

Local Wisdom in The Process of Criminal Law Enforcement in Papua (Case Study Of Handling Criminal Actions Preceded By Traditional Fine In Wamena, Jayawijaya District)

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Abstract

This study explores the integration of local wisdom into the criminal justice system in Papua, focusing on the handling of criminal actions in Wamena, Jayawijaya District. Papua's unique cultural context necessitates a nuanced approach to law enforcement, where traditional practices coexist with formal legal mechanisms. The research investigates how traditional fines, a form of customary penalty, are applied in conjunction with or as an alternative to state-imposed sanctions. The study employs a qualitative methodology, utilizing interviews, field observations, and analysis of legal documents to examine the procedural and cultural dynamics involved in these cases. It highlights the role of local wisdom in shaping legal outcomes and the impact of traditional practices on community perceptions of justice. Findings indicate that traditional fines, while sometimes seen as less formal or less effective than state penalties, play a crucial role in maintaining social harmony and resolving conflicts within the community. The research reveals that integrating these practices with formal legal procedures can enhance the effectiveness of the criminal justice system by ensuring that sanctions are culturally relevant and accepted by local populations. The study concludes that acknowledging and incorporating local wisdom into criminal law enforcement in Papua can lead to more culturally sensitive and effective justice practices. Recommendations include fostering greater collaboration between traditional leaders and formal legal institutions to create a more cohesive and culturally attuned legal framework.

Keywords : Crime, Criminal Law Enforcement, Customary Fines, Local Wisdom, Papua

Received : July 30, 2024

Accepted : August 21, 2024

Revised : August 15, 2024

Published : August 27, 2024

Citation :

Arsensius, R. et al. 2024. Local Wisdom in The Process of Criminal Law Enforcement in Papua (Case Study Of Handling Criminal Actions Preceded By Traditional Fine In Wamena, Jayawijaya District). *MSJ: Majority Science Journal*, 2(3), 27-37

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1. Introduction

Indonesia is a country of law; this is confirmed in Article 1, paragraph 3 of the 1945 Constitution of the Republic of Indonesia (UUD 1945), which states, "The State of Indonesia is a country of law". This can be related to the five words; the meaning of the rule of law cannot be separated from the fundamental pillars of legal sovereignty. It is not wrong that the Founding Fathers chose *Bhinneka Tunggal Ika* as Indonesia's national motto. As a country with wide cultural diversity from Sabang to Merauke, Indonesia is known as one of the countries that embraces pluralism in the field of law while also having much cultural potential that has yet to be fully explored. Dhari and Suparman, referred to by I Nyoman Nurjaya (Nurjaya, 2011), stated that cultural diversity, which is often referred to as multiculturalism, is a cultural configuration that reflects national identity and plays an empirical role in forming the Unitary State of the Republic of Indonesia (NKRI). Cultural diversity is also considered a cultural capital and strength that influences national and state life dynamics.

According to I Nyoman Nurjaya, the cultural diversity of the Indonesian nation brings the potential for conflict that could threaten national integration. Intercultural conflict can take the form of clashes between various ethnic, religious, racial or class groups, and this is very sensitive and vulnerable to conditions that can cause national disintegration. This potential could become a reality if the conflict is not managed, interpreted, and resolved smoothly, peacefully, and wisely by the government and all components of the nation. This potential conflict can arise anytime and anywhere in the Unitary State of the Republic of Indonesia



(NKRI) territory. If not handled properly, it can disrupt the social balance in the lives of Indonesian society. Papua Province, one of the easternmost provinces in Indonesia, is the author's focus on exploring cultural potential, which is the value of local wisdom possessed by the majority of its population from the Melanesian race. With its cultural diversity and strong customs, Papua is a notable example where customary law still has a vital role in enforcing criminal law. Even though research discusses local wisdom and customary law in Wamena, Jayawijaya Regency, and Papua, there is still a lack of understanding of how customary law and local wisdom are applied explicitly in criminal law enforcement. This research can fill this gap by analyzing cases where customary law and local wisdom are used as law enforcement tools.

Additionally, there is a need for further research on how customary law influences social dynamics and individual behaviour in the context of criminal law enforcement. Although customary law has a vital role in the Indonesian legal system, more research is needed on how customary law developed and adapted to Papua's times and social conditions. This research can help fill this gap by analyzing how customary law adapts to social and technological change and how this affects the criminal law enforcement process. The importance of local wisdom and customary law in community development; however, there needs to be more understanding of how customary law is accepted and applied at the national level. This research can help fill this gap by analyzing how customary law is implemented in the national legal system and how this affects criminal law enforcement throughout Indonesia (Merina, 2023).

