

## Can Customary Law Deliver Justice? Resolving *Kahoba'karah* (Out-of-Wedlock Pregnancy) and *Kikono* (Adultery) in Enggano District

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**ABSTRACT.** The recognition of customary law in the 1945 Constitution of Indonesia serves as a foundational principle for resolving customary violations in Enggano Island, located in the North Bengkulu Regency, Bengkulu Province. This recognition facilitates the restoration of social balance within the community, ensuring both security and order. Among the most prevalent customary violations in Enggano are *Kahoba'karah* (out-of-wedlock pregnancy) and *Kikono* (adultery). These violations are addressed through local customary processes, which are deeply rooted in the values of local wisdom. This study aims to describe and analyze the role of customary law in resolving these cases on Enggano Island, exploring how local wisdom is applied in the conflict resolution process. Employing an empirical legal research methodology, the study utilizes both primary and secondary data, analyzed qualitatively. The findings indicate that the existence and application of customary law in Enggano are reinforced by various legislative measures, from Emergency Law No. 1 of 1951 to amendments in the 1945 Constitution, alongside specific customary regulations enacted by the indigenous community. The resolution process typically involves several stages, including the formal recognition of the violation, customary ceremonies, and the imposition of customary sanctions. In light of these findings, it is recommended that the North Bengkulu Regency Government promptly draft and ratify regional regulations recognizing and protecting the Enggano Indigenous Law Community. Additionally, the community is urged to maintain adherence to the normative values that govern social life on the island.

**KEYWORDS.** Customary Law, Conflict Resolution, Local Wisdom, *Kikono*  
*Kahoba'karah*, Enggano Island

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## Introduction

Customary law has long played a pivotal role in regulating social behaviors and resolving conflicts in indigenous communities across Indonesia.<sup>1</sup> In Enggano District—North Bengkulu Regency—the application of customary law is central to maintaining societal order and resolving disputes, particularly in cases of moral violations such as *Kahoba'karah* (out-of-wedlock pregnancy) and *Kikono* (adultery). These violations, deeply rooted in local cultural and ethical standards, are viewed not only as personal offenses but also as breaches of community harmony. Customary law, as enshrined in the 1945 Constitution, provides a legal framework that allows

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<sup>1</sup> Dedy Muharman, “The Effectiveness of Customary Law in Resolving Land Disputes in Rural Areas: Social and Legal Perspectives in the Modern Era.” *Journal of the American Institute* 2, no. 4 (2025): 597-607; Yuki Muhammad Fidaus, “Preserving Customary Law in the Era of Globalization within Indonesian Society and Legal System.” *Law and Justice* 9, no. 1 (2024).

indigenous communities to resolve such issues independently while upholding their traditional values. However, questions arise regarding the extent to which customary law can deliver true justice, especially in a modern legal context where state law and human rights norms increasingly shape judicial outcomes.

The importance of customary law in the context of Indonesian society cannot be overstated, as it plays a vital role in maintaining social order and resolving conflicts in indigenous communities. In many regions, customary law not only governs interpersonal relations but also defines the ethical and moral standards of the community.<sup>2</sup> This system, which is deeply rooted in local customs, serves as an alternative to formal state law, providing a framework for addressing violations based on collective values and norms. However, with the growing influence of national legislation and global human rights standards, questions arise about the relevance and applicability of customary law in contemporary legal systems. Understanding how these traditional legal structures coexist with modern state law is essential to addressing the evolving needs of Indonesian society, particularly in regions like Enggano Island, where customary law continues to govern the resolution of disputes and violations.

In addition, local wisdom values represent cultural heritage passed down through generations, shaping the identity and personality of a community. These values encompass religious, cooperative, artistic, historical, and economic dimensions, deeply ingrained in the social fabric of a particular group. As an integral part of culture, local wisdom is inseparable from the language and traditions of the community that preserves it. Traditionally, local wisdom is transmitted orally, often through folklore, proverbs, sayings, and folk games. It reflects the collective knowledge gained from the experiences of a community, which is intertwined with its cultural understanding and the natural environment in which it exists.

One prominent form of local wisdom is customary law, which evolves within communities and serves as a guiding framework for social life. Customary law, often referred to as *living law*, emerges from the social practices of the community and is continuously reinforced across generations. It regulates human behavior within the community, ensuring

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<sup>2</sup> Zaenuddin Hudi Prasajo, "Indigenous Community, Customary Law and Multiculturalisme in Indonesia." *Al-Albab* 2 (2015): 99-110; David Henley, and Jamie S. Davidson. "In the Name of Adat: Regional Perspectives on Reform, Tradition, and Democracy in Indonesia." *Modern Asian Studies* 42, no. 4 (2008): 815-852.

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social order and cohesion, while also providing sanctions for violations. According to C. Van Vollenhoven, customary law is “*the totality of behavior that governs human interactions within a community, which is customary and simultaneously carries sanctions for violations, with enforcement mechanisms in place.*” The legal foundation for the application of customary law in Indonesia is embedded in Article 18B, paragraph (2) of the 1945 Constitution, which states: “*The state recognizes and respects customary law communities and their traditional rights as long as these remain alive and in accordance with societal developments and the principles of the Unitary State of the Republic of Indonesia, as regulated by law.*”<sup>3</sup>

The recognition of customary law in the 1945 Constitution is a guideline for communities to use customary law in resolving cases in customary communities’ areas. One of the indigenous communities in Bengkulu Province is the Enggano Island indigenous community. Enggano

