

The Binding Power of the Bapalas Tradition to Solve Dayak Citizens' Disputes in West Kotawaringin District

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ABSTRACT

The background to this research is that if a dispute occurs between Dayak people, especially those living in West Kotawaringin Regency, some choose to resolve the problem peacefully through the Bapalas custom. A traditional Mantir leads the Bapalas tradition, and the decision of this traditional Mantir is firm because it follows the elements of article 1320 BW. In article 1320 BW, there are four conditions for an agreement's validity: agreement, skill, a sure thing, and a lawful cause. So, if it is related to article 1320 BW, problems that occur in society can be resolved with an agreement. This tradition of Bapalas in the people of West Kotawaringin Regency follows Islamic law, known as Islah or peaceful problem-solving in Islam. This research analyzes the legal certainty aspect of traditional Mantir decisions in Bapalas. This research method is a field research method, and the approach is qualitative. What is very interesting is that this traditional Mantir can solve various civil and criminal problems. For criminal cases, several cases, such as fights and abuse, can also be resolved using the Bapalas method. The basis of this Dayak traditional institution is Central Kalimantan Province Regional Regulation Number 16 of 2008 concerning Dayak Traditional Institutions in Central Kalimantan.

Keywords: legal certainty; Bapalas; Dayak customs.

How to Cite: Sukti, S., Khair, A., Mualimin, M., & Arifin, I. S. (2023). The Binding Power of the Bapalas Tradition to Solve Dayak Citizens' Disputes in West Kotawaringin District. *Jurnal Ilmiah Al-Syir'ah*, 21(2), 297–311. <https://doi.org/10.30984/jis.v21i2.2634>
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INTRODUCTION

Indonesia is a country that is rich in ethnic diversity, languages, customs, and traditions and is also known for being rich in local wisdom. The local wisdom of the Indonesian State is a tradition deeply rooted in society (Rahmawati et al., 2023). One of the traditions in the West Kotawaringin district is the Bapalas tradition.

Bapalas is an activity to resolve problems outside of court, such as mediation between the parties involved in a lawsuit, by paying attention and considering that this method is very beneficial for both parties involved in the lawsuit because the problem can be resolved quickly without any feelings of resentment for either party.

Bapalas is a traditional procession carried out from generation to generation by the Dayak tribe in the West Kotawaringin district. Usually, at the end of the process, the opposing party is appointed as a family member with each party's agreement.

The Bapalas ceremony essentially contains human activities symbolically oriented towards nature and supernatural forces. Behind that, every ceremony manifests ideas and aspirations (will).

Ideas and desires contain knowledge, values, beliefs, and rules that link human relationships with each other, as well as human relationships with their natural environment.

For the Dayak tribe, the Bapalas have the values of harmony, tolerance, communalism, or togetherness, which is preferred over individualism. Prioritization like this explains why a resolution method emphasizing consensus with a win-win solution is more suitable than resolving disputes through litigation, producing a win-lose solution (Hasan, 2015).

Likewise, suppose there is a dispute between fellow Dayaks or an act of abuse, fighting, or violation of customary norms (morals). In that case, there is a tendency to resolve it peacefully using Bapalas, meaning there is no need for legal resolution in court. The Bapalas tradition is recognized as quite effective and plays a role in creating security and peace. This Bapalas tradition is also commonly called "*Baparbaik*," "*Baakuran*," "*Bapatut*," or "*Islah*" (Hasan, 2007).

The tradition of Bapalas or dispute resolution is carried out in order to avoid the emergence of conflicts that could endanger the social order, so there is always peace, namely the resolution of legal disputes, which is an alternative effort to find a way out and solve existing problems in society (Hasan, 2007).

Therefore, the Bapalas custom can be used as a means of development or reform of national law. As for the background, the team researched resolving

disputes according to the Bapalas tradition among the Dayak people of Central Kalimantan, one of which is that the Bapalas include local wisdom, which can help resolve problems quickly and efficiently in the Dayak community.

