Social Prohibitions As A Form Of Communal Value To Maintain The Interests Of Collective Life Of Dayak Tribe In Central Kalimantan

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Abstract: Customary criminal law is the living law regulates actions that violate the feeling of justice and propriety that lives in the community, causing disruption of peace and balance of society. To restore peace and balance, a customary reaction occurs. In maintaining customary criminal law, where each problem can be resolved completely, against every problem that exists and that may exist, because customary criminal law prioritizes the achievement of togetherness goals. In an effort to settle criminal cases it is time to pay attention to the mechanism of settlement through customary criminal law, so that it is necessary to study the existence of Dayak customary criminal law in Central Kalimantan Province. Based on the results of the study it was found that in Central Kalimantan Province the original inhabitants of the Dayak tribe continued to apply and adhere to the application of customary criminal law in an effort to maintain the form and characteristics of local wisdom originating from the Dayak community and cultural traditions. Customary law is not entirely an unwritten law, because there are also written elements in the Dayak community in Dayak customary law.

Index Terms: Existence, Customary Penal Code, Dayak

1. INTRODUCTION
Indonesia is a nation whose people have a diversity of tribes, races, religions, and customs that are spread throughout the region. The legal rules that apply in the area, in addition to referring to national law, in certain regions are imposed by regional unwritten legal rules. One of the legal rules governing community life is criminal law. In the field of criminal law, there are two different laws that are used by the community, namely criminal law in the form of written regulations that are sourced from the Criminal Code and other regulations. Then the criminal law is not written or in the form of custom, namely customary criminal law (Santoso, 1990). Customary criminal law is the living law regulates actions that violate the feeling of justice and propriety that lives in the community, causing disruption of peace and balance of society. To restore peace and balance, a customary reaction occurs. In maintaining customary criminal law, where each problem can be resolved completely, against every problem that exists and that may exist, because customary criminal law prioritizes the achievement of goals, namely togetherness rather than holding firm to a provision determined by the State. The existence of customary criminal law is a reflection of the life of a society and in each region in Indonesia, has a customary criminal law that is different in accordance with the customs that exist in that area with its own characteristics (Anwar, 1997). This condition is not much different from the people in Central Kalimantan Province, whose population is known as the Dayak tribe. In the life of the Dayak people, they are still bound by a system of norms and customary rules which are sacred or sacred. Customary criminal law is a living law and will continue to live as long as there is a human culture, it will not be removed by law. If there is also a law that abolishes it, it will be useless. In fact, statutory criminal law will lose its source of wealth because customary criminal law is more closely related to anthropology and sociology than legislation (Jaya, 2005). For this reason, an effort to settle criminal cases it is time to pay attention to the mechanism of settlement through customary criminal law. In an effort to develop and renew criminal law in Indonesia, it is necessary to conduct a study, how is the existence of Dayak customary criminal law in Central Kalimantan Province at this time?

2 RESEARCH METHODOLOGY
This research is a qualitative research using empirical legal research. In an effort to achieve the stated research objectives, this study uses primary data in the form of interviews with traditional Dayak leaders supported by secondary data in the form of library research.

3 AN OVERVIEW OF DAYAK TRIBES
The Dayak tribe is included in the ranks of the oldest tribes in Indonesia which also has an old culture. Dayak is the name for the indigenous people in Kalimantan. The Dayak tribe in Central Kalimantan consists of 16 (sixteen) ethnic groups consisting of Ngaju Dayak, Maanyan Dayak, Lawangan Dayak, Murung Dayak, Dusun Dayak, Dayak Bawo, Dayak Taboyan, Dayak Bakumpai, Dayak Katingan, Dayak Kotawaringin, Dayak Ot Danum, Dayak Sampil, Dayak Lamandau, Dayak Bulik, Dayak Mentobi and Dayak Seruyan (Danadjaja, 1975). The Dayak tribe community as an agrarian society highly respects and upholds the noble values of ancestors that still apply, for example religious and communal social values that aim to achieve a harmonious life. The ideal value is very influential on the social and cultural system, including in the implementation of its traditions and customs. The religious values reflected in the social life of the Dayaks are encompassed by a belief about the existence of occult and sacred things, it is characterized by the various forms of ritual ceremonies both related to traditional activities and those related to religious activities.

4 COMMUNAL VALUE
Communal values prioritize the interests of living together in the lives of Dayak people. The value of togetherness means that humans are bound to their society, humans must prioritize the interests of society rather than their personal interests.

