

Water Traffic Accidents Resulting in Death: Resolution Through Dayak Customary Law

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Abstract. This study aims to examine the resolution mechanisms for water traffic accidents causing death through Dayak customary law in Central Kalimantan, as well as the challenges faced in implementing this customary law. The research used a socio-legal methodology, reviewing applicable legal norms and the reality of their implementation in society. Data were collected from literature reviews, case notes, related reports, and interviews with directly involved parties. Data analysis was conducted descriptively to depict the dispute resolution process and its challenges. The findings indicate that resolutions of water accident cases resulting in death in the Dayak region are often settled through local customary institutions using fines and customary rituals. The fines imposed vary depending on the level of fault determined and can amount to millions of Rupiah, adjusted according to the demands of the victim's heirs and the perpetrator's ability. However, challenges in applying this customary law include the limited ability of the Mantir Adat to determine suspects and resolve discrepancies in statements between involved parties. A lack of explicit regulations also poses challenges, particularly concerning penalties for cases of death not explicitly regulated in the prevailing customary law. This research is significant as it provides insights into the role and challenges of customary law in dispute resolution in remote communities, promoting the need for adaptation and strengthening of customary law to be more responsive to community needs.

Keywords: Water traffic accidents, customary law

1. INTRODUCTION

Central Kalimantan is known for its extensive riverine areas, serving as a main transportation route for remote communities. Water transportation plays a crucial role in Indonesia's economic context and connectivity. As an archipelagic nation with over 17,000 islands, Indonesia faces unique challenges in terms of mobility and the distribution of goods (Firdausy, C. M. 2021). In this regard, water transportation not only functions as a means of inter-regional connection but also as a backbone of the national economy (Hariyani, S., & Agustin, I. W. 2020).

Waterways serve as a primary alternative, especially in hard-to-reach interior regions with inadequate land transportation infrastructure, such as in the Lower Katingan area of Central Kalimantan. The presence of water transportation promotes development activities and boosts the economy in these areas. In regions surrounded by forests or with limited land access, communities heavily rely on waterways for daily necessities and travel to other areas (Subagiyo, A., Wijayanti, W. P., & Zakiah, D. M. 2017). In this context, water transportation not only facilitates the movement of goods but also serves as a vital element for the socio-economic life of the community.

Water transportation in Indonesia, despite its critical role in supporting connectivity and the economy, faces serious challenges related to the increasing trend of accidents in river

and lake traffic, which remain high.(Badan Penelitian dan Pengembangan Perhubungan. 2017). Data from the National Transportation Safety Committee (NTSC) shows that between 2015 and 2023, 178 accident investigations were conducted in the water transport sector, with the main causes being ship fires (38.1%), capsizing (29%), and collisions or groundings (15.5%).(Komite Nasional Keselamatan Transportasi (KNKT), 2023). Accidents in waterways are often caused by various factors, including inadequate ship maintenance, non-compliance with existing safety standards, and unpredictable weather conditions.(Zahroh, D. A. S. 2023).

One particular case of a water traffic accident occurred in Rantau Pandan Village, Lower Katingan. The accident happened at night when watercraft such as *klotoks* or motorboats were operating without lights, preventing operators from seeing other vessels approaching from opposite directions. As a result, this accident caused property damage, injuries, and fatalities.

Amid limited access to formal legal pathways, the Dayak community often relies on customary law to resolve disputes arising from water traffic accidents. Derived from local wisdom values, Dayak customary law has resolution mechanisms focused on restoring social relations and community balance, implemented by traditional institutions or *kedamangan*.(Nasional, T. B. P. H.). These resolutions generally involve fines or forms of compensation deemed fair by the local community, thus helping to avoid prolonged conflicts.(Syaufi, A. 2020)..

However, there are challenges in the application of customary law, particularly concerning the completeness of applicable regulations. For instance, in customary view, accident victims with injuries, whether minor or severe, are referred to as "*biat*," and if the victim dies, it is termed "*sahiring*." Regarding accident cases, Article 23 of the Tumbang Anoi Agreement states:

"The regulated sanctions are: 1) For unintentional minor injuries, arrange the singer of biat up to severe injuries from 5 to 50 katiramu"; 2. For intentional minor injuries, arrange up to severe injuries, from 15 to 150 katiramu. The closure within a small customary festival, albeit simple."