During this reform period, the issue of the role of law in development was felt to be urgent because the existence of positive law felt to be less than functional, especially in terms of resolving legal disputes and various cases of unrest in society, as well as inter-ethnic conflicts that have occurred in various regions recently. The riots that have been experienced in Central Kalimantan and West Kalimantan, namely bloody riots motivated by inter-ethnic conflict around 2000 and 2001, which claimed many victims, are an indicator of the weak function of the law enforcement system in resolving these cases.

Friedman (1975) believes that three elements of the legal system must be considered if the law is to function: structure, substance, and legal culture. Structure concerns the institutions with the authority to make and implement laws (in this case, the courts and legislative institutions). The second aspect is substance, namely the material or form of statutory regulations. Meanwhile, the third aspect of the legal system is people's attitudes towards the law and the legal system, which concerns beliefs about their values, thoughts, ideas, and hopes.

Friedman's opinion aligns with the Bapalas custom in West Kotawaringin district because this custom is regulated by Regional Regulation No. 16 of 2008 concerning Dayak Customary Institutions in Central Kalimantan.

There is a positive law that stipulates that only civil cases can be resolved peacefully, while criminal matters cannot be resolved peacefully. What is unique is that in Central Kalimantan, civil and criminal cases can be resolved with the Bapalas for peace. For example, in cases of fights between residents, motorbike collisions, hitting animals, and cases of murder and domestic quarrels, the Mantir's decision regarding the Bapalas tradition is firm, meaning that this decision is highly respected by the parties involved in the problem and so far no one has violated it, especially for the Dayak community in West Kotawaringin Regency, Central Kalimantan. This tradition of Bapalas follows Islamic teachings, which require peace. Islam, as a religion of peace, does not require violence to solve problems. Radical methods to achieve goals or defend what is considered sacred are not Islamic teachings, nor does Islam recognize radicalism. The word of Allah in surah Al-Anbiyaa verse 107 means: "And we did not send you, but for (to be) mercy for the universe.

Peace is essential in human life because peace will lead to a healthy, comfortable, and harmonious life in every interaction between members of society. In a safe and peaceful atmosphere, people will live calmly and happily. With peace, people can worship and work well, so peace is the absolute right of every citizen (Hidayat, 2018).

Let us examine it from the perspective of Islamic law, based on the facts above. This issue deserves to be studied, especially the binding power of the Bapalas custom, so that the traditional Mantir's decision against the Bapalas has legal certainty. Indeed, there have been many articles about the tradition of Bapalas, but the direction is towards Bapalas midwives. Bapalas midwife is a ritual where a newborn baby, according to local community beliefs, is considered the child of a midwife until the custom of Bapalas midwife is carried out, namely a blessing ceremony carried out by the midwife who helps during the baby's birth procession (Syakhrani et al., 2023).

Based on the research team's research, no articles relate to the Bapalas custom in resolving disputes. However, the practice of Bapalas has often been carried out by the people of West Kotawaringin Regency, but no one has yet produced an article. Researchers only found a thesis by IAIN Palangka Raya students.

METHODS

Methods are significant in testing a scientific work (Zaluchu, 2021). This research uses field research and a qualitative approach. Qualitative data sources include observation, interviews, documentation, and researcher experience (Defani Saraswati, 2020). The time used for research is 2 (two) months, namely from May-June 2023. The research location is West Kotawaringin Regency. West Kotawaringin Regency was chosen as the research location because this area is still vital in implementing customary law. The subjects in this research were 3 (three) traditional Mantirs and 1 (one) informant, who aimed to gather data about the traditional procession of Bapalas and its binding force.

The data validation technique uses triangulation. The triangulation technique is a method that tries to test information so that it is said to be valid or invalid (Alfansyur & Mariyani, 2020).

RESULTS AND DISCUSSION

Bapalas Traditional Concept

Most Dayak tribes live in Central Kalimantan and West Kalimantan. The Dayak tribe in Central Kalimantan has a unique culture: Huma Betang. Huma Betang is a stilt house building to be used as a residence for several families led by the head of the betang. *Huma Betang*, or the Betang house, has philosophical values, namely living with very high family values (Selvia & Sunarso, 2020).