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<sup>3</sup> In original text: *Negara mengakui dan menghormati kesatuan masyarakat hukum adat beserta hak-hak tradisionalnya selama hidup dan sesuai dengan perkembangan masyarakat serta prinsip Negara Kesatuan Republik Indonesia, yang diatur dengan undang-undang.* Article 18B, Paragraph (2) of the 1945 Constitution of Indonesia acknowledges and respects the existence of indigenous or customary law communities in Indonesia, along with their traditional rights. Specifically, it states that the state recognizes these communities and their rights as long as they are still active and in line with the development of society and the principles of the Unitary State of the Republic of Indonesia. Key Points: (1) *Recognition of Indigenous Communities*: The provision acknowledges the existence of customary law communities (referred to as *masyarakat hukum adat*), which are groups that follow traditional laws and customs specific to their region, culture, or ethnic group. These communities have unique social and legal systems that are distinct from the national legal system; (2) *Traditional Rights*: The provision also affirms the traditional rights of these communities, including land rights, cultural practices, and governance structures. These rights are recognized as long as they are still practiced by the community and are compatible with the country's modern legal and social developments; (3) *Compatibility with National Laws*: The key condition is that these traditional rights and the way the community operates must align with the broader societal developments and the principles of the Unitary State of Indonesia (which stresses national unity and the integrity of the state). This means that while indigenous rights are recognized, they must not conflict with national laws or the values of Indonesia as a whole; (4) *Legislative Oversight*: Finally, the provision also notes that these rights and the recognition of indigenous communities are regulated by law. This means that although the state recognizes customary rights, they must be formalized and protected through legal frameworks, often at both the national and regional levels. *See also* Muhammad Dahlan, “Rekognisi Hak Masyarakat Hukum Adat dalam Konstitusi.” *Undang: Jurnal Hukum* 1, no. 2 (2018): 187-217; Zayanti Mandasari, “Politik Hukum Pengaturan Masyarakat Hukum Adat (Studi Putusan Mahkamah Konstitusi).” *Jurnal Hukum Ius Quia Iustum* 21, no. 2 (2014): 227-250; Rizky Julranda, Michael Geremia Siagian, and Michael Ariel Perdana Zalukhu. “Penerapan Hukum Progresif Sebagai Paradigma Pembangunan Hukum Nasional dalam Rancangan Undang-Undang Masyarakat Hukum Adat.” *Crepido* 4, no. 2 (2022): 171-183.

Island is one of the areas that is geographically the outermost island in Bengkulu Province and one of the sub-districts in North Bengkulu Regency. Enggano District is located in the west of the island of Sumatra, which is 156 km from Bai Island Harbor, Bengkulu Province. Enggano District has 6 villages consisting of Kahyapu Village, Kaana Village, Malakoni Village, Apoho Village, Meok Village, and Banjarsari Village.<sup>4</sup> Enggano District is the only inhabited outer island in Bengkulu Province. The native Enggano population consists of five tribes, namely *Kauno*, *Kaitora*, *Kaarubi*, *Kaharuba*, and *Kaahaoa*. Apart from that, the Enggano people also recognized the immigrant tribe and gave them one tribe called the Kaamay tribe.<sup>5</sup> The indigenous people of Enggano Island still uphold the values of local wisdom inherited from their ancestors. In various problems that arise, the people of Enggano Island still often use customary law which is still valid and continues to be preserved. The role of traditional institutions, village government officials and the community is very important in resolving cases through local customary law. Various problems that are often resolved through Enggano customary law are violations of moral customs such as pregnancy out of wedlock (*Kahoba'karah*) and infidelity (*kikono*). Based on the results of interviews with heads of traditional institutions (*Pa'abuki*) in the period 2021-2024, there have been 3 (three cases) of violations of moral customs such as pregnancy out of wedlock (*Kahoba'karah*) each of which occurred in Ka'ana Village, Desa Meok and Apoho Villages, while cases of infidelity (*kikono*) from 2022-2024 there are 2 (two) cases that occurred in Malakoni Village and Ka'ana Village in all resolved through Enggano customary law.

This study seeks to explore the role of customary law in addressing these offenses in Enggano District, with a particular focus on how local wisdom is employed to restore justice and balance within the community. While customary law offers a unique approach to resolving conflicts, its capacity to align with broader notions of justice—particularly in a society that is progressively influenced by national legal standards—remains a

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<sup>4</sup> Intan Permata Sari, "Harmoni dalam Kebhinekaan (Kearifan Lokal Masyarakat Pulau Enggano Provinsi Bengkulu dalam Mengatasi Konflik)." *Jurnal Antropologi: Isu-Isu Sosial Budaya* 19, no. 2 (2017): 139-147. See also Sirman Dahwal, and Zico Junius Fernando. "The Intersection of Customary Law and Islam: A Case Study of the Kelpeak Ukum Adat Ngen Ca'o Kutei Jang in the Rejang Tribe, Bengkulu Province, Indonesia." *Cogent Social Sciences* 10, no. 1 (2024): 2341684.

<sup>5</sup> Manaf Kaarubi, *Himpunan Hukum Adat Istiadat dan Seni Budaya Asli-Pulau Enggano*, (Bengkulu: PD Aman Enggano Bengkulu Utara, 2007), pp. 2-3.

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critical issue. Through an empirical examination of the resolution processes for *Kahoba'karah* and *Kikono*, this research investigates how customary law functions as a mechanism for justice in Enggano and the ways in which it navigates the complexities of tradition, modernity, and human rights.

This study employs an empirical legal research approach. Empirical legal research, as defined by Abdulkadir Muhammad, is the study of unwritten positive law that examines the behavior of individuals within a society, including actions that should adhere to norms such as commands or prohibitions. This behavior reflects the living law within the community, manifested through societal practices. For this research, the empirical legal method aims to observe directly how violations of customary law, such as out-of-wedlock pregnancy (*Kahoba'karah*) and adultery (*Kikono*), are resolved in Enggano District, North Bengkulu Regency.<sup>6</sup> The research approach used in this study is non-doctrinal or sociological juridical. This approach involves field observation to directly examine how the law operates within society. This method allows the researcher to assess the existence of Enggano's customary law and the resolution of violations like *Kahoba'karah* and *Kikono* in the community.<sup>7</sup> The population of this study includes all customary leaders, tribal heads, clan heads, and members of the Enggano community. The sample is determined through purposive sampling to target specific individuals relevant to the study's objectives. The sample consists of one *Paabuki* (customary figure) who has attended a resolution of *Kahoba'karah* violations, six tribal heads involved in resolving such violations, six clan leaders, two family members of involved parties, and four community members who acted as witnesses in these resolutions.<sup>8</sup>

The data and sources of data comprise both primary and secondary data. Primary data are obtained directly through fieldwork, including observations and interviews with respondents and informants. Secondary data are derived from library research, such as books, journals, articles, and existing research reports related to customary law and local wisdom. Data collection methods include interviews and library research. Interviews involve direct verbal interactions with informants to gather detailed and relevant information. Library research examines secondary sources and

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<sup>6</sup> Abdulkadir Muhammad, *Hukum dan Penelitian Hukum*. (Bandung: Citra Aditya Bakti, Bandung, 2004), p. 155.