This article only specifies sanctions for perpetrators causing *biat* and does not determine sanctions for perpetrators causing death. This regulatory gap poses challenges in enforcing justice, especially in cases with fatal outcomes. Moreover, the absence of penalties can create potential dissatisfaction among the victims' parties or their families.

Therefore, this study aims to examine the resolution mechanisms and challenges encountered in resolving cases of water traffic accidents resulting in death through Dayak customary law in Central Kalimantan. By focusing on existing regulations and the possibility

of adapting or strengthening sanctions, this research is expected to contribute to the development of more responsive customary law that meets community needs and supports fair and sustainable dispute resolution in the Central Kalimantan region, particularly concerning water traffic accident cases.

2. LITERATURE REVIEW

This research examines the resolution of water traffic accident cases resulting in death through the perspective of Dayak customary law in Central Kalimantan, focusing on the challenges, processes, and implications of implementing customary law in the context of fatal accidents. Several previous studies have highlighted the importance of customary law in handling local cases, particularly in remote areas that are inaccessible to the state legal system, and have recognized the value systems and beliefs of local indigenous communities.

Various studies have explored how the Dayak communities resolve conflicts and legal disputes through their customary systems, which prioritize social harmony and community consensus.

The initial literature discussion focuses on Customary Law in Resolving Criminal and Civil Disputes. Dayak customary law in Central Kalimantan functions as a community-based justice system with a strong influence on society. A study by Neri and Adoe (2018) demonstrates that customary law, with its rich traditions and rituals, serves as a vital instrument in maintaining social order and resolving conflicts.(Emilia susanti, susanti and Dona, Raisa Monica. 2020). The customary legal system also has institutional structures like *kedamangan*, which grant autonomy to customary leaders to adjudicate cases with a restorative approach, in contrast to the more punitive-oriented formal legal system.(Emilia susanti, susanti and Dona, Raisa Monica. 2020).

In the context of Dayak customary law, resolution mechanisms often rely on the principles of consultation and consensus that uphold peace and harmony. Syaafi (2020) in his research emphasizes that Dayak customary law prioritizes mediation and reconciliation over punishment, often allowing for more socially integrated outcomes. However, despite Syaafi viewing this approach positively, challenges exist, particularly when authority figures like Mantir and Damang face limitations due to the unwritten nature of customary law.(Syaafi, A. 2020).

Complexity can arise when cases involve factors such as unintentional death or high compensation demands from the victim's family. This aligns with findings by Aulia and Harahap (2023), who state that cases involving death or serious injury often encounter

obstacles in the customary process due to a lack of specific guidelines for severe cases.(Aulia, D., & Harahap, A. S. 2023). This research underscores the need for clearer guidelines within the customary system to handle complex modern issues, such as water traffic accidents resulting in death.

Subsequent literature discussion highlights the Complexity of Cases Causing Death. In the case of water traffic accidents occurring in Rantau Pandan Village, a major challenge in traditional resolution is the limited ability of the local Mantir Adat to determine who is responsible for the accident. This indicates that cases with fatal consequences require deeper analysis and greater legal certainty, which are often unavailable within the customary judicial structure at the village level. A study by Simarmata (2021) reveals that customary leaders at the village level usually have limited capacity to handle complex cases (Simarmata, R. 2021), often necessitating the referral of cases to higher customary authorities at the district or kedadangan level.

Further research by Jaya (2024) highlights the crucial role of Mantir and Damang in implementing Dayak customary law and creating community-based justice. Jaya notes that limitations in the capabilities and authority of the Mantir or Damang in some cases pose challenges in making adequate decisions, particularly in cases involving loss of life.(Jaya, I., Rasan, F. G., & Bertho, E. M. 2024). As mediators, Mantir Adat often faces dilemmas due to the absence of explicit guidelines in customary practices regarding incidents like water traffic accidents resulting in death. This study emphasizes the need for adaptations in customary roles to handle the complexities of modern-era cases.

