

SANGER CUSTOMARY LAW IN THE MUSLIM COMMUNITY OF DANA SEMBULUH VILLAGE, DANA SEMBULUH DISTRICT, SERUYAN REGENCY

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Abstract

The purpose of this study is to identify and analyze the implementation of physical sanctions in Sanger customary law, which is practiced within the Muslim community of Danau Sembuluh Village, Danau Sembuluh District, Seruyan Regency, as well as the Islamic legal perspective on these physical sanctions in Sanger customary law within the same community. A qualitative research method was employed, using a field research approach, with the findings presented descriptively (in the form of words or sentences). Regarding the research approach, the study adopts a socio-legal perspective, meaning that it focuses on legal aspects as perceived by the community, particularly concerning the application of physical sanctions in Sanger customary law, which is then examined through the lens of Islamic law. The findings indicate that the implementation of physical sanctions in Sanger customary law in Danau Sembuluh Village, Danau Sembuluh District, Seruyan Regency—including within its Muslim community—adheres to principles aligned with the legal framework of Indonesia, namely kinship, justice, and deliberation in the interest of the collective good. From an Islamic legal perspective, this practice falls under the category of al-'Urf al-Shahih (valid customary practice), as it promotes maslahah (benefit) and prevents mufsadah (harm). However, if the application of such sanctions involved oppression, disproportionality, or exceeded reasonable limits, it would instead be classified as al-'Urf al-Fasid (corrupt customary practice), which is deemed invalid. This distinction aligns with the principles outlined in the Qur'an, Hadith, and the opinions of Islamic scholars.

Keywords: *Sanger Customary Law, Muslim Community*

Introduction

Law is a tool created by humans to regulate community life. With law, individual and group behavior can be directed according to applicable norms and values. On the other hand, law functions to maintain order, provide protection for individual rights, and ensure justice in community life. Simply put, it can be understood that an ecosystem of life if not based on legal rules, then social life will find it difficult to achieve stability because there are no clear guidelines in resolving conflicts or problems. Furthermore, as an instrument of social control, law plays an important role in encouraging behavior that is in accordance with prevailing norms. The law sanctions rule breakers and rewards individuals or groups who obey the rules. This makes law the mainstay of creating harmony in social life.(Atikah et al. 2024)

In practice, law has various classifications to regulate various aspects of life. Based on its scope, law is divided into public law, which regulates the relationship between the state and citizens, and private law, which regulates the relationship between individuals. In addition, law can also be distinguished based on its source, namely written law such as statutes and unwritten law such as customs. This division helps ensure that the law can be applied efficiently according to the needs of society. Justice is one of the main objectives of law. In the legal system, justice is not only about equal treatment for everyone, but also considering the situation and condition of the individual. Fair law enforcement provides a sense of security and trust to the community in the existing legal system. Therefore, the principle of justice is always the basis for the application of law.(R 2019) Reflecting on Islamic law, law or sharia is a guide to life revealed by Allah through the Qur'an and further explained in the Hadith. Sharia regulates various aspects of human life, both in terms of worship, social relations, and community governance. The main objective of Islamic law is to maintain the welfare of the people by protecting five main things, namely religion, soul, mind, descendants, and property. With the principles of justice and wisdom, sharia functions to create a harmonious life in

accordance with Islamic values. Meanwhile, law viewed from a country's perspective is a rule drawn up by an authorized institution to regulate the lives of people in a region. State law aims to create order, protect individual rights, and ensure social justice. Unlike Islamic law which is derived from revelation, state law is drawn up through a legislative process based on the needs of society that continue to develop. However, state law often has principles similar to sharia, such as justice and protection of human rights.(Hamzani 2020) The relationship between Islamic law and state law depends on the legal system in force in a country. In countries that implement sharia as the basis of law, such as Saudi Arabia, Islamic law is the main foundation in regulating people's lives. In contrast, in countries with a secular legal system, such as France, state law is completely separate from religion. In countries like Indonesia, Islamic law and state law run side by side. This can be seen from the existence of religious courts and regulations that accommodate Islamic principles, such as zakat and hajj.