<sup>7</sup> Saefullah Wiradipradja, *Metode Penelitian dan Penulisan Karya Ilmiah Hukum*. (Bandung: CV Keni Media, Bandung, 2015), p. 28.

<sup>8</sup> Bambang Sunggono, *Metodelogi Penelitian Hukum*. (Jakarta: PT Raja Grafindo Persada, Jakarta, 2012), p. 118.

documents to complement primary data. For data processing, techniques such as data editing, transcription, and categorization are used. Data editing ensures that collected data from various sources are complete, relevant, and error-free. Transcription involves converting audio or recorded interview data into qualitative narrative form. Data categorization organizes the data into specific categories and subcategories for easier qualitative analysis. The data analysis method used is qualitative analysis, which describes and interprets findings from interviews and library research to draw conclusions. The inductive approach is employed, moving from specific observations to broader generalizations. Recommendations are also provided to guide future research.<sup>9</sup>

## **The Existence of Customary Law as a Value of Local Wisdom in Dispute Resolution on Enggano Island**

### **A. The Application of Customary Law**

The diversity of ethnicities, languages, cultures and customs is very inherent in our country, namely Indonesia. This diversity must not only be accepted and respected as a sociological and historical reality, but must also be maintained and safeguarded to realize the goals and ideals of the nation as stated in Pancasila and the 1945 Constitution of the Republic of Indonesia. This is important for the creation of a society, which is harmonious, full of tolerance, tolerance and mutual respect for each other. Therefore, to create such a state of society, law is needed. Indonesia itself still upholds customs, making customary law one of the instruments in law enforcement in Indonesia. Every nation in the world has its own customs, which are not the same as each other. This dissimilarity means that we can say that custom is the most important element that gives identity to the nation in question. The following is the basis for the application of customary law:<sup>10</sup>

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<sup>9</sup> Sunggono, p. 119.

<sup>10</sup> Imam Sudiyat, *Asas-Asas Hukum Adat, Bekal Pengantar*. (Yogyakarta: Liberty, Yogyakarta, 1981). See also Cornelis Van Vollenhoven, J. F. Holleman, and H. W. J. Sonius. *Van Vollenhoven on Indonesian Adat Law*. (New York: Springer, 2013); Bono Budi Priambodo, "Positioning Adat Law in the Indonesia's Legal System: Historical Discourse and Current Development on Customary Law." *Udayana Journal of Law and Culture* 2, no. 2 (2018): 140-164.



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1. Emergency Law Number 1 of 1951, indigenous courts and independent courts have been abolished so that the task of resolving legal cases falls to the general court. Meanwhile, village justice continues to operate as usual according to the customary laws of each region.
2. The Supreme Court's jurisprudence/decision regarding customary moral offenses is the Supreme Court decision Number 1644 k/pid/1988 dated 15 May 1991 which confirms that customary sanctions that have been imposed by customary heads on perpetrators of customary offenses are recognized and can no longer be subject to criminal penalties if customary sanctions have been imposed. implemented.

The recognition of customary law under the law brings the existence of customary law to the mercy of the law. In this case, there is a superiority of the law over customary law, so the recognition and application of customary law depends on the applicable law so that customary law can be interpreted regarding its basics, such as togetherness, kinship, mutual cooperation, dynamism, and not against its detailed provisions. So customary law is an unwritten law or rule that grows and develops in society that is only obeyed by the society concerned.

### B. National Legal Sanctions Provisions

According to the constitution, more precisely, the 1945 Constitution of the Republic of Indonesia, which shows the formulation of customary law as part of the basic laws of the Indonesian state.<sup>11</sup> Apart from that, according to Law Number 18 of 2009 concerning Basic Provisions of Judicial Power, judges as enforcers of law and justice are obliged to explore, follow and understand the legal values that exist in society. However, in customary law, judicial power resides in customary institutions.

Traditional Institutions according to Minister of Home Affairs Regulation Number 5 of 2007 concerning Guidelines for Structuring Community Institutions, Traditional Institutions which have now been updated with Minister of Home Affairs Regulation Number 18 of 2018 concerning Village Community Institutions and Village Traditional Institutions signed by the Minister of Home Affairs Tjahjo Kumolo on April 9 2018, are institutions community, whether deliberately formed or which naturally has grown and developed in the history of society or in a particular

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<sup>11</sup> Laksanto Utomo, *Hukum Adat*. (Jakarta: PT Raja Grafindo Persada, Jakarta, 2016), pp. 136-137.

customary law community with its legal territory and rights to property in customary law. Apart from that, it also has the right and authority to regulate, manage and resolve various life problems related to and referring to applicable customs and customary laws. Traditional institutions function as a means of controlling security, peace, harmony and good public order *preventive* nor *repressive* among others:

- a. Resolving social problems.
- b. Mediators (Justices of Peace) reconcile disputes that arise in society.