The next focus is on the Ambiguity in Customary Law Rules Related to Death. In Dayak customary law, the Tumbang Anoi Agreement, established in 1894, serves as the primary foundation for regulating fines and customary sanctions. However, this agreement only provides guidelines for cases involving minor and serious injuries without explicitly regulating sanctions for cases causing death. Research by Dwiyantri (2024) indicates that in Dayak customary law, the term "*biat*" is used to denote the status of deceased victims but is not accompanied by clear provisions for fines or sanctions for perpetrators in unintentional accidents (Dwiyantri, A., Citranu, C., Sari, O. N., Budiyantri, B., Muntazar, A., Girsang, H., ... & Amalia, M. 2024). This ambiguity complicates the ability of customary leaders to deliver consistent and acceptable rulings to both parties. Additionally, the concept of "*biat*" discussed by Maghfirin illustrates how Dayak customary law acknowledges loss through specific terms (Mustaghfirin, H. 2011). However, the lack of clear sanctions for severe cases—such as fatal

water traffic accidents—can lead to dissatisfaction among the victims' families and ambiguity for decision-makers.

The issue of high compensation demands from the heirs in the context of customary law also warrants examination. One critical factor in customary settlements is the consent of the victim's heirs to the fines or sanctions imposed.(Simatupang, S., Ismed, M., & Yanuar, T. 2024). In the case of Rantau Pandan Village, high compensation demands from the heirs indicate an expectation for substantial social restoration. According to research by Setyowati (2020), families of the victims often demand large fines as a way to achieve justice, even though the amount may not align with the prevailing customary norms.(Setyowati, D. 2020). This creates conflict between the demands of the heirs and the customary law principles, which aim to maintain community balance and harmonization.

Furthermore, studies by Santor and Yusuf (2024) highlight the complexities arising from high compensation demands (fines) by the victim's family.(Santos, A. C., & Yusuf, H. 2024). While these fines serve to affirm the family's dignity and status within the community, they question whether this practice might inadvertently create economic burdens or outcomes focused on retribution, contradicting the principles of reconciliation. This indicates potential mismatches in customary practices when balancing financial restitution with social restoration.

The final study relates to the influence of Restorative Culture in Case Resolution in Dayak Customary Law. The presence of a restorative approach in Dayak customary law strongly emphasizes healing and reconciliation between the perpetrator and the victim, manifested through customary rituals like "*tiwah*" in this case. The *tiwah* ritual performed as a form of respect for the deceased illustrates that customary law is not merely an instrument for imposing sanctions but also a means to restore social and spiritual relations within the community. Research by Hendri (2018) shows that the restorative approach realized in the form of rituals and traditional ceremonies, functions to reunite the community and strengthen solidarity after conflicts.(Davidson, J. S., Henley, D., & Moniaga, S. (Eds.). 2010).

In examining the theory of restorative justice outlined by Yulia, it is apparent that the Dayak approach aligns closely with this model, which seeks to restore relationships rather than merely punish the offender. Restorative justice supports the concept that harm should be repaired through a process that involves the community to restore balance and prevent future conflicts.(Yulia, R. 2012). However, despite its advantages, the application of this approach in Dayak customary law may face limitations when dealing with cases involving significant loss or death.

The existing literature indicates that Dayak customary law offers a robust alternative for resolving disputes, especially in cases involving remote communities that still uphold traditional values and norms. However, limitations in specific rules, such as the ambiguity of sanctions in death cases, and challenges in aligning the compensation demands of the heirs with the customary fines set, show that customary law faces serious obstacles in ensuring justice in a modern context. This study aims to delve into how the structure and procedures of Dayak customary law in resolving cases of water traffic accidents resulting in death and analyze the role of customary leaders in handling the challenges that arise during the resolution process.

3. METHODS

This research is a socio-legal study examining the applicable legal provisions and what occurs within the community. This legal research aims to investigate and analyze individual or community legal behaviors in relation to the law. The data used were primary sources. Research data were obtained through a review of references, notes, and reports related to the object of study, as well as interviews with parties who are knowledgeable about and directly involved in the issues under investigation. These data were then analyzed using descriptive analysis.

4. RESULTS

Resolution of Water Traffic Accidents Resulting in Fatalities

Water traffic accidents resulting in fatalities often involve complexities both legally and in terms of applicable customary practices, as evidenced by the incident on Saturday, December 23, 2016, at around 7:00 PM WIB. This accident, which occurred in Rantau Pandan Village, resulted in two fatalities and two injuries. The deceased were Nasib binti Otu, a 26-year-old resident of Rantau Pandan, and Ari bin Ambon, a 16-year-old boat operator or *klotok* driver from Tumbang Mahop Village. The accident was caused by both *klotoks* lacking proper lighting, preventing the drivers from seeing each other's vessels from opposite directions.

