of the customary law; fourth, the trial is carried out based on a request to resolve customary violations by parties who have been harmed or mistreated; fifth, the form of customary reaction or correction is not only imposed on the perpetrator but can also be imposed on the relatives or family of the perpetrator or even on the community concerned as long as the imposition of customary reaction aims to restore the disturbed balance of society.

There are several limitations to the application of customary criminal law, namely as long as customary criminal law does not conflict with positive law in force in a country, as long as this can be fulfilled, customary law will always have a position in resolving cases or disputes that occur in the community concerned. This is identified with the balance in the community, which contains a sense of justice, propriety, and customs in the community concerned. Adji (1973) emphasized that if a form of violation is compared to the Positive Law, there will be two possibilities, namely:

- (1) Criminal acts against customary law have an equivalent in Positive Law.
- (2) Criminal acts against customary law have no equivalent in Positive Law.

If there is an equivalent of a crime in positive law, then: when the act has been tried through customary courts, it is not justified to try the perpetrator a second time by imposing a prison sentence. Meanwhile, if the equivalent cannot be found in positive law, the customary court has full authority to impose customary sanctions on the perpetrators.

The phenomenon of customary criminal law must be assessed through various dimensions, namely the dimensions of legal philosophy, legal theory, and legal dogmatics. I am referring to JJH Bruggink's opinion that legal theory includes products, namely all premises that are interrelated with one another, which refers to the results of academic activities in the field of law and legal theory as a process, namely academic activities related to law or related to theoretical research in the field of law. The field of law. Legal dogmatics relates to the nature of law as positive law, which is compiled in a particular form by parties with such authority. According to Gijssels and Hoeke (1982), the relationship formed between legal dogmatics, legal theory and legal philosophy by dividing each combination of relationships formed, for example, legal dogmatics as a meta-theory of legal theory and legal philosophy is meta-meta data Legal theory.

According to Bellefroid (1962) and Pudjesewojo (1976), Legal dogmatics are called Positive Legal Studies, studying regulations from a technical juridical perspective, speaking law from a juridical aspect, concrete actual and potential legal problems and seeing the law from an internal perspective. Legal theory reflects legal techniques, doctrinal views on law, justification for positive law. The legal theory leads to the formation of law (legislation) and the discovery of law (teaching of interpretation). Philosophy of Law is a reflection of law or legal phenomena so that as a reflection of philosophy, its existence is not aimed at questioning specific positive laws but reflects the law in general or law as such. Philosophy of Law seeks the most profound nature of law.

Marzuki (2021), mentions that Philosophy of Law is speculative in nature, legal theory, and legal dogmatics are normative. Dogmatic Law is the object of positive national law consisting of norms (normalizing dimensions), academic goals, and practical. Contemplative Legal theory in a narrow sense is located between legal dogmatics and legal philosophy, Legal Theory in a broad sense (Rechtstheorie/Rechtswetenschap) includes Legal Dogmatics, Legal

Theory (in a narrow sense) and Legal Philosophy. According to Bernard Sidharta (2002), legal analysis means analyzing legal understanding, principles, rules, legal systems, and juridical concepts about the law. The legal methodology includes legal epistemology, law formation and application methods, legal discovery, and statutory theory. The hallmark of legal theory is its interdisciplinary character that views law from outside the law. According to Posner (1985), looking at interdisciplinary law as a tradition of American Realism which in Indonesia is a sociological aspect according Rahardjo (2006) or according to Unger's (1983) view with the critical legal studies movement, which was influenced by American Realists such as Oliver Wendell Holmes, John Chipman Gray, Karl Llewellyn and Jerome Frank and in Europe by the views of Lawrence Wolfgang Friedman in Legal Theory.