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This is realized through mutual cooperation activities, please help, cooperate in meeting the interests of harmonious living together according to the principle of hatamuei lingu nalatai hapangkajaa karenade malempang (wandering thoughts and feelings one and another visit each other) and the principle of hinje simpe paturung humba tamburak (upholding cooperation and the value of unity between one and the other). This principle makes the attitude of the citizens to achieve harmony and peace. In the 19 (nineteen) distribution of customary law circles (rechtsskring) made by Van Vollenhoven, Dayak customary law was included in the 7th customary law circle. In fact, the 7th customary law environment was not called the environment as Dayak customary law by Van Vollenhoven, but Kalimantan’s customary law environment (Wijnjodipoero, 1995). Mallincrodt in his article entitled "Het Adatrecht van Boerneo" stated that, when describing how Kalimantan's customary law in general and Central Kalimantan in particular, that each community is organized has a customary legal system consisting of legal regulations and sanctions, legal procedures, the mechanism of implementation, as well as the Dayak indigenous people they also have their own customary law system (Leden 1999). Each tribe or certain community group has its own law which comes from the habits that apply in the community concerned and the influence of the teachings of the religion or belief they profess. Ihromi argues that, "what is called customary law in reality has an existence that cannot be separated from adat in general" (Ihromi, 1981). According to Hermogenes Ugang that, "what is known as hadat, customary law or hadat path and everything related to sanctions against violations of traditional law, is nothing but the application of the power of ancestral customary law which originates from the power and power that is akodrat" (Ugang, 1993). Some aspects of adat or customary law, namely, adat as a guarantee of life, custom about peace, customary preservation of health insurance, adat preserves security guarantees, with the traditional role of preserving the nobility of marriage. In general, what is meant by hadat or customary law is the standards of behavior, both written and unwritten made by the community concerned based on a sense of justice and propriety. Hadat is a guide needed in living life so that all aspects of life must be based on adat. In the Dayak community there is a known "Customary Law of the Dayak Tribe of Borneo" written by Tjilik Riwut in 1944, then republished in 1954 entitled "Dayak Tribal Customary Law" which contains 96 articles which are believed to be the result of a peace agreement in Tumbang Anoi 1894. This text was later published by the Government of Central Kalimantan Province in 1969 which is often referred to as Dayak Customary Law.

5 SOCIAL PROHIBITIONS AS LIVING LAW

The various manuscripts mentioned above are records of living law carried out by traditional functionaries, so that they are as "beschreven recht" not in the sense of "ongeschreven recht" which can be faced with "written law" (geschreven recht). Thus customary law is not entirely an unwritten law, because in the Dayak community there are also elements written in the Dayak customary law. Basically some of the literature only gives a glimpse of prohibited acts which still live in the Dayak customary law system. According to the Central Kalimantan Village Government Bureau, the Dayak Ngaju Kedamangan and Customary Law Institution in Central Kalimantan Province (1969), various forms of prohibited acts can be qualified, including: may not kill, may not commit adultery, may not rape, cannot lie, no may steal, may not cheat, may not slander, may not persecute, may not seize the wife of another person, may not seize the fiancée of another person, may not marry there is a blood relationship (incest), may not enter a woman's bedroom, may not bring go girl without permission from the master, may not be visited when a woman is alone at home, may not give birth to a child from an illegal relationship (child sarau), may not deceive underage children, may not enter someone else's house secretly, no may hide stolen goods, may not damage property rights of others, may not change, shift land boundaries, gardens, fields, may not burn houses, villages, fields belonging to other people, may not damage graves, stalls, pantars, sapundu, may not kill animals carelessly, may not pollute, poison the river public bathing places, must not taking land, ex-gardens, ex-fields of other people, may not damage sacred places, sacred trees, sacred forests, may not interfere, damage traditional ritual symbols, may not make noise, disrupt tiwah rituals, may not menyetet, use- guna, black magic, mysticism, and may not violate customary rules and applicable customary laws. The actions mentioned above are prohibited by the Dayak customary law. For anyone who violates the above provisions, it will be subject to sanctions (jipen), namely paying customary fines, and sometimes having to conduct a custom peace salvation ceremony in an effort to restore balance due to the disturbance. In a balance Dayak society that is always maintained a harmonious atmosphere between elements, the relationship between humans and each other, human relations with the natural environment (flora, fauna and other creatures), and the balance of human relations with ancestral spirits, the god sangiang. This pattern of relations must be balanced and in harmony with what is desired by adat, all of which is intended to achieve a common goal of peace, harmony and inner well-being (ruhui rahayu, sincere tuntung). A harmonious, balanced and sustainable life is part of the ideals of the Dayak people, a concept of thinking which is a reflection of the philosophy of "belom bahadat".