Margana bin Nahan, the driver of the other *klotok*, was identified as the perpetrator after Ari bin Ambon, the driver of the other *klotok*, died in the accident. As this incident occurred in the jurisdiction of the Mantir Adat of Rantau Pandan Village, the victims' families requested that customary sanctions be applied to Margana. Following the family's request, the Mantir Adat convened a meeting attended by the victims' parties, the perpetrator, village officials, customary leaders, and members of the customary law community. In the meeting, the Mantir

Adat examined and sought statements from all parties. However, the Mantir Adat faced difficulties in making a decision due to limited capabilities. Ultimately, the Mantir Adat recommended that the case be resolved at the Kedamangan of Katingan Hulu.

Before the case was brought to the Kedamangan of Katingan Hulu, Margana had been designated as a suspect and detained by the Katingan Resort Police. Upon learning this, the families of both the victim and the perpetrator agreed to resolve the matter according to the Dayak Ngaju Customary Law in Katingan Hulu District. At their request, Milo S Binti, the Damang Head of Customary Affairs in Katingan Hulu District, asked the Katingan Resort Police to release Margana, with the condition that the case would be settled through customary court.

This request was approved by the Katingan Resort Police, who required a peace agreement letter as evidence of the case withdrawal. On Friday, January 6, 2017, at the house of the Head of the Dayak Custom Council in Katingan Hulu District, in Tumbang Sanamang Village, a customary law peace agreement was reached.

In this agreement, the heirs of the victims conceded that the incident was an accident without intentional harm from the perpetrator. Margana agreed to pay the following customary fines: a) a customary fine of "*Sahiring Matei jipen*" amounting to IDR 30,000,000 (30 x IDR 500,000 for 2 people); b) a customary fine of "*Sahiring belum jipen*" amounting to IDR 15,000,000 (15 x IDR 500,000 for 2 people); c) burial costs for 2 victims totaling IDR 20,000,000 (IDR 10,000,000 per person); d) medical expenses for the injured victims totaling IDR 2,000,000.

The total customary fine paid by Margana amounted to IDR 67,000,000. This fund was used for the customary death ceremony, burial of the victims, and medical treatment of the injured. Following this agreement, the victims' families would not pursue legal action against Margana. As part of the customary sanctions, Margana was required to perform the "*tiwah*" ritual for the deceased victims and finance medical treatment for the injured. In the Dayak Ngaju customary law community, *tiwah* is a traditional ritual to honor the deceased's soul.

Challenges in Resolving Water Traffic Accidents Resulting in Death

The case of a water traffic accident that occurred in Rantau Pandan Village and was resolved using Dayak customary law faced several major obstacles, including:

a. Limited Capabilities of Customary Mantir

Limitations in the Capabilities of the Mantir Adat The primary challenge identified in this research is the limited capability of the Mantir Adat to resolve cases of water traffic

accidents that result in death. The limitations of the Mantir Adat of Rantau Pandan Village were clearly evident in the case of the water traffic accident in the village. Factors that caused difficulties in resolving this dispute include:

First, Differences in Statements Among Involved Parties. The Mantir Adat faced challenges in determining who was at fault due to differing statements from the parties involved. The passengers of the motorboat/*klotok* driven by Ari Bin Ambon presented one version of the events, while Margana Bin Nahan and his passengers provided a different version. This discrepancy in statements created doubts for the Mantir Adat in delivering a fair decision, considering that in Dayak customary law, decisions must be based on clarity and mutual agreement from the involved parties. Without sufficiently clear evidence, the Mantir Adat felt they lacked a solid basis to determine who should be considered responsible for the accident.

These differences in statements also made it difficult to determine fault in the accident, as both boat drivers were operating their vessels without lights and at high speeds. Under these conditions, neither party could avoid the collision due to poor visibility and insufficient time to reduce speed, complicating the resolution of the dispute and the formulation of justice.

Secondly, the Reluctance of the Mantir Adat to Determine a Suspect. Given the discrepancies in statements and the lack of strong evidence, the *Mantir Adat* felt unauthorized to decide who was at fault in the accident. The Mantir Adat also hesitated to designate Margana Bin Nahan as the main perpetrator of the accident, especially since both boat drivers involved were navigating their motorboats/*klotoks* at high speeds without lighting, leading to the collision. In this case, Mantir Adat perceived the accident more as an unintended mishap and felt that no one could be explicitly blamed without clear evidence.