The head of the *betang* is not only tasked with leading the residents of the *betang* house but also helps his residents solve problems according to custom; in this case, he is tasked with helping the traditional head, also known as the traditional Mantir, to resolve problems. Dayak residents often solve problems using the Bapalas method, namely resolving problems peacefully outside of court.

Bapalas is a traditional procession carried out by the Dayak tribe in the West Kotawaringin area since the ancestors' time. Bapalas is an effort to resolve problems between the two conflicting parties. Usually, in this reconciliation process, both parties in conflict elevate their opponents to brothers so that there is no longer any grudge between them (Padlianor, 2021).

Dayak Traditional Institutions

The island of Kalimantan is known as Borneo Island and is famous for its diversity, uniqueness, and natural beauty. So, it is unsurprising that Kalimantan has a large and unique number of tribes. One of the famous tribes is the Dayak tribe (Rahmawati et al., 2023). To solve the problems of the Dayak tribe, get to know traditional institutions. The existence of traditional institutions is essential and strategic for implementing traditional governance, in this case, for example, carrying out the function of a peace agreement if a dispute occurs in the community, which in technical legal terms for the people of Central Kalimantan is the Kedemangan institution (Arvianda, 2023).

Dayak Traditional Institutions are social organizations, whether deliberately formed or which have naturally grown and developed along with the history of the Dayak Indigenous community with its customary legal territory, and have the right and authority to regulate, manage, and resolve various life problems by referring to customs, Dayak customs and customary law (Central Kalimantan Regional Regulation, No. 16 of 2008 Article 1 Number 18).

The District Dayak Customary Council is a Dayak Customary Institution that carries out the duties of the National Dayak Customary Council, the Provincial Dayak Customary Council, and the Regency/City Dayak Customary Council as a partner of the Damang Traditional Head, the coordinating and supervising institution for the Dayak Customary Council and the village/sub-district Traditional Peace Mantir Meeting, in order to help the duties of the Damang Traditional Head run smoothly in the field of empowerment, preservation, development, Dayak customs, customs, and customary laws in the sub-district area (Central Kalimantan Regional Regulation No. 16 of 2008, Article 3 paragraph (1)).

The Village/Subdistrict Dayak Traditional Council is a Dayak Traditional Institution that carries out the duties of the National Dayak Traditional Council, the Provincial Dayak Traditional Council, the Regency/City Dayak Traditional Council, and the District Dayak Traditional Council as a partner for the village/subdistrict Traditional Peace Mantir Meeting, in order to help run the task smoothly. Damang Traditional Head in the village/sub-district area.

Meanwhile, article 3 of Regional Regulation No. 16 of 2008 concerning Dayak Traditional Institutions in Central Kalimantan reads as follows:

1. The Kedamangan Institution is one element of the Dayak Traditional Institution which lives, grows, and develops along with the history of the

Dayak Traditional Community of Central Kalimantan with its position in the sub-district capital and will continue to be preserved, developed, and empowered in its functions and roles.

2. The Kedamangan Institution, as referred to in paragraph (1) in carrying out its duties and functions, synergizes and is supported by the National Dayak Traditional Council, Provincial Dayak Traditional Council, Regency/City Dayak Traditional Council, District Dayak Traditional Council and Village/Kelurahan Dayak Traditional Council.

Dayak Traditional Institutions were formed and positioned to synergize dynamically to support efforts to preserve, develop, and empower the Dayak traditional community and all their local wisdom (Central Kalimantan Regional Regulation No. 16 of 2008, Article 1 Number 30).

As explained above, until now, the existence of traditional institutions in Central Kalimantan within the Republic of Indonesia, namely the 1945 Constitution of the Republic of Indonesia, Article 18 B Paragraph (2) contains provisions that the State recognizes and respects customary law community units and their rights. Traditional rights as long as they are still alive and following the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated in law." this provision is a sign that Indonesia is a state of law (Kristhy et al., 2022).

Looking at the facts on the ground and supported by the Regional Regulations of Central Kalimantan Province, it can be seen that Dayak traditional institutions in West Kotawaringin Regency still exist and survive to this day.