Resolving customary crimes or customary violations through customary processions is one way of resolving problems that exist in indigenous communities. In Law Number 1 of 2023 concerning the Criminal Code, it has been explained in article 597 paragraphs (1) and (2) that it explains criminal acts based on laws that exist in society which reads:

- 1) *Every person who commits an act which, according to the laws existing in society, is declared a prohibited act, is threatened with criminal action.*
- 2) *The punishment as intended in paragraph (1) is in the form of fulfilling customary obligations as intended in article 66 paragraph (1) letter f.*

Based on this provision, it can be interpreted that every customary violation that occurs in the community is considered an additional criminal act to fulfil local customary obligations in accordance with article 66 paragraph (1) letter f of Law Number 1 of 2023.<sup>12</sup> The resolution of this customary violation will of course produce sanctions which will deter the perpetrator.

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<sup>12</sup> Article 66 Paragraph (1) Letter f of Law Number 1 of 2023 solidifies the legal framework for protecting customary law communities in Indonesia. It requires both the national and regional governments to actively recognize, respect, and protect the rights of these communities, provided their practices are consistent with national principles and development. The provision is a step toward ensuring that Indonesia's rich cultural diversity is acknowledged within the national legal system while maintaining alignment with the broader goals of state unity and progress.

### C. Enggano Customary Law Sanction Regulations

Customary law in Enggano is not just a rule, but also reflects cultural values that have been passed down from generation to generation. This includes respect for parents, community leaders, and existing norms. In social interaction, the principle of mutual rights and positions of other people and creating a harmonious environment. This is reflected in the way of resolving conflicts, where dialogue and mediation are prioritized over disputes. Customary law plays an important role in maintaining balance and harmony in society. Every action or decision is taken by considering its impact on social relations and the community as a whole.

Customary law in Enggano District was created to maintain the norms that exist in the area. As regulated by the Enggano traditional institution in the book "Enggano Island Indigenous Customs and Arts and Culture Association" the aim is to examine the existing customary rules and the public can also know and understand the customs in the Enggano District. In articles 27, 28 and 29 concerning Legal Procedures/Legal Sanctions in the Book of Indigenous Customs and Cultural Arts of Enggano Island, it divides several types of violations, namely as follows:

1. Serious Violations (Article 27)
  - a. People who do not recognize customs.
  - b. The crime of homicide (*Kaburru*)

Then in Article 17 it is stated that the customary law sanctions that can be obtained if a serious violation is committed are "*Anyone who deliberately does not acknowledge custom or kills human life, then he has no right to live and live in the midst of traditional society.*"
2. Minor Crimes (Article 28)
  - a. Disrupting the peace that has been established by customary decisions. Article 18 states that sanctions are in the form of a monetary fine of Rp. 50,000 and he is obliged to pay the losses incurred as a result of his actions to the injured party.
  - b. The act is rape according to gender. In article 19 it is stated that sanctions are in the form of a fine of Rp. 25,000 and he is obliged to pay compensation for losses arising from his actions to the injured party. Apologize to the tribal families who were damaged.
  - c. Persecution. Article 20 states that sanctions are in the form of a fine of Rp. 150,000 and he is obliged to pay the losses arising from his actions to the injured party.

- d. Slander. Article 21 states that sanctions are in the form of a fine of Rp. 50,000 and he is obliged to pay the losses arising from his actions to the injured party and carry out customary peace.
  - and. Fight. Article 22 states that sanctions are in the form of a fine of Rp. 50,000 and he is obliged to pay the losses arising from his actions to the injured party and carry out customary peace.
  - f. Damaging other people's property rights. Article 23 states that sanctions are in the form of a fine of Rp. 50,000 and he is obliged to pay the losses arising from his actions to the party who suffered the loss and carry out customary peace.
  - g. Ruining people's homes. Article 24 states that sanctions are in the form of a fine of Rp. 250,000 and he is obliged to pay the losses arising from his actions to the party who suffered the loss.
3. Minor Offenses (Article 29)
- a. Fraud (*Yapopodo*)
  - b. Insult (*Pakinappu, Pahitela*)
  - c. Disturbing the peace (*Kipahaehhi upainone*)
  - d. Petty theft

Then in article 32 it is stated that for each type of minor offense according to custom, the person concerned must be punished by paying a fine in the amount of Rp. 50,000 and he is obliged to carry out peace in a traditional ceremony based on violations of this form of customary legal sanction.

## **D. The Power of Enggano Customary Law Sanctions**

Customary law is an important part of the identity of the Enggano people, providing a strong sense of belonging to local traditions and culture. This helps people feel connected to each other, creating solidarity and togetherness. Customary law contains elements of unique cultural heritage, including language, art and ritual. This enriches the cultural identity of the Enggano people and is a source of pride. By continuing to uphold customary law, the Enggano people can maintain their identity amidst the current of modernization and social change. Customary law helps communities to assert themselves and maintain cultural integrity amidst external challenges, in this case traditional leaders play a very important role.

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Any action that disturbs the environmental balance and violates customary law requires that the necessary steps be taken to restore the legal balance.<sup>13</sup> Traditional leaders in Enggano have authority and experience in resolving conflicts. They act as neutral mediators, directing dialogue between parties involved in a dispute.

Traditional leaders are respected in society, so their opinions and interventions are often well received. The conflict resolution process prioritizes open communication, where all parties are given the opportunity to express their views and feelings. With constructive dialogue, it is hoped that there will be better understanding between the conflicting parties. This mediation approach aims to avoid confrontation that could damage social relations. By minimizing open conflict, society can maintain harmony and stability in the community. The outcome of mediation is often a mutually beneficial agreement, and the parties involved are expected to feel appreciated and grateful for the process, strengthening their relationship.