The three layers of legal science, namely legal dogmatics, legal theory, and legal philosophy, are ultimately directed at legal practice, especially law formation and application. Hadjon (1987) said that the problems of law application include legal interpretation, legal vacuum (*rechtsvacuum*), legal vacuum (*wet vacuum*), conflict of legal norms (*antinomy*), and vague norms (*vage normen*). Algra and Duyvendik (1981) argue that people prefer to use the term law formation (*rechtsvorming*) rather than legal discovery (*rechtsvinding*) because the term legal discovery gives suggestions as if the law already exists. In practice, judges make legal discoveries by interpreting, constructing and exposing the law. The primary conclusion described in the context above can be assumed that legal practice implements legal dogmatics into legal facts. From a hermeneutical perspective, between legal dogmatics into legal facts and vice versa, legal theory functions as a meta-theory of legal dogmatics so that legal philosophy is an essential and central dimension. What has been explained above can be drawn as an argumentative assumption that is examined from the dimensions of the legal practice framework? It turns out that customary criminal law correlates with the dogmatic level of the law, legal theory, and legal philosophy level.

Referring to the description that explains the correlation between legal theory, legal doctrine and legal philosophy, customary criminal law can be interpreted that customary criminal law occupies three critical dimensions at the legal level, both philosophy, dogma, and legal theory, especially Lammu Bai customary sanctions as a form of customary law. Against the offence of Sa'dodoran. Emphasis is placed on the meaning of Lammu Bai customary sanctions in the dimension of legal philosophy that applies as the primary basis for the emergence and enactment of Lammu Bai customary sanctions as customary criminal law. It is essential to ensure that these customary sanctions have occupied their proper position, representing their position as a correlated legal practice. Actively with legal domains and legal theory. The obligation to explain this position does not lie with the Head of Customs or Customary Stakeholders or even the community concerned but lies with all elements of national law enforcement to be able to crystallise the noble values that are trying to be maintained so that they can then be used as the basis for reforming the national criminal law which contains the noble values of the community.

### **Criminal Law Reform in Indonesia with Local Wisdom: Seeing Lammu Bai's Sanctions**

Customary criminal law, as discussed above, is a crystallisation of the wisdom of indigenous peoples in Indonesia, which tend to have a religion-magical style that is depicted through belief in an act that will cause bad luck (Kuswicaksono, 2021). This act destroys the sanctity of customs. An act of destruction will trigger the anger of the ancestors and so on. Concretely, the crystallisation of values and beliefs held by the community is manifest as the law of the local community. The local community law mentioned above is often stated as customary law, folk law, indigenous law, unwritten law, or unofficial law. This law in the Indonesian language is termed customary law (*adat law/adatrecht*).

Public awareness is the primary source of law because this awareness contains what is said or felt like justice, which is interpolated to realise public order and peace. In the veins of the source of the law, the norms of life that are fair and by the feelings and awareness of the law (values) should flow so that through these things, the peace and order that people yearn for will be realised. The community's interests, in this case, are described by the values and norms

that exist in society should always be the primary consideration in reforming criminal law. Criminal law reform must be carried out systematically and thoroughly by prioritising the community's interests. So that measuring an act as a crime or not (criminalisation) depends on the collective view of society which is formed based on the values and norms that the wider community has and that the law must be able to translate what is meant by right, sound, wrong, and practical or otherwise based on the awareness, values, and norms owned by the community.

Reforming criminal law based on customary criminal law must be done by understanding the noble values that are maintained through customary criminal law. In contrast to the positive criminal law that applies in Indonesia, which states that an event and an act can be punished because of the written law governing the act, and as long as the event and act are not regulated or stated in the law, the act or event cannot be declared as an offence. This refers to the principle of legality regulated in Article 1 paragraph (1) of the Criminal Code. Meanwhile, in customary criminal law, an event or action can be declared as an offence with the criteria that the act or event "disturbs the balance, so that a customary response will be given to it which can be in the form of imposing customary criminal sanctions. Customary criminal law does not recognize the principle of legality as positive law because, in addition to simple legal provisions, customary criminal law does not recognize codification. In other words, customary criminal law does not recognize written law even though some indigenous peoples in Indonesia are familiar with the codification of customary law (Darma, 2021).