The existence of customary law communities in Indonesia is an integral part of the formation of the Indonesian state because their existence has existed long before Indonesia's independence was officially declared. However, before the amendments to the 1945 Constitution, there were no provisions that explicitly included the existence of customary law communities in the Constitution. Only after the second amendment to the 1945 Constitution of the Republic of Indonesia the clause regulating the existence of customary law communities was included in Article 18B paragraph (2):

"The state recognizes and respects customary law community units and their traditional rights as long as they are still alive and by the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated in law."

In essence, the phrase "regulated by law" in Article 18B paragraph (2) instructs the formation of laws that cover all aspects related to indigenous community units. However, until this article was written, no law explicitly regulated Indigenous communities in terms of nomenclature and the material presented. However, activities related to "customary law" norms continue and are maintained by citizens. This is because customary law has goals that align with Indonesian positive law, which concerns justice, social order, and efforts to achieve the common good so that it can be implemented in society along with various other types and forms of law (Arliman, 2018). Customary law also plays a role as an institution that is still relevant in the context of national legal development, where some of it has been regulated in the form of codification and is a source of inspiration for the development of national law (Abubakar, 2013). The application of customary law is often considered too late compared to other laws in resolving concrete cases. One of the main reasons is that custom still has traditional characteristics, which makes it less able to adapt to modern developments. As a result, options for applying customary law are often lacking compared to other types of law. As one example, in 2023, there was a riot carried out by the victim's family in Wamena District, Jayawijaya Regency, Papua. The victim's family demands a solution to the problem through customary fines and legal channels. Various officials and community figures, including the Acting Governor of Papua, the Regent of Yahukimo, and others, attended the mediation on Tuesday (28/2). Lieutenant Colonel Cpn. Athenius Murip, Dandim 1702/Jayawijaya, conveyed these demands and stated that the government was still discussing the amount of the customary fine. Mediation went smoothly, allowing each party to convey their aspirations. Riots occurred in Wamena District, Jayawijaya Regency, Papua Mountains, on Thursday (23/2) due to issues related to child kidnapping. The Head of Public Relations of the Papua Regional

Police, Kombes Ignatius Benny Prabowo, explained that the chaos started when a car was detained by residents in Sinakma Village, whose driver was suspected of being a child abductor.

Local wisdom and customary law in Papua are essential in enforcing criminal law. This research will discuss customary law rules in prosecutions for justice based on local wisdom. There are statutory, conceptual and case approaches used to analyze the application of local wisdom in the criminal law system in Indonesia (Herlius, 2022). Article 130 IS, Article 3 Ind. Staatsblad 1932 No. 80 shows that society ultimately manages itself, with customary law being the spirit and content of national law. Moh. Koesnoe believes that customary law is the spirit and content of national law, so the state's role is needed to protect customary law communities' rights. The existence of customary courts in Papua is part of the debate surrounding living law in society (living law), outlined in Article 1 paragraph (3) of the Draft New Criminal Code. The Papuan Customary Court is a form of recognition of living law, given that there is still customary law in specific communities in Papua. Criminal law violates existing norms in three other fields of law, namely Civil Law, Constitutional Law and Government Administrative Law, to which the legislators respond by creating a criminal law. Therefore, the characteristic of a criminal act is that it violates the law because no criminal act occurs without breaking the law (Jaelani, 2020). In this context, a case study of handling criminal acts preceded by customary fines in Wamena, Jayawijaya Regency shows how customary law and local wisdom can be used in the criminal law enforcement process, providing a practical example of the application of the living law concept in the Indonesian legal system.

The urgency of this research lies in the importance of understanding how local wisdom, especially in customary fines, influences the handling of criminal acts in Wamena, Jayawijaya Regency, and how this influences the effectiveness of criminal law enforcement in Papua. This research is needed to evaluate the factors that influence the application of local wisdom in criminal law enforcement, especially in the context of customary fines in Wamena, Jayawijaya Regency, and to identify and evaluate these factors. The main objective of this research is to examine the impact of local wisdom, primarily through customary fines, on the handling of criminal acts in Wamena, Jayawijaya Regency, as well as to assess the extent to which local wisdom can increase the effectiveness of criminal law enforcement in Papua. This research also aims to identify and assess the factors that influence the implementation of local wisdom in criminal law enforcement in Papua, focusing on the context of customary fines in Wamena, Jayawijaya Regency. In addition, this research aims to provide deeper insight into how these factors influence the effectiveness of criminal law enforcement and to provide recommendations for increasing the application of local wisdom in criminal law enforcement in Papua.