Third, limitations of Authority within the Customary Law Structure. As a party with limited authority in resolving customary disputes at the village level, the Mantir Adat of Rantau Pandan felt unable to make final decisions in this complex case. Within the institutional structure of customary law, the Mantir Adat functions only as the right hand of the Damang, the Head of Customary Affairs. If the Mantir Adat finds themselves incapable of resolving a matter, as in this case, the obligation to transfer the case to the Damang at the district level becomes inevitable. This reflects the limitations in capacity and authority that the Mantir Adat has in handling more severe or complicated cases, such as accidents involving fatalities or disputes that are not easily resolved.

The impact of these limitations led to the water traffic accident case not being resolved quickly or adequately at the Rantau Pandan Village level. The resolution process became

slower, and the accused, Margana Bin Nahan, had to be detained by the police for over two weeks (December 23, 2016, to January 6, 2017), awaiting the resolution process through customary court which was eventually transferred to Kedamangan Katingan Hulu. The Mantir Adat's inability to decide on this dispute caused legal uncertainty for all involved parties, both for the perpetrator and the victims.

In facing these limitations, the Mantir Adat took the appropriate step by transferring the dispute to the Damang Head of Customary Affairs in Katingan Hulu District, who has greater authority to handle more serious customary cases. The authority possessed by the Damang allows for a re-examination of the case, calling of witnesses, and making a fairer decision based on the applicable customary law. However, even though the decision was made by the Kedamangan, limitations in the customary institutional structure remain a challenge in resolving the case, involving larger parties and greater distances.

b. Differences in Statements from Involved Parties

In resolving the water traffic accident dispute in Rantau Pandan Village, one of the major obstacles was the differing statements from the involved parties, which caused confusion and slowed the customary legal process. These differences created ambiguity for the customary authorities in determining the party responsible for the accident. The conflicting versions of events between Ari and Margana also introduced uncertainty into the customary legal process at the village level. Customary law emphasizes the importance of decisions based on concrete evidence and community consensus, especially in cases involving serious impacts like this accident. With differing viewpoints, the Mantir Adat felt hesitant to make a decision without consensus or strong evidence. As a result, the resolution process at the village level could not be completed, and the case had to be transferred to the Kedamangan Katingan Hulu, which has higher authority.

c. Lack of Provisions in Customary Law for Cases Involving Death

The ambiguity in customary law regarding sanctions or fines for violations resulting in death presents a significant challenge for Damang, the Head of Customary Affairs, in resolving water traffic accident cases in Rantau Pandan Village. Within the structure of Dayak customary law, the Tumbang Anoi Agreement of 1894 serves as the main guideline regulating various customary sanctions, including those for accidents causing injury. Article 23 of this agreement states that in the Dayak customary view if someone sustains minor or serious injuries, a fine will be set. However, this article does not specifically regulate sanctions for cases resulting in death, particularly in the context of accidents.

In the customary agreement, death is referred to as "*biat*." However, this term only refers to the victim's status, without providing any stipulations for fines or sanctions relevant to perpetrators in accidents that result in loss of life. This absence of clear rules places the Damang in a difficult position, as without specific guidelines, the customary leaders must make decisions that are appropriate to the customary context but lack a clear written legal basis. This can lead to uncertainty in delivering fair and acceptable rulings to both parties.

The Head of Customary Affairs faces a dilemma. On one hand, the Damang must strive to meet community expectations for appropriate sanctions against those involved in accidents. On the other hand, without standardized rules, it is difficult for the Damang to maintain consistent decisions that align with prevailing customary principles. Subjectively taken decisions can lead to dissatisfaction or even new conflicts within the community, which contradicts the purpose of customary law as a means of peaceful resolution.

d. High Compensation Demands from the Heirs

The high compensation demands from the heirs of the victims in the case of a water traffic accident in Rantau Pandan Village present a major obstacle in the customary resolution process. The heirs requested a fine of IDR 100,000,000, a figure significantly exceeding the customary fine standards set by Article 23 of the Tumbang Anoi Peace Agreement of 1894 concerning Singer Biat Himang, which only regulates fines for bleeding injuries on a specific scale. In this agreement, the range of customary fines for minor to serious injuries is between 5 to 150 kati ramu, adjusted according to the intentionality and severity of the injury.

The absence of specific rules for accidents resulting in death within the Tumbang Anoi Agreement creates uncertainty in the amount of the fine to be imposed. When the heirs demand an extremely high amount, the perpetrator feels burdened and attempts to negotiate. However, the heirs insist on this amount, leading to a deadlock in negotiations.