Cases in Enggano such as pregnancy out of wedlock, infidelity, land boundaries, and so on are usually resolved according to Enggano customary law. Resolution of customary violations in indigenous communities is based on the view of life held by the community and is then carried out through traditional ceremonies and carried out by local traditional figures. Starting from *Paabuki*, Tribal Chief and Chief of Tribal Doors as traditional functionaries. Decisions in resolving customary violations are taken on the basis of deliberation and consensus.<sup>14</sup>

Customary law sanctions in Enggano have significant power even though they are not written in formal legal form. Community compliance with these sanctions is very high, because the applicable norms are recognized and respected by community members. The sanctions applied range from fines to social punishment, such as excommunication, and are often adjusted to the level of the offense. The process of resolving disputes through customary law is considered faster and fairer, with local wisdom playing an important role. The traditions and cultural values contained in

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<sup>13</sup> Asra Asra. "Sanksi Adat Terhadap Pelaku Hamil di Luar Nikah Bagi Masyarakat Kecamatan Pondok Suguh Kabupaten Mukomuko." *GESETZ: Indonesian Law Journal* 1, no. 1 (2024): 61-67. See also Bernadeta Resti Nurhayati, "Status Anak Luar Kawin Dalam Hukum Adat Indonesia." *Jurnal Komunikasi Hukum (JKH)* 3, no. 2 (2017): 92-100; Satri Dian Indrana, and Salimin Afamery. "Penyelesaian Adat Kawin Hamil Pada Masyarakat Suku Bajo." *Mores: Jurnal Pendidikan, Moral dan Kewarganegaraan* 2, no. 1 (2024): 18-23.

<sup>14</sup> Interview Results with Paabuki, Milson Kaitora, on October 7, 2024, in Meok Village, Enggano District, North Bengkulu Regency.

customary law mean that every violation is considered a violation of community identity. Traditional leaders act as mediators in enforcing sanctions, while education and awareness of these norms are taught informally within families and communities. Thus, the strength of customary law sanctions in Enggano lies in the recognition and acceptance of the community, as well as the important role of traditional leaders in maintaining social and cultural order.

Each violation in each category has its own customary sanctions according to the seriousness or lightness of the violation. Serious violations such as killing someone or not recognizing customs, the sanction is that the person is not permitted to live among the indigenous community (expelled).<sup>15</sup> The Enggano indigenous people have a traditional institution called *It's beautiful* which is usually applied to resolve problems and conflicts that occur in society.<sup>16</sup>

The existence of customary law as a local wisdom value in solving problems in society, especially in Enggano, shows how important tradition is in regulating social interactions and maintaining community harmony. Customary law not only functions as a set of rules, but also reflects norms and values that have been passed down from generation to generation. Through a deliberation and mediation-based approach, customary law facilitates conflict resolution in a peaceful and inclusive manner, strengthens relationships between individuals and maintains social stability. In a modern era full of challenges, customary law remains relevant as a foundation of cultural identity, providing a sense of belonging and solidarity amidst change. Thus, preserving and strengthening customary law must be a common concern, so that local wisdom can continue to contribute to the development of a just and harmonious society.

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<sup>15</sup> Manaf Kaarubi, *Himpunan Hukum Adat Istiadat dan Seni Budaya Asli-Pulau Enggano*, (Bengkulu: PD Aman Enggano, Bengkulu Utara, 2007), p. 57.

<sup>16</sup> Andry Harijanto, et.al. *Bahan Ajar Hukum Adat*. (Bengkulu: Universitas Bengkulu, Bengkulu, 2019), p. 27.

**Dispute Resolution Through Local Wisdom Values  
in Enggano District: Resolving Customary  
Violations of Unwed Pregnancy (*Kahoba'karah*)**

Violation of customary pregnancy out of wedlock (*Because"karah*) is a pregnancy that occurs outside of a legal marriage, thereby destroying existing morals and norms. Violation of customs *Kahoba'karah* applies to everyone who commits customary violations in the Enggano District, North Bengkulu Regency."<sup>17</sup>

Violation of customs *Kahoba'karah* in Enggano District, North Bengkulu Regency, which was carried out by people who were not yet bound by a legal marriage according to custom, religion and the state. Therefore, to resolve these customary violations, it must be done through the Enggano customary institution which is guided by the customary regulations of Enggano District. Data related to the resolution of customary violations of pregnancy out of wedlock (*Kahoba'karah*) obtained from the results of interviews conducted by *Paabuki*, Tribal Chief, Chief of Tribal Doors, and Village Officials of Kaana, Apoho, and Meok.

**TABLE 1.** Number of Cases of Violation of Customary Pregnancies Out of Marriage (*Kahoba'karah*) in Enggano District, North Bengkulu Regency for the 2021-2024 period

Village	Number of Cases	Year
Caana Village	1	2021
Meok Village	1	2023
Apoho Village	1	2024

Source: *Interviews with each Village Official in Enggano District, North Bengkulu Regency* (analyzed by Authors)

**A. Cases of Violation of Customary Pregnancy  
Out of Wedlock (*Kahoba'karah*)**

**1. *Kaana Village***

Based on the results of an interview the author conducted on Tuesday 8 October 2024 with Herlina's mother as Secretary of Kaana Village, he said

<sup>17</sup> Results of an Interview with Paabuki, Milson Kaitora, on October 7, 2024, in Meok Village, Enggano District, North Bengkulu Regency.

that cases of violation of customary pregnancy out of wedlock (*Kahoba'karah*) this happens around 2021. R (male initials) and S (the woman's initials) is a 16 years old child. The two of them had a romantic relationship for approximately one year. They hid this relationship from their respective parents. They have a relationship outside of marriage on the basis of mutual consent. Then the results of the relationship S declared pregnant. This was finally discovered by the parents of S so that they also ask for accountability from R because he got her child pregnant. They admitted that they had violated these customs. Therefore, this customary violation must be resolved through the customary law that applies in Enggano District.<sup>18</sup>

## 2. *Meok Village*

Based on the results of an interview the author conducted on Tuesday 8 October 2024 with Ms. Sulastri (Head of Services at the Meok Village Office), Father The deceased (Kadun II Meok Village) and Bapak Arms (Head of Government Section at the Meok Village Office), based on information from three sources, there is one case *Kahoba'karah* which will occur in 2023. I (the woman's initials) and AND (the man's initials) is the party involved in the case. I and AND are a pair of lovers who have been in a relationship for a long time, but not for long I known to have been pregnant out of wedlock. After finding out about this, the parents of I does not want to marry his child to AND. That's because I Christian while AND Muslim. Neither party wanted to give in to changing religions, but a traditional ceremony was still held to resolve the violation of the custom and discuss an agreement for the benefit of the child being conceived in the future.