From the background explanation of this research, the author will remember how local wisdom in enforcing criminal law in Papua influences handling criminal acts with customary fines in Wamena, Jayawijaya Regency. This research aims to determine the impact and contribution of local wisdom in the context of law enforcement in Papua, especially in handling criminal acts involving customary fines in the region. Law enforcement theory will be used as an analytical tool to answer the problem formulation.

2. Method

The author's research falls into the category of doctrinal research or, in Indonesia, is often referred to as a normative research method. Doctrinal legal research is law research that is developed and conceptualized based on the doctrine adhered to by the conceptualizer and developer (Irianto, 2013). In this context, the aim is to develop a stricter and more structured regulatory concept regarding criminal law enforcement in Papua, especially in handling criminal acts using customary fines in Wamena, Jayawijaya Regency. The data sources used in this research are secondary data and primary data. Secondary data consists of 3 (three) sources of legal material, namely primary legal material sources, secondary legal material sources and tertiary legal material sources. The data analysis method used in this research is qualitative descriptive data analysis. This method involves describing the data obtained as

excellent and correct sentences. In this analysis, inductive and deductive thinking approaches are used. A deductive approach is used to conclude general data to specific data. Meanwhile, an inductive approach is used to conclude specific data to general data. After the data is analyzed individually, the results are arranged systematically to answer existing problems.

3. Results and Discussion

Wamena is one of the areas located in Jayawijaya Regency, Papua. Wamena is a highly rural area's urban centre with the highest population in West Papua. Wamena has a majority of residents from the Dani, Lani and Yali ethnic groups, who are known for their large number of followers. According to historians, Wamena is the name of a sub-district in the Balih Valley; no one can state the origin of Wamena to serve as a basis for observation. However, according to missionaries, the city of Wamen is celebrating its anniversary on November 4, 1996. Several news sources stated that in 1959, the Dutch government entered the Balim Valley area to the aeroplane field in Hitigima and added territory in Wesaput, with Mr Velkamp in charge. The first thing Mr. Velkamp did was build an airfield at Uweima. Moreover, according to experts, Wamena comes from the word Uweima, which often said the word Wamena when immigrants came. However, the truth of this argument cannot be ascertained because in 1938, during the Archbold expedition, Uwe was also referred to as Wamen. Meanwhile, A Akua stated that the Wio tribe did not know of a place called Wamena and that the name was given by a priest named Jerry Rode around 1957-1958, who lived in the airstrip area. According to Pastor Rose, in his Catholic church archives, which were registered in September 1960, he stated that the name Wamena was an alternative to Uwe in 1938. Previously, Wamena's anniversary had experienced many changes related to confusion within the tribe. The Jayawijaya government has organized seminars to know and get advice regarding Wamena's anniversary. It was finally decided that Wamena's anniversary would be commemorated on December 10, 1956, and this was strengthened in Jayawijaya Regency Regional Regulation Number 4 of 1998.

Customary law can be defined as the legal system that applies in a particular customary law community. Customary law consists of customary rules that regulate relationships between individuals in society, according to A. A Fyzee, the term "customary law", comes from the Arabic word "hukm" (plural: ahkam), which means "order" or provision. Meanwhile, "adah" or custom refers to repeated community behaviour. The evolution of customary law begins with human thought as a thinking tool given by God and then manifested in behaviour. If other people imitate this behaviour, a habit is formed. When many people recognize the habit, the habit becomes custom. At the government level, these habits are recognized as customary law. Hilman Hadikusuma describes this series. Syahrizal Abbas expressed that customary law is a legal system with a pattern for resolving disputes. Customary law has a distinctive and unique character compared to other legal systems. Customary law is the result of the development and life of society, so it cannot be separated from society itself. Customary law is formed and structured based on values, rules, and norms that Indigenous communities accept and believe to be accurate. Customary law is closely related to the characteristics, values and dynamics that exist in indigenous communities. Thus, customary law can be seen as a manifestation of law that emerges from the experience and reality of customary law communities (Abbas, 2011).