In Indonesia, the interaction between Islamic law and state law is part of a national identity that respects diversity. As a country with a Muslim majority, Indonesia provides space for the implementation of Islamic law, especially in aspects of family law, such as marriage and inheritance. Indonesian laws and regulations also often include Islamic values, such as in the management of sharia finance and banking. This shows that Islamic law can be harmonized with state law without neglecting the principles of Pancasila.(Samad 2021) The harmony between Islamic law and state law shows that both have the same goal, namely to create a just, prosperous, and dignified society. Despite having different approaches, Islamic law and state law can complement each other. By understanding the essence of each, both can be effective tools to answer the challenges of modern life, both nationally and globally.(Hafizah, Ablisar, and Lubis 2022) Moving on from the previous explanation and talking about one example of a law that is still applied in Indonesia, namely customary law. Customary law is a legal system that develops naturally in traditional societies. This law regulates various aspects of daily life, from marriage, inheritance, to dispute resolution. Unlike written state law, customary law is more oral and is applied through customs that are passed down from generation to generation in customary communities. Customary law is the basis for regulating social life that binds members of society to live the values and traditions that have been mutually agreed upon.

Referring to the history of its birth, customary law is very diverse depending on the tribe, region, and local culture. Each region has different customary rules, but has similarities in its function as a regulator of social life. Customary law also plays an important role in maintaining relationships between individuals in society, as well as preserving local wisdom values that have developed for a long time. Therefore, customary law has a very important position in many communities, especially in areas that still maintain traditional life.(MESy 2021) Although customary law is highly valued in indigenous communities, its existence sometimes faces challenges in relation to state law. One of the main problems is when customary law conflicts with the basic principles of state law, as stated in the 1945 Constitution. State law, which is regulated by the legislative body, prioritizes equality, justice, and protection of human rights for all citizens. However, in some cases, customary law still maintains practices that are inconsistent with these principles, especially in terms of women's rights and inheritance.

An example of this discrepancy can be seen in the distribution of inheritance in customary law. In some areas, customary law gives a smaller share of inheritance to women than to men, which clearly contradicts the principle of justice in state law and Islam. The 1945 Constitution emphasizes the importance of gender equality, while in certain customary laws, women are still considered subordinate in inheritance matters. This problem shows the discrepancy between customary law and the values upheld by state law.(Azami 2022) From an Islamic legal perspective, the inconsistency of customary law with sharia principles is also a significant problem. Islam has clear provisions regarding the distribution of inheritance, which ensures justice between men and women. In Islamic law, women are entitled to receive a fair share in accordance with the provisions of the Qur'an, which pays more attention to justice and the needs of each party. Therefore, the practice of inheritance distribution in some indigenous communities that gives a smaller share to women is considered contrary to the principles of justice in Islam.

In addition to inheritance issues, marriage in some traditional communities also presents challenges from an Islamic legal perspective. Some customary rules state that women have a lower position in the household than men. This is contrary to Islamic teachings which emphasize equal status between men and women in marriage. Islam teaches that both complement each other, have the same rights and obligations in living a household life. In this case, customary laws that still maintain gender inequality need to be reviewed to be in accordance with Islamic principles that demand justice.(Burhanuddin 2021) Nevertheless, customary law still has positive values that cannot be ignored. In many areas, customary law is a means to maintain peace and resolve disputes peacefully without involving formal legal processes. The principle of deliberation for consensus contained in customary law helps resolve social problems in a harmonious manner. In addition, customary law also preserves local wisdom which is the identity of the community, so it needs to be maintained within the framework of Indonesian culture. Therefore, efforts are needed

to harmonize customary law, state law, and Islamic law. The government needs to provide space for customary law to develop, but still ensure that customary law that is discriminatory or contradicts the basic principles of state law and sharia is not maintained. Reform of customary law must be carried out by involving customary leaders, religious scholars, and the government to reach an agreement that is fair and in accordance with the development of the times. (Aminuddin, Emy, and Sahdi 2022) This harmonization does not mean eliminating the existence of customary law, but rather ensuring that customary law remains relevant in the life of modern society, without violating basic human rights and the principles of justice. Thus, customary law can function as one of the legal systems that supports social life, but remains in line with state law and Islamic sharia. This will ensure the achievement of a common goal, namely creating a just, prosperous, and dignified society. (Sihombing 2023)