Duties of the Damang Traditional Head

Kedamangan is a Dayak Traditional Institution that has customary territory, customary community units, and customary law within the territory of Central Kalimantan Province, which consists of a collection of several villages/ sub-districts/districts and cannot be separated (Central Kalimantan Regional Regulation No. 16 of 2008, article 3).

To carry out their duties, the Damang Traditional Head is assisted by a traditional Mantir as a traditional leader at the village/sub-district level. Several cases of violations of customary law, both by indigenous people and newcomers in West Kotawaringin Regency, were resolved through customary trials. The traditional court is chaired by a traditional leader (Damang), and in carrying out this task, the community believes that the Damang Traditional Head is supervised by the spirits of the ancestors (Sibot et al., 2023).

The duties of the Damang Traditional Head in Central Kalimantan province include (a) enforcing customary law and maintaining the authority of the Kedamangan traditional institution; (b) assisting the smooth implementation of

executions in civil cases that have permanent legal force, if requested by the authorized official; (c) resolving disputes and customary violations, possibly also issues which are included in criminal cases, either in the first examination or in the final settlement hearing as is customary according to the applicable customs; (d) try to resolve by peaceful means if there are internal tribal disputes and between one tribe and another tribe in its territory.

Damang and his assistants must complete this and have the right to demand payment of fines from the perpetrators of the violation. However, the rights and obligations of traditional officials will be realized if a report from a problematic party asks for it to be resolved with the traditional head (Santoso, 2013).

The Tumbang Anoi Customary Law guides the Dayak Customary Law enforced in West Kotawaringin Regency. Tumbang Anoi is taken from the name of a village in Central Kalimantan. Tumbang Anoi Village was a village that was used as a place for the Dayak Tribe Peace Meeting from 22 May to 24 July 1894, when the Dayak tribes who lived in Kalimantan fought and killed each other. At this meeting, an agreement was made, which was attended by no less than 1000 people, and 88 articles of customary law and eight articles of Belom Bahadat life rules were stipulated, which regulate the Dayak tribe so that they can live in harmony and peace (Sibot et al., 2023).

Based on the description above, the duties of the Damang Traditional Head are pretty broad, namely, resolving all disputes in the community in his jurisdiction if the parties request it. If the parties do not ask for it to be resolved, the case will be brought into positive law.

Rights and Authorities and Obligations of the Damang Traditional Head

The development of social life today is speedy due to the process of implementing development in all fields, including social, political, economic, security, and cultural life. This problem can have positive and negative impacts, namely by increasing the quality and quantity of development problems and crime, which can be detrimental to community members. Various methods have been used to overcome and handle the impact of this problem (Santoso, 2013).

To assist the government in overcoming this problem, the Damang Traditional Head was given Rights and Authority by Central Kalimantan Province Regional Regulation Number 16 of 2008, article 10). The rights and authority of the Damang Traditional Head are as follows, namely:

1. Awarding a traditional title to someone for their achievements and services which have elevated the honor and dignity of the Dayak Indigenous Community;

2. Manage the customary rights and assets of Kedamangan to improve the progress and standard of living of the community in a more decent and better direction;
3. Resolve disputes involving customs and customary rights of the Dayak indigenous people;
4. Establishing Damang Regulations, making decrees, ratifying statement letters, making certificates of customary land and customary rights on land,
5. Carrying out customary marriages, issuing customary marriage certificates, ratifying customary marriage agreements, issuing customary divorce certificates, and other documents relating to customary law as requested by interested parties.

The traditional head can form a cultural implementation representing his community in all matters dealing with the village and between villages. The traditional head who leads the village is expected to administer justice and supervise sacred objects and the conduct of religious ceremonies. The position of the traditional head is obtained through election. The traditional head has considerable honor and authority, especially among village communities, where he oversees traditional ceremonies in the community (Bella et al., 2021).