National Criminal Law in the future must be able to adapt to changes in society that continue to move. Both related to sociological reasons, or those that are ideological, including rights that are correlated with the human condition, nature and traditions that exist in Indonesia, provided that the substance is still included in the framework of the national culture (sub-culture) and is not a rival culture (counterculture). In line with this, the Secretary-General of the Alliance of Indigenous Peoples of the Archipelago (AMAN), Abdon Nababan (2013), said that the Alliance encouraged the Draft Criminal Code to accommodate customary law. The focus is on enabling case resolution through customary law. There has to be an affirmation about that. The further stated that the Draft Criminal Code must be able to provide an interpretation through an explanation of the definition and the customary law justice system so that the customary law owned by the local community is prioritized for the settlement of criminal cases that are related to the customs of the local community so that afterwards it can be written into the form of procedural law, which is then forwarded to be registered with the local District Court so that the court has a function to provide guarantees for the realization of criminal law enforcement customs in society.

Reforming the national criminal law must be done by placing the original Indonesian values (living law) without forgetting the existence of international law developments as expressed by Santayana (1934): "A man's feet must be planted in his country, but his eye should survey the world". In this case, the Customary Criminal Law is a wealth or element in the National Law of the Indonesian Nation, saying so does not mean that all aspects of the Customary Criminal Law can be used as a support in the Reform of Criminal Law in Indonesia, but several studies or arrangements in the Customary Criminal Law that have been applied from generation to generation. From generation to generation by the National Legal System that can be included and stipulated in the written Criminal Law as the National Criminal Law in Indonesia. The basis for the need for reform of criminal law in Indonesia is that the regulation in criminal law reflects the political ideology of a nation where the law develops and makes it very important that the entire legal structure rests on sound and consistent political views. On this basis, it is not surprising that although various changes have been made to the Criminal Code, there are discrepancies/conflicts in its application.

On the one hand, according to the Criminal Code, some acts are included as criminal acts, but according to the community's opinion, they are not disgraceful acts. On the other hand, some acts are considered by the community to be despicable acts, but the Criminal Code does not stipulate them as a criminal acts. Responding to this fact, Arief (2011) revealed a gap/discrepancy, and even this difference in values/interests is not impossible to be a factor in the emergence of dissatisfaction in law enforcement practice. It can even be a factor causing



the emergence of victims (victimogen factors) and the emergence of offences / other crimes (criminogenic factors). The occurrence of this is an indication of how important it is to explore the laws that live in society, primarily criminal customary law/criminal law that is not written in the formation of national criminal law. About this, Rahardjo (2009) stated that "customary law is the fact that lives in society, so it is a determining factor both in terms of law formation and implementation in Indonesia.

Arief (2011) provides evidence in support of the contention that there is a disparity between behaviors that are criminally punishable within the terms of the Criminal Code and those that are seen as shameful by the community as a whole. According to Arief, the disparity in values and interests between the criminal justice system and the community can result in discontent with law enforcement procedures and may even play a role in developing victimization and other types of criminal behavior. Rahardjo (2009) further emphasizes the significance of investigating the customary law that already exists in society and explains that this is because it is a decisive factor in the process of law formulation and implementation in Indonesia.

In addition, this gap between illegal acts as defined by the law and the perceptions of the community has been the topic of investigation in academic circles. Studies have been conducted to investigate how differences in community values and legal definitions can influence law enforcement, the number of people who become victims of crimes, and the crimes committed. These scholarly publications give factual evidence and analysis to support the premise that criminal activity inconsistencies exist.

Collectively, Arief's analysis of the gap between criminal law and community values, Rahardjo's recognition of customary law's role in law formation and implementation in Indonesia, along with academic research on the topic provide evidence to support the argument that disparities exist between acts classified as criminal by the law and those perceived as disgraceful by the community. These disparities include acts such as stealing, prostitution, and sexual assault.

As a national identity, the existence of customary law must have characteristics and characteristics that are by the philosophy and culture of the nation. Sudarto (1983) emphasized that "it would not be wrong if to a certain extent it can be said that the criminal law of a nation can be an indication of the civilization of that nation." The current nationally applicable criminal law stipulates that it is prohibited to use analogies in determining the existence of a crime. These provisions reinforce the principle of legality, which is the main principle in the national criminal law which is positively applicable today.