For example, customary law can be seen and found in Danau Sembuluh Village in Danau Sembuluh District, Central Kalimantan Province, which has a customary law system known as Sanger. This customary law is a series of norms and rules designed to maintain balance and order in society. Sanger covers various aspects of life, from marriage procedures, natural resource management, to conflict resolution. The presence of sanger is an important marker in efforts to preserve culture and increase awareness of the importance of maintaining social and environmental harmony. In matters of marriage, the sanger regulates the process and stages that must be followed by couples who want to get married. Starting from the proposal procession to the wedding ceremony, all are carried out according to the rules that have been set. These rules aim to ensure that every marriage is carried out with full respect and in accordance with local cultural values. After the wedding, the sanger also provides guidance on the rights and obligations of husband and wife, so that a balanced and mutually respectful relationship is created. (Christine et al. 2023)

In addition, Sanger also plays a role in managing natural resources around Lake Sembuluh. The existing rules cover activities such as land clearing, tree felling, and fishing. With these rules, the community is expected to maintain the sustainability of nature and utilize resources wisely. Sanger encourages the community to be actively involved in maintaining and preserving the surrounding environment as a form of shared responsibility. In terms of dispute resolution, Sanger provides a fair and transparent mechanism. The resolution process is carried out through deliberation involving traditional leaders and parties involved in the dispute. The goal is to reach a mutual agreement that satisfies all parties, thus avoiding prolonged conflict. This process reflects the values of togetherness and a sense of justice that are upheld in society. (Widiangela, Rahayu, and Komaria 2021) Furthermore, the implementation of Sanger is not free from various complex problems. One of the prominent problems is the conflict of interest between the older generation and the younger generation. The younger generation often does not understand and appreciate this customary law, which can lead to disobedience and tension in society.

The pace of modernization and social change also affects the effectiveness of Sanger customary law. Communities that are increasingly open to outside influences tend to adopt new values that sometimes conflict with traditional values. This can cause confusion and ambiguity in the implementation of Sanger, thereby reducing the effectiveness of customary law in maintaining social order. To overcome this problem, ongoing educational efforts and intergenerational dialogue are needed to bridge the gap in understanding. Limited human resources are also a challenge in implementing Sanger. Traditional figures who have in-depth knowledge of customary law are decreasing, and the regeneration of traditional figures has not been running optimally. As a result, the process of resolving disputes and implementing customary law often does not run as it should. (Fitri 2022) On the other hand, intervention from outside parties, such as the government and private companies, can also disrupt the implementation of Sanger customary law. Economic and political interests often cause pressure on indigenous communities, which results in violations of customary law and environmental damage. For example, in terms of natural resource management, excessive exploitation by outsiders can damage the balance of the ecosystem maintained by customary law. Therefore, communities need to unite and strengthen their customary legal position to face external pressure and protect their rights. (Tarantang, Sururie, and Fautanu 2024)

Referring to the background description above, this study aims to identify and analyze how the application of physical sanctions in the Sanger customary law that applies in the Muslim community of Danau Sembuluh Village, Danau Sembuluh District, Seruyan Regency and the views of Islamic law on physical sanctions in the Sanger customary law that applies in the Muslim community of Danau Sembuluh Village, Danau Sembuluh District, Seruyan Regency. Furthermore, this study is also expected to be able to educate and introduce a legal system that is guided or carried out by the community (especially in Danau Sembuluh Village, Danau Sembuluh District, Seruyan Regency) so that later it will have implications in bringing contributions in the form of knowledge and the growth of a sense of tolerance for such things in the community.