Meanwhile, the obligations of the Damang Traditional Head of West Kotawaringin Regency are as follows:

1. Assisting in the smooth administration of government, implementation of development, and community development, especially in the utilization of customary rights and kedamangan assets in order to continue to pay attention to the interests of local indigenous communities;
2. Participate in maintaining healthy and dynamic regional and national stability, providing ample opportunities for government officials, especially sub-district and village/sub-district governments, to administer a clean and dignified government, implement higher quality development, and foster a just and democratic society. ;
3. Participate in creating an atmosphere that can continue to guarantee the maintenance of the motto *Bhinneka Tunggal Ika* in the community in the region And
4. Supervising and anticipating foreign culture that is seen as unfavorable and could threaten the existence of Dayak customs and culture;
5. Always remind and encourage all members of the Dayak indigenous community to take responsibility for maintaining, preserving, developing,

and cultivating the philosophy of life "*Huma Betang* or *Belom Bahadat* Culture."

Based on the description above, it can be understood that the Damang Traditional Head also has obligations apart from having rights. In this way, the Damang Traditional Head of West Kotawaringin Regency is quite strategic in participating in implementing regional stability to maintain order and security.

Traditional Mantir

Traditional manners are regulated in Article 35 of Central Kalimantan Province Regional Regulation Number 16 of 2008 concerning Dayak Traditional Institutions in Central Kalimantan.

1. Subdistrict Traditional Mantirs who are members of the District Traditional Peace Mantir Meeting and Village/Subdistrict Traditional Mantirs who are members of the Village/Subdistrict Traditional Peace Mantir Meeting are appointed and dismissed by the Regent/Mayor's Decree on the recommendation of the Damang Traditional Head through the Regency/City Dayak Traditional Council.
2. The term of service for the Traditional Mantir, as referred to in paragraph (1), is 6 (six) years, and it is possible to be reappointed for the next term of office provided that the age of the Traditional Mantir does not exceed 65 (sixty-five) years of age.
3. The number of Traditional Mantirs at the District level and Traditional Mantirs at the Village/District level is 3 (three) people each.

One of the duties of the traditional Mantir is to enforce customary law, maintain the authority of the traditional *kedamangan* institution, and make a written inventory of customary rules and laws and customary rights of the Dayak community (Anggraini, 2016).

Bapalas Traditional Procession

The procession of the Bapalas based on the results of the researcher's interview with one of the administrators of the Dayak Traditional Council of West Kotawaringin Regency is as follows:

First, there was a report from one of the parties that he wanted to ask to resolve the problem peacefully through the Bapalas custom. *Second*, the traditional mantir calls both parties to visit the customary mantir's office at the specified time and date. *Third*, the traditional Mantir also invites all representatives and members of the Mantir to attend and prepare everything for the traditional trial later. *Fourth*,

the problematic parties and traditional and religious leaders are present on the appointed day. *Fifth*, the customary Mantir opens the customary session and informs that there is a report from one of the problematic parties to resolve the problem amicably.

Sixth, both parties are given time to explain their problems. *Seventh*, after the problem is known, the mantir tries to provide a solution so that this problem can be peaceful according to the Bapalas customs. Likewise, religious leaders and community leaders try to provide input so that there can be peace. *Eighth*, a peace letter will be drawn up if they agree to make peace. *Ninth*, if they do not want peace, the customary session is usually postponed for a few days so that the parties can think and consult or deliberate with their respective families. *Tenth*, this trial is often postponed many times because the two parties have not yet reached an agreement; usually, what is complicated is the amount of compensation.

Eleventh, if the customary trial has been postponed several times, the customary supervisor usually offers an alternative; if it is to be resolved according to custom, the parties immediately agree, but if not, the matter is referred to state law. *Twelfth*, if they have agreed, then they are offered or offered the traditional Mantir by sitting side by side and sprinkling with water while reciting spells. *Thirteenth*, the traditional Mantir made a peace agreement, and the parties were asked to sign; the traditional Mantir also signed, as well as witnesses from community leaders (interview with Mr. Sam, Pangkalan Banteng).