6 SOCIAL SANCTIONS AS DETERRENT EFFECTS

In the legal context, a harmonious atmosphere in people's lives can be intended as an orderly, fair, safe and peaceful atmosphere which is the goal of the law. In the Dayak Customary Law system in Central Kalimantan, customary sanctions are also regulated. Sanctions for traditional jipen or singer have a role in the life of the Dayak community. Jipen or singer custom sanction which is one characteristic of customary law which functions as a means to restore disturbed balance. Various types of sanctions for jipen who are still alive in Dayak indigenous people can be grouped into 3 (three) groups. First is to replace losses in various forms, such as paying customary money to the affected person, handing over customary items such as jars, gongs, mandau knives as a substitute for spiritual losses. Second is by carrying out traditional ceremonies (sacrifices) to cleanse the victim's inner self, cleanse the community of all disgrace, as a form of apology to the ancestors spiritually. Third is the exile (exclusion) from the community outside the legal order, in the form of the perpetrator's answer to the customary violations he committed. In principle, the imposition of jipen customary sanctions is as a legal action not intended as retaliation for offenders of customary law, but rather as a means to restore
the harmonious atmosphere in the lives of indigenous peoples, both in real world life and the unseen, both spiritual and spiritual so it needs cleansing. Physical cleansing is realized by paying compensation for material and being ostracized as a form of accountability for the customary violations committed. Spiritual cleansing is realized through traditional ceremonies such as hasaki hapalas, and balian mumapas. Hashalas hasaki spiritual cleansing ceremony as the inner cleansing of the victim, cleansing of haki hasaki for customary violations that are not too heavy. Balian mapas lewu ceremony (village cleansing) is a spiritual cleansing of actions that are considered the most severe. The ceremony to cleanse balian mamas lewu is also an integral cleansing of the village for the customary violations that have occurred by apologizing to the ancestors led by basir balian. The Dayak community has an identity that makes Dayak people and their culture able to survive and continue to exist, such as the existence of a typical Central Kalimantan social social organization called kedamangan. For Dayak people, the existence of this institution is closely related to traditional values that grow and develop among Dayak tribes. This value is summarized in the term Belom Badat (civilized life) as a set of values relating to life and life that are often discussed in relation to modern life (Abdurrahman, 2002).

7 THE PRINCIPLE OF HARMONY AND KINSHIP
In addition to the principle of harmony, the application of Dayak customary law also applies the principle of kinship, in which the parties (perpetrators and victims) are always sought to resolve their own problems peacefully. The initial stage is always attempted to be resolved on the family side or in a family manner, but if it is not completed, it will be left to the official institution for completion. Most Dayak people live under the auspices of custom law, customary norms are used as guidelines in regulating social life. Disputes in the community are dealt with and resolved through social institutions that function as customary justice institutions recognized and adhered to by Dayak communities in Central Kalimantan. In the days of the Dutch colonizers, the institution was inaugurated by Besluiten van den Resident Zuider-en Oosterafdeeling van Boerneko on 28 October 1938 Number 349/c 7-1. Besluit regulates the appointment (aanwijzing) of kedemangan-kedemangan (Demang Schappen) in onderafdeeling-onderafdeeling in the Dayak land area. Furthermore, in the days of the Dutch colonizers used the term Demang, then in the Central Kalimantan Provincial Regulation Number 16 of 2008 concerning the Dayak Indigenous Institution in Central Kalimantan mentioned by the term Damang. According to the Research Team of the Faculty of Law, Lambung Mangkurat University (1990). Since 1938, the institution of professions was known as a semi-formal institution. It was said that because on one side the institution was admitted by the people as a customary institution, while on the other hand the government recognized this institution as an extension of government institutions. Tjilik Riwut stated that, “traditional Chief Damang who was born in 1938 as a ransom substitute for ancient customary chief officials, by the Dayak people was seen as a rehabilitation given to their feelings in recognition of their ancestral customs” (Riwut, 1973). For the local community and all Dayak communities in Central Kalimantan, generally the institutions are seen as authentic institutions that they have known for quite a long time, these institutions are believed to have existed since ancient times, the 11th century, based on the legend “Sansana Bandar” and are inherited

8 CONCLUSION
The Dayak tribe community in Central Kalimantan Province continues to apply and uphold the application of customary criminal law that puts forward the collective value of harmony and kinship in an effort to maintain the form and characteristics of local wisdom originating from the nature and cultural traditions of the Dayak tribe. Customary law is not entirely an unwritten law, because in the Dayak community there were also elements written in Dayak customary law, including: Dayak Customary Law as a result of the Tumbang Anoi 1894 agreement and Central Kalimantan Provincial Regulation Number 16 of 2008 concerning Customary Institutions Dayak in Central Kalimantan. In resolving customary cases that occur within the court it is carried out in stages. If the case occurs at the village level, the settlement will be carried out by the Village Customary Mantir as the village or village customary stakeholder. If the case cannot be resolved at the village level or because the case is considered to be classified as heavy, then it can be brought directly to the level of living through the Traditional Chief Damang. The form of settlement of the case can be a decision or peace. The form of settlement in the form of a decision is given when
committing a violation of customary law, while the form of peace applies to cases of disputes or disputes in this case customary disputes. This shows that Damang the Customary Chief has carried out judicial functions as long as the case is submitted to him, the decisions in reality are still followed by the people as long as they do not get out of the context of customary law.

REFERENCES