Mr. Milo S Binti, the Head Damang of Customary Affairs, eventually urged both parties to consider that the accident was a tragedy and requested the heirs to show leniency to achieve peace. Nevertheless, the main challenge remains the gap in customary law that does not provide specific guidelines for fines in cases of death, making the heirs' demands highly subjective and adding complexity to the dispute resolution process. (Hasil Wawancara dengan Bapak Milo S. 2023).

This situation highlights the need for adapting or updating customary rules to be more comprehensive in order to accommodate more complex new cases, such as water traffic accidents resulting in death. Without clearer provisions, efforts to resolve disputes through

customary means will continue to face challenges in determining fair and proportional fines, and in avoiding prolonged conflicts between the involved parties.

e. Distance and Challenging Terrain

The significant distance and difficult terrain between Rantau Pandan Village and Kedamangan Katingan Hulu pose considerable logistical challenges in resolving water traffic accident cases. The process of customary consultations, which should be swift, is instead hindered due to the distance and hard-to-reach access, requiring more time for the involved parties to meet and discuss.

These limitations also impact the duration of the perpetrator's detention by the police. In the context of customary law, the longer a case is delayed, the greater the tension between the victim's heirs and the perpetrator, especially with the high compensation demands from the heirs. The uncertainty of the resolution timeline extends dissatisfaction and tension among them, thus increasing the burden on the Head Damang in creating peace.

On the other hand, the vast distance also complicates the heirs' ability to receive information and decisions directly, which sometimes requires periodic communication by customary representatives or community leaders. With these barriers, mediation becomes more challenging because the main parties are not always able to be present simultaneously, making the negotiation process more fragmented and potentially leading to misunderstandings that further complicate the case.

5. DISCUSSION

In this discussion, the primary aim of this study is to explore how the resolution of water traffic accident disputes in Rantau Pandan Village can be understood through the perspective of Central Kalimantan Dayak customary law. This research highlights the crucial role of the *kedamangan* institution in resolving disputes through consultations and how ambiguities in sanctions within customary law can impact justice for victims, particularly in cases of fatal accidents. This study contributes by demonstrating that although customary law allows for peaceful resolution, the ambiguity regarding sanctions can create legal uncertainty that affects the justice enforcement process.

This study focuses on the water traffic accident event that occurred in Rantau Pandan Village on December 23, 2016, resulting in two fatalities. The findings illustrate how the Dayak Ngaju community uses customary law mechanisms to achieve peace, including the

implementation of customary sanctions and the *tiwah* ritual to honor the victims. This research showcases the relevance of customary law in dispute resolution amidst the prevailing currents of national law. The main contribution of this study is to provide insights into how Dayak customary law functions as an alternative dispute resolution that can be aligned with local cultural values and the daily practices of the Dayak community.

Resolving cases through Dayak customary law by imposing the Sahiring Matei customary sanction under Article 23 of the Tumbang Anoi Peace Agreement of 1894, particularly in the context of traffic accidents, demonstrates the complexity and depth of the customary law applied by the Dayak Ngaju community. This agreement clearly outlines sanctions for perpetrators causing injury or death. These sanctions reflect the community's understanding of justice and social responsibility, where the perpetrator is not only punished formally but is also required to undergo customary rituals as a form of moral and spiritual accountability.

According to Article 23, the sanction for an accident causing injury is referred to as "*biat*," while causing death is called "*Sahiring*." The determination of the type of injury—whether it is minor, severe, superficial, or deep—is based on witness statements and available evidence. This indicates that customary law is not merely reactive but also involves participatory elements from the community in determining justice. Additionally, customary rituals such as *tiwah* serve as a means to mend relations between the perpetrator and the victim, as well as the community as a whole.

In this context, traffic accident perpetrators, like Mr. Margana, are required to perform the *tiwah* ritual for the deceased victims. This is not merely a symbolic ritual; *tiwah* holds deep significance in Dayak Ngaju culture as a final honoring ceremony intended to ensure the spirit of the deceased embarks on its journey to the afterlife. Meanwhile, for injured victims, the perpetrator is obliged to cover the medical expenses agreed upon in the Customary Peace Agreement. This reflects the financial responsibility expected of the perpetrator as part of conflict resolution.