## 3. *Apoho Village*

Based on the results of an interview the author conducted on Tuesday 8 October 2024 with Mr Sugeng as Secretary of Apoho Village, he said that there was one case that occurred recently that was related *Kahoba'karah* in Apoho Village. In that case, F is an 18 year old woman who has just graduated from high school. This started when he started studying at a university in Bengkulu City. F who has just entered college is in a relationship with a man with the initials A. A is a man who comes from outside Bengkulu City, more precisely from Madura. However, in the middle

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<sup>18</sup> Results of interviews with Kaana Village Secretary, Herlina, on October 8, 2024, in Kaana Village, Enggano District, North Bengkulu Regency.



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of the semester of study, F who is a resident of Enggano District, went home to hold a wedding in his village, Apoho Village, Enggano District, North Bengkulu Regency.<sup>19</sup>

Some of the sources above did not explain these cases in detail. They argued that this was a disgrace so they did not want to provide complete information. Therefore, the author obtained additional information from other sources such as *Paabuki*, Tribal Chief and Tribal Door Leader. Furthermore, based on the results of the author's interview with *Paabuki* in Enggano District, Mr. Milson Kaitora<sup>20</sup> resolution of customary violations *Kahoba'karah* usually carried out at the home of the woman who is pregnant. The flow of the process for resolving customary violations of pregnancy out of wedlock (*Kahoba'karah*) in Enggano District, North Bengkulu Regency, consisting of the recognition stage and traditional ceremony stage.

### a. Level of Recognition

- 1) The woman's family told the man's family that the man had impregnated her child.
- 2) The woman's family informed the Tribal Chief and the Door Leader of her native tribe that her child had been impregnated by the man.
- 3) The Tribal Head and Head of the Tribal Gate from the female side come to the male party's house to ask for validation.
- 4) The man's family came to the woman's house to admit their mistake.
- 5) Each of the tribal chiefs and tribal gate leaders negotiate to determine when the traditional ceremony will be held.

Based on an interview with Chief Kaarubi, Mr. Suhaedi Kaarubi that it is a violation of custom *Kahoba'karah*. This usually happens to young people who are in a romantic relationship. Even though the men want to be responsible, they still have to carry out traditional ceremonies. If they do not carry out traditional ceremonies, they will receive social sanctions. An example of the social sanctions they receive is that they are not respected and appreciated by the surrounding community.

At this recognition stage, initially the family of the woman who is impregnated first conveys to the man's family that the man has impregnated

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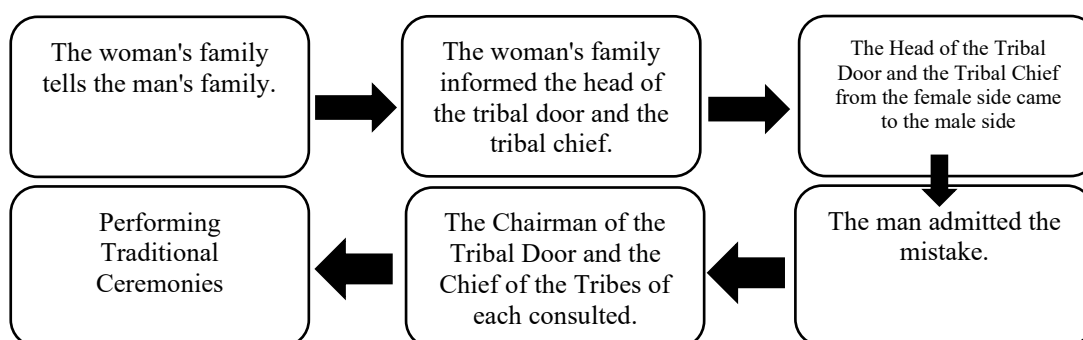
<sup>19</sup> Results of interviews with Sulastris (Head of Service at the Meok Village Office), Mufi (Head of Village II of Meok Village) and Armos (Head of Government at the Meok Village Office), on October 8, 2024 in Meok Village, Enggano District, North Bengkulu Regency.

<sup>20</sup> Results of an interview with the Secretary of Apoho Village, Sugeng, on October 8, 2024, in Kaana Village, Enggano District, North Bengkulu Regency.

their child. After that, the woman's family informs and explains to the Chief of the Tribal Gate and the Chief of his Tribe that their child has been impregnated by a man who is not her husband. Hearing this information, the Chief of the Tribal Door and the Tribal Head went to the house of the man who had become pregnant to ask whether it was true that the man had impregnated a woman from their tribe.

After receiving a confession from the man, the man came to the woman's house to admit that it was true that he had impregnated the woman. Next, the Chief of the Tribal Gate and the Chief of each party determine the right time to carry out the traditional ceremony. The Figure 1 explains the flow of the confession stage in the process of resolving the customary violation of pregnancy out of wedlock (*Kahoba'karah*).

**FIGURE 1.** Recognition Stage in the Process of Resolving Customary Violations of Unwed Pregnancy (*Kahoba'karah*) in Enggano District, North Bengkulu Regency



The traditional ceremony to settle this customary violation must be carried out because both parties have been proven to have committed a customary violation. As is the case *Kahoba'karah* in Apoho Village which recently occurred. At first, the woman's family covered up that her daughter was pregnant before the wedding took place. According to Enggano custom, if you want to hold a traditional marriage between a woman and a man who is still single, it will be fully taken care of by the traditional institution.