In modern conflict resolution, universal approaches and theories originating from the West are generally used. However, this approach often does not produce sustainable solutions, so conflicts tend to recur without providing positive change for society. Conflict resolution should be adjusted to the context, background and situation in which the conflict occurs. In this case, a universal approach is irrelevant when dealing with conflict issues. On the other hand, another approach is needed, which is often forgotten, and that is local wisdom (Saptomo, 2010). This view shows that the centralized legal approach, which emphasizes the enforcement of positive law (state law) originating from the West in resolving conflicts or disputes, needs help understanding the aspirations of sovereign parties and tends not to fulfil these aspirations. National legislative policies emphasizing legal codification and unification

ignore the values and principles that grow and originate from society. Given this situation, it is not surprising that many parties, especially people seeking justice, have issued various complaints and criticisms of the state's judicial practices that have existed so far.

The court has received various criticisms because its decisions have not been able to create justice for all parties involved in the dispute. Decisions tend to satisfy one party rather than the other. The party who can prove they have the right to something will win the case in court, while the party who cannot provide evidence will lose, even though they have a legal right. In this context, dispute resolution through court requires the parties to prove their claims formally without considering their ability to present evidence. The result, win or lose, is what the parties will experience if the dispute is resolved through litigation. The impact of winning or losing in a court decision is the emergence of dissatisfaction from the losing party with the decision. Parties who feel that the decision is unfair will seek other legal remedies as a response. Usually, the losing party will use legal remedies if there is still a chance in the legal system. Resolving disputes through litigation takes a pretty long time (Apriyanto, 2016).

On the other hand, the costs incurred by the disputing parties often exceed the value of the property object in dispute. This shows that resolving disputes through litigation has a negative impact, especially in straining the relationship and friendship between the parties to the dispute. In order to strengthen the integration of a multicultural and responsive nation, the development of a legal paradigm implies recognition of the regulations in the state's legal system, which must be respected in a particular legal community. In this context, recognition refers to granting legal status to customary law community units and their traditional rights, including customary law and settlement mechanisms, as explained in Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia (Pandeki, 2018).

Law Number 1 of 2001 concerning Special Autonomy for the Province of Papua was drafted as a response to the recognition of customary law community units and their traditional rights, including customary Law and the judiciary, as regulated in Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia. In this Law, customary Law and customary justice are recognized as part of the judicial power system, apart from state justice, as regulated in Article 50 and Article 51 of Law Number 21 of 2001 concerning Special Autonomy for Papua Province. Article 50 regulates that:

- a. The Judicial Body exercises judicial power in Papua Province by statutory regulations;
- b. In addition to the judicial power as intended in paragraph (1), it is recognized that there is customary justice in specific customary law communities.

Article 51 of Law Number 21 of 2001 concerning Special Autonomy for Papua Province regulates the explanation regarding recognition of customary courts:

- a. Customary justice is a justice of the peace within a customary law community, which has the authority to examine and adjudicate within the legal community criminal cases between members of the customary law community concerned;
- b. Customary courts are structured according to the provisions of the customary Law of the customary law community concerned;
- c. Customary courts examine and adjudicate customary civil disputes and criminal cases as intended in paragraph (1) based on the customary Law of the customary community concerned;
- d. If one of the parties to the dispute or those with Western interests has an objection to a decision that has been taken by the customary court examining it as intended in paragraph (3), the party concerned has the right to ask the court of first instance within the competent judicial body to examine and re-try the dispute or case in question;
- e. Customary courts do not have the authority to impose prison or confinement laws;
- f. The decision of the customary court regarding criminal offences where the case is not requested for a re-examination as intended in paragraph (4) becomes the final decision and has permanent legal force;

- g. To free criminal perpetrators from criminal charges according to the provisions of the applicable criminal Law, a statement of approval to be carried out is required from the Chairman of the District Court in their area obtained through the Head of the District Prosecutor's Office concerned at the location where the criminal incident occurred as intended in paragraph (3);
- h. If the request for a statement of approval to be implemented for the traditional court decision as intended in paragraph (7) is rejected by the District Court, then the traditional court decision as intended in paragraph (6) becomes material for legal consideration by the District Court in deciding the case concerned.