Meanwhile, according to Mr. Wah, as administrator of the Regency Dayak Traditional Council, he explained that the traditional procession of Bapalas is as follows:

“Starting with a complaint, the mechanic calls the parties with the problem. Next, the parties are asked to explain the problem. Mantir also invited religious and community leaders to participate in providing enlightenment. If both parties agree to make peace, the traditional Mantir then gives *tutungkal* by sprinkling water on the heads of the parties in trouble so they can be at peace and no longer hold grudges. Next, a peace agreement was made.” (Interview with Mr. Wah, Sedoredjo village)

Mr. Mol explained that the traditional procession of Bapalas is as follows:

“Each party was asked by the Mantir to explain the problem, also attended by religious and traditional leaders. Finally, Mr. Mantir found out about the problem; Mantir, religious leaders, and traditional leaders consulted to find a solution, which was finally offered to both parties. However, both parties did not accept the results of Mantir's traditional deliberation decision, so the trial was finally postponed for 3 (three) days to lighten the mood. 3 (three) days later, the trial was continued, but it still failed; the customary Mantir said the trial was postponed for 7 (seven) days.” (Interview with Mr. Mol, Sedoredjo village)

On the seventh day, there was another trial, and at that time, the religious and community leaders gave more enlightenment so that they could be at peace and not be at peace. Furthermore, the customary Mantir stated that if there could not be peace, this matter would be handed over to the state legal authorities. Hearing this statement from the Mantir, the parties finally agreed to make peace.

Finally, the Mantir recited the mantras and sprinkled water on both parties. Furthermore, the guilty party promised to hand over a certain amount of funds (*jipen*) to the victim, and the trial continued next week for the signing of the peace deed and the handing over the money.

Seven days later, the trial continued, and according to the *damang's* agenda, this trial was the signing of a peace agreement and handing over money to the victim according to the agreement that had been made (Interview with Mr. Mol, Kumai District).

If we pay attention to the peace procession carried out by this traditional Mantir, it is no different from a procession in court. Thus, the result is the same as the court decision.

In the Islamic religion, there are also provisions in the Qur'an, namely verses that invite Muslims to resolve problems peacefully and accept peace as an effort to resolve problems (Wajdi, 2009). The verse of the Qur'an is Q.S. Al-Anfaal: 61, which means:

“And if they incline towards peace, then incline towards it and put your trust in Allah. Indeed, He is the All-Hearing, All-Knowing.”

If there is an option for peace and reconciliation, this is a highly preferred option. Likewise, Imam Ibnu Kathir's opinion, in his tafsir book, says so. Even Imam Ibnu Kathir once gave an example of what happened during the Hudaibiyah era. At that time, the polytheists asked for peace and to stop war with the Prophet Muhammad and his companions, and the Prophet agreed to this request (Wajdi, 2009).

Dispute Resolution and the Binding Strength of Bapalas Customs

Regarding dispute resolution, it is regulated in Article 27 of Regional Regulation Number 16 of 2008, which reads as follows:

1. Customary disputes submitted to the Traditional Peace Mantir Meeting, both at the village/district level and at the subdistrict level, must be accepted, processed, and decided.
2. Every dispute/dispute/problem related to the scope and violation of customary law is, in principle, resolved using customary peace deliberations, either by the Traditional Peace Mantir Meeting at the

Village/District level or the Traditional Peace Mantir Meeting at the District level.

3. Suppose the Village/Subdistrict level Traditional Peace Mantir Meeting cannot resolve a case or dispute. In that case, it can be resolved at the Traditional Peace Mantir Meeting at the District level.

If the parties agree to make peace, the first step is to shake hands. After that, both parties often leave as brothers so that after making peace, there are no more feelings of resentment for either party, and they do not remember that there was a dispute between the two.

Furthermore, the traditional Mantir reminded both parties that each party should not violate the agreement that had been made because when agreeing, apart from being witnessed by residents and community leaders, it was also witnessed by the ancestors. Several subjects were asked about the binding power of the Bapalas custom, and all answered that the binding force of the Bapalas custom was powerful.