There are different ethical matters, such as violations of customs *Kahoba'karah*. This means that the series of traditional ceremonies related to traditional marriages may not be carried out completely.<sup>21</sup> However, in the end, the rumors about the woman being pregnant before the wedding were true and known to traditional leaders in the village. Therefore, the Chief of

<sup>21</sup> *Ibid*

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the Tribal Door and the Tribal Head from the women's side held a small meeting regarding this matter. Because the men, namely **A** If he is not a native of Enggano then he will then become part of the Kamay tribe. Likewise, the father of **F** who are also part of the Kamay tribe cannot host or hold traditional ceremonies because fellow Kamay tribes cannot hold traditional ceremonies so that the mother tribe of **F** the Kaaohoa Tribe hosted it.<sup>22</sup>

In this case, the Chief of the Kaaohoa Tribe and the four Chiefs of the Pintu Tribe held a traditional ceremony related to resolving this customary violation. The traditional ceremony is carried out before the dowry ceremony for a traditional wedding. In this case **A** penalized because “*has ruined the parents' plans*” so that a fine must be given **A** the **F** amounting to Rp. 500,000 which will be given during traditional ceremonies. Likewise, the amount of money that has been agreed to be given to each Tribal Gate Chair and Tribal Head is IDR. 15,000.

### B. Traditional Ceremony Stage

Traditional ceremonies in the process of resolving customary violations *Kahoba'karah* has several *series* of events that must be carried out. Based on an interview with the Chief of Pintu Abobo of the Kaarubi Tribe, Mr. Johansen Carubi said that at this stage there are several items that need to be prepared for this traditional ceremony. Items that must be prepared are as follows:

- 1) 3 meters long white cloth.
- 2) Parang as many as 6 pieces.
- 3) Money for a predetermined fine is given to the woman.
- 4) Money to be given to each Tribal Door Leader and Tribal Chief of the parties involved.

The items that must be prepared for traditional ceremonies have their own philosophy. White cloth has the philosophy “*clean or pure*” so that resolving customary violations can be interpreted as repurification. Parang has the philosophy of being an item that is always used in any activity such as fighting, gardening and so on, so that in resolving customary violations parang must be present. The series of events in the traditional ceremony stages are as follows:

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<sup>22</sup> Results of an interview with Paabuki, Milson Kaitora, on October 7, 2024, in Meok Village, Enggano District, North Bengkulu Regency.

- 1) *Paabuki*, Tribal Chief, Chief of the Tribal Gate and the local Village Head gathered at the traditional ceremony site.
- 2) A white cloth is spread in the middle.
- 3) Then the machete and fine money are placed on the white cloth.
- 5) The traditional ceremony was opened by the Chief of the Tribe and the Head of the Tribal Gate who was the host.
- 6) The Tribal Chief and the Tribal Door Leader exchanged their views.
- 7) The men greeted and apologized to the Tribal Chief and every female Tribal Door Leader.
- 8) The man gave the fine money to the woman's parents.
- 9) The men give the agreed money to the Tribal Head and each Tribal Door Leader from the women's side.
- 10) The men gave machetes to each tribal chief.
- 11) The traditional ceremony is confirmed by the *Paabuki* and closed by the Tribal Head and the Tribal Gate Leader who are the hosts.

The traditional ceremony for resolving this customary violation must be attended by the Tribal Heads and Chiefs of the Tribal Gate. In addition, this ceremony must be attended by *Paabuki* because it is the person who validates the results of this traditional ceremony *Paabuki*. The Village Head and other village officials were also invited as witnesses. Before starting, a white cloth is spread in the middle, then the machete and the fine money are placed on the white cloth.

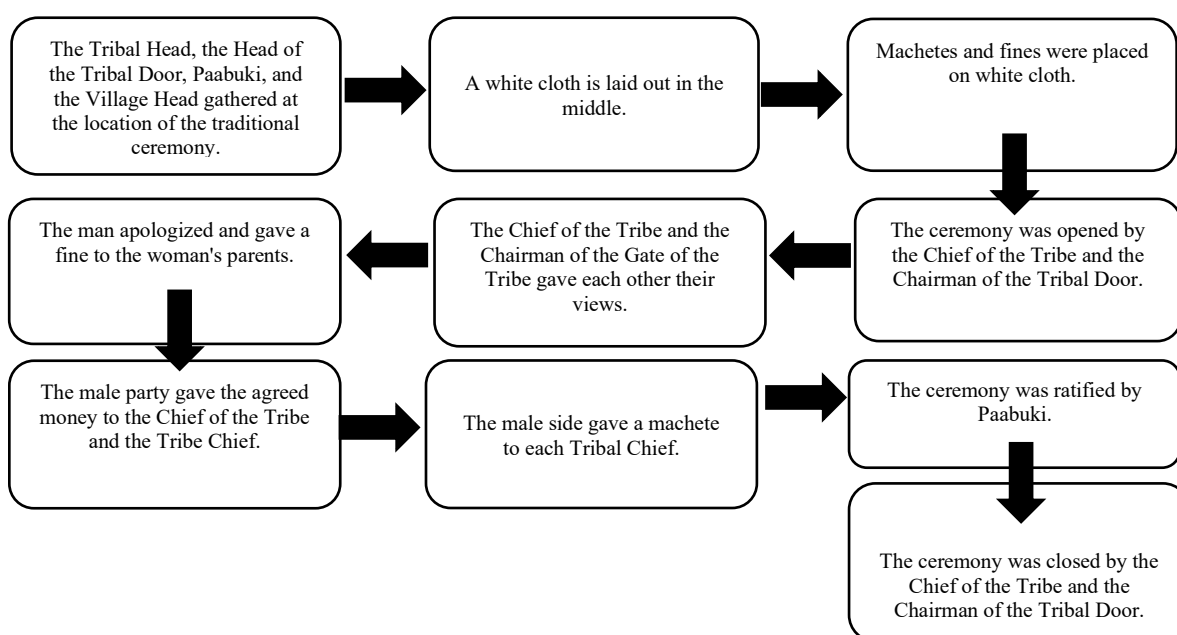
The traditional ceremony was opened first by the Tribal Chief and the Tribal Gate Leader who were the hosts and explained what violations the two of them had committed. Furthermore, the Tribal Heads and Tribal Gate Chairs who were present could provide their views regarding the customary violations that occurred. After that, the men greeted and apologized to the Tribal Chief and every tribal door leader from the female side and vice versa. This was done because it meant that what they had done was wrong, thus making the tribe's good name bad.