Method

This study uses a qualitative method with a field research type whose results are presented descriptively (in the form of words or sentences). Meanwhile, regarding the research approach, the researcher takes and uses a socio-legal approach. The intention is that the research will be oriented towards the legal perspective or aspect seen from the perspective of society, especially the problem of the application of physical sanctions to Sanger customary law and reviewed again based on the Islamic legal perspective on it.

Results and Discussion

A Glance at Sanger Customary Law in Sembuluh Village, Danau Sembuluh District, Seruyan Regency

Sanger customary law is interpreted as the output of creative products or customary objects imposed on violators of customary provisions that apply among the Dayak community (including especially in Danau Sembuluh Village, Danau Sembuluh District, Seruyan Regency). Along with social and era changes, Sanger customary law changes from time to time, both in the amount of fines and in the context, but its essence does not change. The influence of custom in customary communities is not only on the role but also on the legality regarding the authority of customary institutions formed by the local government in resolving conflicts in the community. (Ibrahim and Taufiqurohman 2023) Referring to the history of its birth or realization, it is also found that the orientation of Sanger customary law practice always emphasizes and is focused on the commitment to creating a "balanced society" order. Therefore, every citizen in the social context of the Dayak tribe is required to maintain this balance. If detailed, the balance in question includes 13 aspects, namely: a. Marriage; b. Adultery; c. Ethics and Morals; d. Belief and Trust; e. Social Responsibility; f. Agreements; g. Responsibility for the Natural Environment; h. Adoption of Siblings; i. Property; j. Accusations; k. Theft; l. Fighting and; m. Murder. (Fitri 2022)

Implementation of Physical Sanctions in Sanger Customary Law Applicable in the Muslim Community of Danau Sembuluh Village, Danau Sembuluh District, Seruyan Regency

Talking about the implementation of physical sanctions applied to the Sanger customary law in Danau Sembuluh Village, Danau Sembuluh District, Seruyan Regency (including those implemented by the Muslim community), it can actually be said to be almost the same as the mechanism or system for giving punishment to perpetrators (individually or in groups) as in other areas in Indonesia, namely having a certain reference or basis according to the agreement of each group or sub-tribe. Specifically for Sanger customary law, the initial determination of the reference or basis has been determined based on the Tumbang Anoi agreement with 96 main articles, but over time it has developed from generation to generation by the Dayak tribe with the accommodation and command of traditional leaders in their respective areas (in the local language it can be called and known as mantir, damang, Pembakal and panglima/pangkalime as mutually agreed). On the other hand, this Sanger customary law has also been collected and compiled into a written form or guidebook that is stored and will be used when a problem or problem is found to be very fatal or urgent in the life of the local community.

Furthermore, specifically in the practice of implementing Sanger customary law enforced by the Muslim community in Danau Sembuluh Village, Danau Sembuluh District, Seruyan Regency, it is different from what is generally done by individuals or Dayak groups in the Kalimantan region, namely in how the fine requested is realized, for example, the type of livestock pigs are replaced with buffalo or cows and can also be with a nominal amount of money. However, for the large and small amount given or charged to the perpetrators affected by Sanger (individuals or groups), the main reference or basis remains, namely the gong measuring tool which in the local language is called kati ramu (worth 6.25 ounces of gold). As for other policies or provisions, they depend again on the requesting party and the giver of Sanger customary law (victims and traditional leaders), regarding the extent to which the punishment is still enforced by being packaged through peaceful means or deliberation to reach a mutual consensus. On the other hand, it is very important to underline that when it has been implemented and fulfilled, there is a demand imposed on the victim and the perpetrator to be able to forgive each other without any embellishment of revenge in the heart or mind which is proven by a solid or harmonious relationship without being continued to other parties such as the police. The following is the statement of N as one of the traditional leaders:

"In the Sanger customary physical law, the policies or provisions taken are highly dependent on both parties, both the requester and the giver of customary law. On the other hand, each case has its own considerations, so the form of punishment imposed is not always the same, such as for the Muslim community, changing the form of livestock according to their sharia, such as buffalo or cows, and it can also be with a nominal amount of money. There is a deliberation carried out to reach a mutual agreement, whether the punishment is still appropriate to be implemented or can be packaged in a more peaceful way. Furthermore, because this customary law has been a part of our lives for a long time, the community understands that deliberation and

consensus are the best way to solve problems. In addition, because the decision is made by respected customary leaders, the decision is usually accepted with an open heart. However, if there is a party who feels dissatisfied, the deliberation can be extended until a solution is reached that is truly fair for all parties. After the punishment is carried out and fulfilled, there is a moral demand for both parties, both the victim and the perpetrator, to sincerely forgive each other. We strongly emphasize that there should be no grudges left in their hearts or minds. The proof of the success of this customary law is when the relationship between the victim and the perpetrator is harmonious again, even more solid than before. Thus, cases that have been resolved will not continue to the formal legal realm or other parties outside the dispute". (Interview N on February 10, 2025).

In line with N's statement, as a community that has practiced Sanger customary law, he confirmed this. Here is S' statement:

"The implementation of Sanger customary physical law has been part of our tradition for a long time. This law is not only about giving punishment, but also about resolving problems fairly and peacefully. On the other hand, decisions in customary law always involve deliberation between the victim, the perpetrator, and the customary leaders. So, no decision is taken unilaterally, everything is based on mutual agreement such as us from the Muslim community who replace the form of the type of fine with livestock according to Islamic law such as buffalo or cows and can also be with a nominal amount of money. As a result, after the punishment is carried out, both parties are required to forgive each other. That is the main rule in our customary law. If there is still a grudge, then the punishment is considered not truly over. Therefore, after there is a customary decision, the victim and the perpetrator must be open-minded and return to living in harmony without bringing this problem to other parties such as the police". (Interview S on February 15, 2025)

The implementation or practice of Sanger customary physical law in Danau Sembuluh Village, Danau Sembuluh District, Seruyan Regency, has several indicators or other criteria that are emphasized in its realization (including for the Muslim community), namely:

1. Not applying Sanger customary physical law without prior testimony between both parties;
2. Changing the form of the object charged to the perpetrator in accordance with the provisions of Islamic law;
3. Referring to the realm or aspect which is of a learning nature, a sense of responsibility and does not burden or burden both parties;
4. Emphasizing shared justice by prioritizing deliberation to reach consensus, and;
5. Upholding the values of family or brotherhood above all other areas or aspects for both parties (victims and perpetrators). (Interview S on February 10, 2025)

Islamic Law's View on Physical Sanctions in Sanger Customary Law in Effect in the Muslim Community of Danau Sembuluh Village, Danau Sembuluh District, Seruyan Regency

Referring to the previous discussion according to the research data obtained by researchers in the field reality (research location), it can be understood that the Sanger customary physical law enforced in Danau Sembuluh Village, Danau Sembuluh District, Seruyan Regency (including for its Muslim community) is indeed a sub-section of the type of legal product output under state law which from the past until now still exists in the region with the orientation or purpose of providing a deterrent effect and learning for both parties in dispute (victims and perpetrators). On the other hand, in terms of mechanism or practice, it is always consistent in upholding or holding fast to the principles of family, prioritizing joint justice and trying or trying to become an alternative meeting point for solving problems that occur and are experienced by each of its communities.

Furthermore, if reviewed based on the socio-legal concept or theory, then the implementation of Sanger customary physical law in Danau Sembuluh Village, Danau Sembuluh District, Seruyan Regency (including for its Muslim community), has actually been accepted by each community under the pretext of preserving customary law and maintaining the honor of the Dayak tribe in the area. On the other hand, the principles applied are still in line with the orientation or objectives or mechanisms or systems desired by the law in Indonesia itself, such as, for example, taking a stance that prioritizes deliberation, family and shared justice. Other real evidence is that there is no indication of Sanger customary physical law that tends to have contradictions and does not have an absolute intention to replace such (law in Indonesia). In line with this, Sanger's customary physical law is also in line with the theory of legal pluralism, namely that each legal system has its own authority and scope. For example, state law regulates general and formal matters, such as criminal, civil, and administrative, while customary law regulates matters that are more specific and in accordance with the local cultural context, such as marriage procedures and

natural resource management. Religious law may regulate the spiritual and moral aspects of community life. Thus, this theory provides a more comprehensive framework for understanding the dynamics of law in diverse societies.(Irianto, n.d.) More specifically, the physical existence of the Sanger custom opens up opportunities for innovation and renewal in the legal system. By accommodating various existing legal systems, society can learn and adopt the best practices from each system. This can encourage the creation of a legal system that is more flexible and adaptive to social change and developments. In addition, legal pluralism also encourages the creation of tolerance and respect for diversity, which are important values in building an inclusive and harmonious society.(Mangunsong (Editor) 2021)