It was further explained that the domination of law and case resolution by customary courts in Papua has several reasons. First, this is a natural response to the state's inability to fulfil people's demands for justice. In addition, settlement through customary courts also reflects the characteristics of customary law and customary justice, which are considered appropriate to local conditions. Implementing customary justice as informal justice provides legitimacy and authority that only state judges sometimes need to possess. The procedures and substance of the settlement carried out by tribal/clan or Keret leaders are considered more in line with the general view, prioritizing the importance of harmony. The goal is to avoid conflict and provide restorative justice. The process is also fast, and the costs are very affordable, prioritizing the principles of deliberation, harmony, justice, harmony and consensus. These principles aim to restore the integrity of a previous state.

There are examples of customary sanctions or fines that can be applied to perpetrators of crimes or violations according to Papua Special Regional Regulation Number 20 of 2008 concerning Customary Justice in Papua. This is stated in Chapter VII regarding prohibitions and sanctions in Article 17, which contains:

- a. Sanctions in customary courts consist of:
 - 1) customary fines taking into account the principles of expediency and fairness by the legal provisions of the customary law community concerned; And
 - 2) carry out traditional restoration ceremonies by paying attention to the principles of decency and fairness by the customary law of the customary law community concerned.
- b. The sanctions provisions, as intended in paragraph (1), can be imposed individually or simultaneously.
- c. Customary sanctions do not cancel criminal penalties if the parties do not accept them.
- d. To free a criminal perpetrator from criminal prosecution according to the provisions of the criminal law, a statement of approval is required from the Chairman of the District Court through the Head of the District Prosecutor's Office concerned with where the criminal incident occurred.

The determination of the fine in customary punishment is carried out by the victim or party who feels aggrieved and the traditional head. After the customary law process is completed and implemented, the next steps in criminal cases will follow applicable national law. When a criminal case is submitted to the court, the settlement results through customary law can be a reference or consideration in the court's decision if the process is carried out through litigation. In resolving criminal cases in Wamena using a customary approach, Jayawijaya Police acts as a place for the public to report crimes or crimes that have occurred. Jayawijaya Police collaborates with local indigenous communities to resolve minor criminal cases. The cooperation mechanism between the Jayawijaya Police and indigenous communities involves several steps, from receiving reports, summoning related parties, witnesses, and deliberations to making decisions by the leaders of traditional institutions or indigenous communities involved in the case.

Jayawijaya Police is a facilitator who provides a place for Indigenous communities from both parties involved in criminal cases to hold deliberations. This deliberation involves Indigenous communities, both those who are victims and those who are perpetrators in criminal cases. In direct observation of the settlement process, the two indigenous communities

gathered in one place or room provided by the Jayawijaya Police. The purpose of this meeting is so that both parties in the Indigenous community can discuss and find common ground or decide to resolve the criminal case. In general, the mediation process is carried out in the context of resolving criminal cases where there is a demand for material compensation in the form of an amount of money requested by the Indigenous people who are victims. Indigenous communities who are perpetrators in criminal cases are required to pay compensation in a predetermined amount of money. After payment is made by the perpetrator to the victim, the criminal case is considered finished, and the Indigenous people who are victims in the criminal case can withdraw the report that has been submitted to the Jayawijaya Police.

The Wamena people greatly respect customs, so they consider customary law as a guide in their lives. They are solid in maintaining these customs, which have become an inseparable part of their cultural heritage passed down from generation to generation. This society is very close to their customs, which are considered ineradicable. People who violate customary provisions will be subject to sanctions or fines according to the type of crime or violation committed. However, criminal sanctions must first be applied through a customary settlement process in Wamena Regency. In criminal cases, whether in litigation or non-litigation, a review will be carried out by the Indigenous community or traditional head in Wamena as the holder of traditional authority. In this context, the applicable Wamena customary law can function as a subsidiary or substitute law if the main thing does not happen, for example, by imposing customary fines or carrying out customary healing ceremonies. This is because customary courts do not have the authority to impose prison sentences and imprisonment, and customary sanctions do not eliminate criminal penalties. Likewise, this provision can be implemented if, in the case of acquittal of a criminal perpetrator from criminal charges according to the provisions of the criminal law, a statement of approval is required from the Chairman of the District Court through the Head of the District Prosecutor's Office concerned with the place where the criminal incident occurred. This has been regulated in Articles 16 and 17 of the Papua Special Regional Regulation Number 20 of 2008 concerning Customary Courts in Papua.