Mr. Wah thinks that the binding force of the Dayak customary court decision against the Bapalas is: "It is solid, and the parties do not dare to violate it. "Because if you violate it, it can be dangerous, because when the Mantir supports both parties, then the Mantir will recite many spells" (Results of Interview with Mr. Wah).

Mr. Gus thinks that the binding force of the decision of the Bapalas is: "If I look at the peace agreement made by the traditional Mantir, I have confidence that the decision of the traditional court is firm because it was signed by both parties to agree to resolve the problem peacefully. Moreover, Mantir's signature is also there for the witnesses and the tone of the seal (interviews with Mr. Gus).

Mr. Su's opinion regarding the binding power of the traditional decision of the Bapalas is as follows: "If I look at the contents of the peace letter, then I am sure that the binding power of the contents of the peace letter is extreme because there are signatures from both parties to make peace".

Article 1320 KHUPer reads: In order for a valid agreement to occur, four conditions need to be fulfilled: (1) the agreement that binds them; (2) the ability to create an agreement; (3) a particular subject matter; and (4) a cause that is not prohibited.

Suppose we pay attention to the contents of article 1320 BW above. In that case, the decision made by the traditional Mantir has a powerful binding force because the peace agreement fulfills the elements of Article 1320 BW.

The definition of binding legal force in the applicable laws and regulations is that there is legal force binding on the parties or on the person who has the right from them, and the parties cannot cancel it unilaterally. The parties must comply

and fully implement the contents of the peace decision so that the provisions of Articles 1339 and 1348 of the Civil Code apply to the peace decision. The parties must obey and fulfill the contents of the peace decision not only according to the sound of its formulation but also in terms of objectives, the nature of the peace itself, and according to propriety and custom.

Based on the description above, it can be understood that the binding force of the Bapalas is the same as a court decision because in making the decision, the parties agreed to make peace, and the customary Mantir made a deed of peace signed by both parties on paper with sufficient stamp duty. The peace deed was also witnessed by religious leaders, traditional leaders, and community leaders.

Bapalas are Effective for Minor Cases

Based on the description above, the Bapalas custom is very suitable for resolving minor cases. In criminal law, it is called Restorative Justice. Restorative justice is an effort to resolve problems by atoning for the mistakes that the perpetrator of the crime (his family) wants to make to the victim of the crime (his family) so that the problem can be resolved outside of court (Mendrofa, 2023).

Furthermore, this Bapalas custom can also resolve serious crimes such as murder. In this case, what has happened is based on the explanation of the traditional Mantir, where in West Kotawaringin there were people who hunted wild animals using traps equipped with spears; if community members were not careful when walking in the forest, they could fall into these traps. Moreover, this has indeed happened, where a resident was trapped, and his body was speared, and as a result, he died. In reality, this problem can be resolved using the Bapalas method, where those who set traps for hunting animals are subject to a fine by paying a certain amount of money to the victim's family.

CONCLUSION

The decision of the *damang* traditional head in West Kotawaringin district through the Bapalas custom to resolve the problems of its citizens is firm, and there is an element of legal certainty. The reason is that the parties who resolve the problem peacefully must sign a Deed of Peace witnessed by the Mantir, religious leaders, and community leaders. If viewed from civil law, this father fulfills the elements of Article 1320 BW because there is an element of agreement. If viewed from criminal law, the Bapalas custom also follows criminal law, namely the principle of restorative justice. The principle of Restorative Justice stipulates that theft with a maximum value of IDR 2,500,000 (two million five hundred thousand rupiah) can be resolved peacefully outside of court, provided that the victim is willing to forgive.

Besides that, Bapalas does not conflict with Islamic law. In the Islamic religion, it is regulated in the Al Qur'an, namely verses that invite Muslims to resolve problems peacefully and accept peace in solving problems. The verse of the

Qur'an is Q.S. Al-Anfaal: 61, which means: "And if they incline towards peace, then incline to it and put your trust in Allah. Indeed, He is the All-Hearing, All-Knowing." (Q.S. Al-Anfaal:61).

ACKNOWLEDGMENTS

Thanks to all those who have helped until this article was completed and Published.

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