Meanwhile, according to the mediation approach in conflict resolution, Sanger customary physical law has actually involved a neutral third party to help the conflicting parties reach an agreement. The mediator is tasked with facilitating communication, identifying common interests, and finding solutions that are acceptable to all parties. Mediation is often considered more effective than the litigation process, because it is more flexible and prioritizes cooperation. In addition, mediation can also strengthen the relationship between the conflicting parties, so that they can work together in the future.(Pariyatman, Santoso, and Madjid 2024) In addition to mediation, negotiation is also an important strategy in conflict resolution theory. Negotiation involves direct dialogue between conflicting parties to reach a mutually beneficial agreement. This process requires good communication skills, an understanding of each party's interests, and the ability to compromise. In some cases, reconciliation is also needed to restore relationships that have been damaged by conflict. Reconciliation involves efforts to rebuild trust, appreciate differences, and create an environment conducive to sustainable peace.(Susan 2019)

If viewed from the perspective of Islamic law, then the physical law of Sanger custom can be categorized as al-'Urf which is Sahih (permissible) because it seeks or attempts to create maslahah (goodness) and prevent mufsadatan (evil) in the order of the mechanism or system of community life. Islam places justice as the main principle in resolving conflicts. The physical law in Sanger custom which is applied after going through a process of deliberation (shura') is in line with Islamic values which prioritize justice and balance. Allah says:

"Indeed, Allah commands (you) to act justly and do good deeds, to give to your relatives, and Allah forbids evil deeds, evil and enmity. He teaches you so that you can learn a lesson."(QS. An-Nahl: 90).

However, it cannot be denied that there are challenges, namely if physical sanctions in Sanger customary law exceed the limits, contain elements of excessive violence, or are contrary to the principles of Islamic justice, then the custom becomes al-'Urf which is Fasid (not permitted) and cannot be accepted. The Messenger of Allah ﷺ said: "There must be no danger and must not endanger others." (HR. Ibn Majah and Ahmad). Therefore, the application of physical law in Sanger customs must still consider the principle of proportionality, avoid injustice, and be in line with the values of humanity taught in Islam.

As a result, the physical law in the Sanger custom can be accepted in Islam as long as it has the status of al'Urf which is Sahih—namely a custom that supports justice, prevents social damage, and restores relations between members of society. It is important for the traditional community to always hold deliberations and ensure that the sanctions given are intended to educate, not to vent revenge, so that the customary law remains relevant and in line with the principles of Islamic law. So, the clear intention here is that as long as the physical law enforced in the Sanger custom is proportional, aims to educate, and is not oppressive, then it is included in the Sahih al-'Urf (good customs and recognized in Islam). However, if the form of physical law exceeds the limits of humanity or causes injustice, then the law is contrary to the principle of justice in Islam and cannot be justified.

Conclusion

The Sanger customary physical law enforced in Danau Sembuluh Village, Danau Sembuluh District, Seruyan Regency (including for its Muslim community), in its implementation always upholds principles that are in line with the laws applied in Indonesia, namely family, justice and deliberation above common interests. In the perspective of Islamic law, this is included in the sub-discussion of al-'Urf which is Sahih, namely accepted because it leads to maslahah (goodness) and prevents mufsadatan (badness). However, it will have implications for al-'Urf which is Fasid, namely rejected if it is mutually oppressive, disproportionate and exceeds the limits of reasonableness as mentioned and explained in the Qur'an, hadith and the opinions of scholars.

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