Making customary criminal law the content of some of the national criminal law reforms also presents its challenges for its makers, both legislative and executive. The challenge is in the form of many traditional values in Indonesia, which are directly proportional to the many tribes and customs in this country. This diversity will give birth to different values of various indigenous peoples in viewing and resolving various problems that occur among them, not least in cases related to honour and decency, because this is not only the parties involved in the case. Nevertheless, it also involves the wider community.

Behind these various problems, it is appropriate to listen to the opinion of J. Van Kan (1925), who states that the law is a mirror (een weergave) of society so that the formation of Indonesian criminal law must always reflect the values that live in Indonesian society or be based on living law. This shows that criminal law should reflect the values of society so that it can be applied and accepted and fulfil the sense of justice of the community where the law is enforced.

Learning about the phenomenon of customary law in the Mamasa community, which uses the Lammu Bai customary sanction in the Sa'dodoran offence to resolve family marriage cases based on the noble values of the Mamasa community, can be the basis for reforming the national criminal law. This is done by adding a particular offence in the Criminal Code, which regulates the settlement of marriages with a more flexible mechanism that can adapt to the background values and norms that people adhere to without referring to one particular belief or



religion. This flexibility is needed to narrow the gap between law and society and to realize laws that can reflect the noble values of the community.

### Conclusions and Recommendations

The impact of the customary sanctions of the Lammu Bai on the Sa'dodoran offense committed by the Tuo Mamasa Tribe in West Sulawesi, Indonesia, has multiple facets and can be evaluated from philosophical, sociological, and legal points of view. Customary law, which includes customary criminal law and infractions of customary law, plays a vital role in the regulation of property and the maintenance of a healthy family and social balance within communities.

Pancasila is the guiding ideology in Indonesia, and the traditional practice of Lammu Bai, a type of arbitrary corporal punishment, is firmly ingrained in the principles underpinning Pancasila. It reflects the cultural and moral ideas held by the Mamasa community and serves as a framework for resolving wrongdoing and preserving social equilibrium. Lammu Bai is not simply a list of regulations but a living law adopted and practiced by the community. As a result, it shapes the community's perspective on what constitutes justice and peace.

Sociologically speaking, applying Lammu Bai customary sanctions is a dynamic process involving the interaction between those who administer the punishment and those who are subjected to it. The social structure of a society is inextricably intertwined with the application of customary law, and cultural norms, practices, and traditions play a role in determining how this law is implemented. The application of Lammu Bai manifests the social and purposeful interpretations of customary criminal law, and it does so while considering the particular circumstances that pertain to the Mamasa community. This sociological viewpoint acknowledges that customary law is not a fixed system but rather one that develops and changes through time to accommodate the shifting priorities and expectations of the society it regulates.

From a legal position, the acknowledgment of customary criminal law is essential to the growth of an efficient legal system. This is because customary criminal law has evolved. For example, the application of customary legal systems like Lammu Bai is guided by a combination of unwritten and codified legal norms and principles. These structures have been passed down from generation to generation, and in certain areas, they are even codified as legal statutes. The Hermannite process, which entails interpreting and applying customary law while respecting specific criteria, including the existing positive law, must be carefully considered to incorporate customary criminal law into the larger legal framework. This needs a thorough study of the Hermannite process.

The cultural and sociological significance of customary criminal law is only one facet of the relevance of customary criminal law. It is a significant resource that may be used to develop criminal legislation that is in line with the norms, values, and customs of the society it represents. The new Indonesian criminal code is a reflection of the nation's lived experiences as well as its cultural heritage. By embracing customary criminal law, which is firmly entrenched in the people's collective consciousness, the legal system becomes more sensitive to the needs and ambitions of the community. This is because customary criminal law is firmly anchored in the people's collective consciousness. Because it respects the generally agreed-upon norms and guidelines for behavior, this integration contributes to maintaining an environment that is just, peaceful, and harmonious.

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