The influence of local wisdom in enforcing criminal law in Papua, especially in Wamena, Jayawijaya Regency, is visible in handling criminal acts using customary fines. Indigenous people in the region deeply understand their traditional customs and values. This plays a vital role in the deliberation and conflict-resolution process. Traditional heads and traditional institutions act as leaders in deliberations, with in-depth knowledge of customary law. Deliberation is the primary mechanism for reaching an agreement between the parties involved, and the acceptable amount is determined based on this agreement. After settlement with customary fines and payment is made, the Indigenous people who are victims have the authority to withdraw the report submitted to the police. This shows that settlement through customary fines is considered an alternative to formal punishment, which encourages reconciliation and restoration of social relations.

a. Understanding Traditional Values

The indigenous people in Wamena deeply understand the customs and traditional values that form the basis of their culture. Customs are rules, norms, and practices passed down from generation to generation. Indigenous peoples respect and uphold customs as guidelines for daily behaviour and conflict resolution. Indigenous peoples' understanding of customs covers various aspects of life, including social structure, leadership systems, traditional procedures, and relationships with nature and the surrounding environment. They believe customs play an essential role in maintaining social harmony among members of indigenous communities. One of the values upheld is the restoration of balance. Indigenous peoples believe that imbalances in social, ecological, and spiritual relationships can lead to conflict and disharmony. Therefore, they strive to restore societal balance through the customs they adhere to. In resolving conflicts, indigenous peoples use traditional values as a guide. They tend to avoid confrontation and prefer a deliberation and mediation approach. Through deliberation, the parties involved in the conflict sit together to find a solution that is considered

fair and harmonious. A deep understanding of customs helps Indigenous communities find solutions that restore balance and social harmony among community members.

The importance of understanding and respecting customs in Indigenous communities in Wamena reflects unique local wisdom and is an inseparable part of their cultural identity. These traditional values influence daily behaviour and are essential in resolving conflicts and building social harmony within Indigenous communities.

b. The Role of Traditional Heads and Traditional Institutions

The role of Traditional Heads and Traditional Institutions in enforcing criminal law with customary fines in Wamena is vital and significant. Traditional heads, as traditional leaders, and institutions, as bodies representing traditional authorities, have an enormous responsibility in the deliberation process and resolving conflicts involving criminal acts. The traditional head acts as an authoritative figure who is respected and recognized by the traditional community. They have in-depth knowledge of customary law, including the norms, rules, and procedures governing customary law enforcement. In enforcing criminal law with customary fines, Traditional Heads have particular expertise and understanding in implementing applicable customary law. Traditional Institutions, as bodies collectively representing traditional authorities, also play an essential role in handling criminal cases with customary fines. They function as a forum for deliberation and conflict resolution involving related parties, such as victims, perpetrators and other members of indigenous communities. Traditional institutions have the authority and responsibility to facilitate the deliberation process, collect evidence and information, and provide guidance and supervision to resolve criminal cases.

The existence of Traditional Heads and Traditional Institutions brings significant benefits in enforcing criminal law with customary fines in Wamena. They can bring rich knowledge and insight into traditional customs and values to ensure that the handling of criminal cases proceeds according to applicable customary norms. In addition, their role as leaders and supervisors in the deliberation process ensures that decisions are taken based on mutual agreement and consider the interests of all parties involved. Traditional Heads and Institutions are crucial in enforcing criminal law with customary fines in Wamena. They act as leaders, advisors and supervisors in the deliberation and conflict-resolution process. Their knowledge of customary law and traditional values ensures that criminal cases are handled considering local wisdom and promoting reconciliation and the restoration of social harmony in Indigenous communities.

c. Deliberation Mechanism

In handling criminal acts with customary fines, the deliberation mechanism is the primary process in efforts to reach an agreement between all parties involved. *Deliberation* is a dialogue forum involving related parties, including victims, perpetrators, traditional heads and other members of traditional communities. The deliberation mechanism aims to reach a common ground that can resolve criminal cases by paying attention to local customs. The deliberation process begins by gathering all parties involved in the criminal case. These parties can express their views, interests and perspectives on the case. Traditional heads and members of traditional institutions act as mediators or facilitators in leading deliberations and ensuring that the process takes place fairly and harmoniously. During deliberations, the parties involved listen to each other. They understand each other's point of view and try to find a solution acceptable to all parties. Discussions develop based on customary norms, local decisions, and traditional values that govern conflict resolution in indigenous communities. Traditional heads and members of traditional institutions function as advisors and givers of advice in the deliberation process. They share their knowledge of customs, customary laws, and values that lead to fair and harmonious conflict resolution. The traditional head also ensures that the deliberation process runs by customary rules and considers the interests of all parties involved. The ultimate goal of deliberation is to reach an acceptable agreement with all parties. The agreement can take the form of payment of customary fines by the perpetrator to the victim or Indigenous community, restitution, or other actions determined by local customs. Through deliberation, the parties strive to reach a resolution of criminal cases related

to traditional values, restore social balance, and restore harmony in indigenous communities (Yulia, 2016).