However, it is important to note that although customary law holds a strong position in Dayak Ngaju society, challenges remain in its implementation. History shows that customary criminal law has often been sought to be eliminated from the national legal system and replaced with formal statutory regulations. Nonetheless, customary law practices continue to persist and are even upheld by some judges in their rulings, reflecting recognition of local values and community wisdom.

The freedom of the Damang or traditional leader to determine sanctions reflects the flexibility of customary law that allows for adjustments to the specific context of each case. However, this freedom is not without limits; it must still be grounded in the principles of justice and prevailing customary norms. In this case, considerations of the perpetrator's personal circumstances and the atmosphere at the time of the offense become significant factors in the imposition of sanctions. Overall, the application of customary sanctions in traffic accident cases among the Dayak Ngaju community demonstrates how customary law can function as an alternative dispute resolution method that aligns more closely with local cultural values.

Despite challenges from the formal legal system, the existence of customary law provides a space for communities to enforce justice in a manner that is more contextual and relevant to their daily lives. Further research on the effectiveness and acceptance of customary law in resolving similar cases is crucial to understanding the dynamics between formal and customary laws in Indonesia today.

In this study, the findings indicate that, although Dayak customary law emphasizes consultation and collective resolution, the absence of clear provisions regarding sanctions for perpetrators causing death worsens the handling of such cases. There are no strict guidelines on fines or punishments that can be given to perpetrators, even though the Tumbang Anoi agreement mentions "*biat*" as a term for the death of a victim. These findings underscore the need for integration between customary and state law to provide clearer legal guidance in handling cases like these.

The results of this study align with the literature suggesting that customary law often prioritizes reconciliation and social restoration over strict punishment (Hutabarat, S. A., Judijanto, L., Rahim, E. I., Nuraeni, Y., Takdir, T., Zamrud, W. O., ... & Yase, I. K. K. 2024). However, issues of ambiguity in customary law related to sanctions can hinder the achievement of justice, which has also been highlighted by previous research regarding ambiguities in the application of customary law in certain cases. On the other hand, Indonesian positive law offers more clarity in terms of criminal sanctions for traffic accidents, which is an alternative that needs to be considered in dispute resolution. (Meliala, M. A. 2024).

However, this study also identified several unexpected factors, such as the high compensation demands from the heirs that may not align with the values established in customary law, which can be considered excessive or disproportionate. These findings indicate a gap between the values of justice applied in customary law and the more formalized legal demands outside the customary system. The practical implication of these findings is that

adopting positive laws in handling water traffic accidents can provide greater legal certainty, especially regarding sanctions against perpetrators. On the other hand, customary law can still serve as a mechanism for social restoration, which is important in restoring good relations within the community. Therefore, fair law enforcement requires an understanding of both, by providing space for customary consultation while still upholding justice through clearer positive law.

This study has several limitations, including restrictions on the amount of data used and reliance on specific cases, which may affect the generalizability of findings to other areas with different customary systems. Therefore, further research is crucial to explore more deeply how customary law can be integrated with the national legal system in handling accident cases and other disputes and to evaluate the effectiveness and application of sanctions in a more contextual and fair customary law.

6. CONCLUSION

The case of a water traffic accident resulting in fatalities in Rantau Pandan Village demonstrates the application of Dayak Ngaju customary law in resolving disputes. In this instance, the families of the victims and the perpetrator agreed to resolve the issues through customary mechanisms involving customary fines and the *tiwah* ritual. Despite challenges related to the limited capacity of customary law, particularly in determining culpability, this resolution reflects the flexibility and social justice within the indigenous community. Customary law, with its sanctions and rituals, provides a solution that is more contextual and relevant to the local culture. Although challenges remain in integrating customary law within the national legal system, customary resolutions offer a space for justice that aligns more closely with local values.

In the case of the water traffic accident in Rantau Pandan Village, the main challenge faced was the limited ability of the Mantir Adat to resolve disputes involving death. This difficulty arose from differences in statements among the involved parties and the limited authority of the Mantir Adat, who is only equipped to resolve minor cases. As a result, the case had to be escalated to Damang, the Head of Customary Affairs at the district level. The discrepancies in statements between the involved parties exacerbated uncertainty and slowed down the resolution process. Although resolution through customary court was successfully achieved with a peace agreement, these obstacles highlight weaknesses in the structure of customary law that require further attention to resolve disputes more quickly and efficiently.

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