In conclusion, the deliberation mechanism is the primary process in handling criminal acts with customary fines. Through deliberation, the parties concerned try to reach an adequate agreement by considering local customs. Traditional heads and members of traditional institutions play an important role as mediators, advisors and guides in leading deliberations to achieve a just and harmonious solution (Nugroho, 2009).

d. Determination of the Amount of Fines

In resolving criminal cases with customary fines, the acceptable amount is determined through an agreement between all parties involved, including the victim, perpetrator, traditional head and other members of the traditional community. Determining the amount of the fine involves discussing and considering various relevant factors, such as the losses incurred, the condition of the perpetrator, and applicable customary values. First, the parties involved in resolving criminal cases through customary fines will discuss and consider the losses caused by the criminal act. Losses can be material losses, such as loss of property, or immaterial losses, such as trauma or psychological impact on the victim. This evaluation of losses is the basis for determining the amount of fines the perpetrator must pay to compensate the victim or indigenous community. Furthermore, the perpetrator's condition is also essential in determining the acceptable amount. Consideration is made of factors such as the perpetrator's economic capacity, social conditions, and the responsibilities that the perpetrator must bear due to the criminal act he committed. The aim of determining the acceptable amount is to provide sanctions commensurate with the committed violation and consider the perpetrator's ability to pay the fine. Additionally, traditional values and local wisdom are also considered when determining the fair amount of the fine. Traditional heads and members of traditional communities contribute to discussing and directing the process of determining fines by considering traditional values that govern conflict resolution in local traditional communities. This ensures that the determination of fines reflects local wisdom, respects traditions, and promotes reconciliation and the restoration of social harmony within Indigenous communities.

After discussion and joint consideration, the parties reached an agreement regarding the acceptable fair amount. This agreement can be reached through deliberations involving all related parties. In some cases, traditional heads and institutions can also provide guidance and advice in determining the amount of fines by local customs and wisdom. In order to achieve justice and reconciliation, it is essential to ensure that the determination of the acceptable amount is based on an agreement made collectively by all parties involved. Thus, determining the amount of fines in resolving criminal cases with customary fines involves considering the losses incurred, the condition of the perpetrator, and traditional values as essential factors in reaching a fair decision by local wisdom.

e. Report

Reports following the resolution of cases through customary fines show how much power is given to the Indigenous people who are victims. The process of this report indicates that settlement through customary fines is not considered an alternative to the formal criminal process; it is intended only to provide an opportunity for reconciliation and restoration of social relations between the perpetrator and the victim. Suppose a criminal case is resolved through customary fines and payment has been made by the agreement reached. In that case, the Chairman of the District Court, through the Head of the District Prosecutor's Office, has the right to consider the occurrence of the criminal incident. Settlement of criminal cases with customary fines contains the principles of reconciliation, restorative and rehabilitative. This approach aims to improve the relationship between the victim and the perpetrator and the social and moral restoration of the perpetrator through responsibility carried out through the payment of customary fines. Emphasis is placed on recovery and transformation, not just formal punishment and separation between perpetrator and victim. In the context of indigenous communities, it also reflects the importance of traditional values that encourage reconciliation and healing. Indigenous communities often have traditional legal systems based on restorative principles, aiming to restore societal balance and harmony. Settlement of cases with traditional

finer or recovery ceremonies is a concrete step in implementing these traditional values and respecting the conflict resolution process that originates from traditional communities.

In conclusion, reports after the settlement of civil and customary criminal cases show that this approach is considered a forum for resolving civil and customary criminal cases and protecting the rights of indigenous Papuans and non-Papuans. This also reflects respect for traditional values in conflict resolution and strengthens the role of Indigenous communities in determining this process.

4. Conclusions

Based on the research and discussion results, it can be concluded that local wisdom, especially in enforcing criminal law in Papua, significantly impacts handling violations using the customary exemplary system in Jayawijaya Regency, especially in Wamena. This confirms that the customary legal system in the region plays a crucial role in resolving disputes and tensions at the community level by creating resolution mechanisms based on local wisdom and values. This approach allows for a more peaceful and mutually focused resolution and improves perceptions of justice for all parties involved in the conflict. In Papua's criminal law enforcement situation, especially in Wamena, local wisdom and traditional traditions are essential in resolving conflicts. Resolving criminal cases through customary fines reflects the community's deep understanding of traditional values and their efforts to maintain social harmony. The role of Traditional Heads and Institutions is vital in mediating and determining the appropriate amount of fines. At the same time, the deliberation process is the primary key to reaching a fair agreement. This approach is not just about formal punishment but also reconciliation, restoration and rehabilitation efforts, which are highly valued in Papuan Indigenous communities. Settlement through customary fines also provides legitimacy and power to customary institutions while strengthening the bond between perpetrator and victim and restoring harmony within customary communities. Researchers will also provide suggestions related to the research carried out. In this case, a thorough analysis is needed regarding how culture, traditional traditions, traditional leadership, and socio-economic aspects play a role in enforcing criminal law using customary fines in Wamena. This will deepen understanding of the process.

Bibliography

- Abbas, S. 2011. *Mediasi Dalam Hukum Syariah, Hukum Adat, dan Hukum Nasional*. Jakarta: Prenada Media
- Abubakar, L. 2013. Revitalisasi Hukum Adat Sebagai Sumber Hukum Dalam Membangun Sistem Hukum Indonesia. *Jurnal Dinamika Hukum*. 13 (2): 319-331
- Apriyanto, E. 2016. Penerapan Restorative Justice Sebagai Bentuk Diskresi Kepolisian Dalam Penyelesaian Perkara Tindak Pidana Penipuan Di Polrestabes Semarang. *Jurnal Spektrum*. 13 (1):55-72
- Arliman, L. 2018. Hukum Adat Di Indonesia Dalam Pandangan Para Ahli Dan Konsep Pemberlakuannya Di Indonesia. *Jurnal Selat*. 5 (2): 177-190
- Astilia. 2024. The Effect of Post-Anesthesia Team Handover on Hypoxia in Post-Anaesthesia Care Unit (PACU). *MSJ. Majority Science Journal*, Vol. 2.no 2 May 2024
- Herlius, F. 2022. Kaidah Hukum Adat Dalam Penuntutan Demi Keadilan Berbasis Kearifan Lokal. *Perspektif*. 27 (2): 94-103
- Irianto, S., & Shidarta. 2013. *Metode Penelitian Hukum: Konstelasi dan Refleksi*. Jakarta: Yayasan Pustaka Obor
- Merina, B., & Muhaimin. 2023. Kearifan Lokal Dan Hukum Adat Suku Dani Di Papua. *Jurnal Hukum Caraka Justitia*. 3 (1): 35-52
- Nugroho, S. A. 2009. *Mediasi Sebagai Alternatif Penyelesaian Sengketa*. Jakarta: Telaga Ilmu Indonesia
- Nurjaya, I. N. 2011. Memahami Kedudukan dan Kapasitas Hukum Adat Dalam Politik Pembangunan Hukum Nasional. *Jurnal Perspektif*. 16 (4): 236

- Pandeki, G. R. 2018. Peran Polisi Dalam Pengendalian Massa Berdasarkan Undang-Undang Nomor 2 Tahun 2002 Tentang Kepolisian Negara Republik Indonesia. *Lex Et Societatis*. 6 (5): 157-169
- Saptomo, A. 2010. *Hukum dan Kearifan Lokal Revitalisasi Hukum Adat Nusantara*. Jakarta: PT. Grasindo
- Yulia. 2016. *Buku Ajar Hukum Adat*. Lhokseumawe: Unimal Press
- Nababan, P. W. J. (2015). *Hukum Adat di Indonesia*. Jakarta: Rajawali Press.
- Meyer, B. (2012). *Local Justice in Papua: An Anthropological Study*. Cambridge University Press.
- Ricarda Arsensius, et al. 2024. Local Wisdom in The Process of Criminal Law Enforcement in Papua (Case Study Of Handling Criminal Actions Preceded by Traditional Fine in Wamena, Jayawijaya District). *MSJ. Majority Science Journal*, Vol. 2.no 2 May 2024.
- Siahaan, M. (2018). *Hukum dan Masyarakat: Perspektif Keadilan Lokal*. Yogyakarta: Pustaka Pelajar.