Next, the man gave a fine of IDR 500,000 to the woman's parents because she "*has ruined the parents' plans.*" Apart from that, the men also give money to the tribal chief and tribal gate leader from the women's side, the amount of which has been agreed upon and does not burden the men. This is intended to make amends for what he has done. Usually, the nominal value ranges from IDR 5,000 – IDR 20,000 depending on the ability of the man.<sup>[4]</sup> The next procession is giving each tribal chief one machete. Because there are 6 tribes in Enggano District, you must prepare 6 machetes. Finally, this

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traditional ceremony was then ratified by *Paabuki* as the highest level in traditional institutions in Enggano District. Then it was closed by the Tribal Head and Chairman of the Tribal Gate who were the hosts, explaining that a traditional ceremony had been carried out related to resolving customary violations *Kahoba'karah*, as shown on Figure 2.

**FIGURE 2.** Flow of Resolution of Customary Violations of Unwed Pregnancy (*Kahoba'karah*) At the Traditional Ceremony Stage



Authors did not get much information regarding the resolution of customary violations *Kahoba'karah* which occurred in Kaana Village. Based on the results of interviews with Herlina's mother, he said "*it happened a long time ago, as far as I remember there was a traditional ceremony at that time, I only attended the wedding party,*" said the source. He was also reluctant to provide clearer information about the perpetrator.

In the case that occurred in Apoho Village, the Chief of the Kaahaoa Tribe and the four Chiefs of the Pintu Tribe held a traditional ceremony before the traditional wedding ceremony. Precisely the night before the wedding party. The traditional ceremony related to resolving this customary violation must be carried out first before proceeding to the traditional wedding ceremony. In this case A penalized because "*has ruined the parents' plans*" so that a fine must be given A the F amounting to Rp. 500,000 which will be given during traditional ceremonies.

The traditional wedding ceremony could not be fully carried out because they had violated custom. So, the Tribal Chief and the Chief of the Tribal Gate only carry out one series of traditional wedding ceremonies, namely *Pahpekik*. *Pahpekik* This is a gift of money for living capital from men to women and vice versa.<sup>23</sup> Actually after *Pahkekik* There are still several more series of customs that must be carried out but they are not implemented.

A different case that occurred in Meok Village was the existence of religious differences. I from the woman who comes from the Kaitora tribe and adheres to Christianity. Whereas AND is a man who comes from the Kauno tribe and is Muslim. This traditional ceremony must continue to be carried out even though both parties who violate it are minors and also have different religions.<sup>24</sup> In this case, the traditional ceremony related to resolving customary violations was still carried out, but they did not continue to marry according to religion or state.

## **Settlement of Customary Violations of Infidelity (*Kikono*) in Enggano District, North Bengkulu Regency**

Violation of the customs of Infidelity (*Kikono*) is a violation that causes damage to the household of a family as a result of the affair which occurred in Enggano District, North Bengkulu Regency.<sup>25</sup> Violation of the customs of Infidelity (*Kikono*) in Enggano District, North Bengkulu Regency which is carried out by people whose marriages are legal according to custom, religion and the state and there are also those who are not yet married. Therefore, to resolve these customary violations, it must be done through the Enggano customary institution which is guided by the customary regulations of Enggano District. Data related to the resolution of customary violations of infidelity (*Kikono*) obtained from the results of interviews conducted by *Paabuki*, Tribal Chief, Chief of Tribal Gate, and Officials of Kaana Village, and Malakoni Village.

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<sup>23</sup> Results of an interview with Paabuki, Milson Kaitora, on October 7, 2024, in Meok Village, Enggano District, North Bengkulu Regency

<sup>24</sup> Results of an interview with the Head of the Kaarubi Tribe, Suhaedi Kaarubi, on October 8, 2024, in Malakoni Village, Enggano District, North Bengkulu Regency.

<sup>25</sup> Results of an Interview with Paabuki, Milson Kaitora, on October 7, 2024, in Meok Village, Enggano District, North Bengkulu Regency.

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The following is data on cases of resolution of customary violations of infidelity (*Kikono*) which was completed in Enggano District, North Bengkulu Regency

**TABLE 2. Affair Case *Kikono***

Village Name	Amount	Year
Kahyapu	-	-
Cana	1	2024
Malakoni	1	2022
Apoho	-	-
Meok	-	-
Banjarsari	-	-

*Source: Chairman of the Enggano traditional institution Paabuki Milson Kaitora*

Based on the results of interviews, the stages or flow of resolving customary violations of infidelity *Kikono* in Enggano District, North Bengkulu Regency through Enggano customary law is as follows:

### **1. Reporting Stage**

The process of resolving violations of customary infidelity *Kikono* through the Enggano customary law institution, starting with a report from a witness who is also the husband of the perpetrator of the affair to the Chief of the tribe concerned, then the Chief of the tribe, the perpetrator and the families of the perpetrators discuss to determine the appropriate time and place for a customary trial to be held.

Violation of customs *Kikono* This is an act that is prohibited according to Enggano customary law itself, because this act is detrimental and can disturb the peace of another person's household in the Enggano community. So, this is a violation of custom *Kikono*, this must be resolved properly so that the perpetrator does not repeat his actions and his family is peaceful again and can become a happy family after this case of violation.

Traditional institutions as peace, the duties of Enggano traditional institutions are not limited by areas of customary law, and all problems that occur in society can be resolved through traditional institutions except cases of murder. Then the people who want to solve their problems through the Enggano traditional institution still feel satisfied or have not been harmed and can accept the provisions and decisions issued by the Enggano traditional institution.

## 2. *Trial Stage or Traditional Ceremony*

Enggano District, North Bengkulu Regency is a community whose majority are native Enggano tribes and have immigrant tribes, but Enggano customary law is always used in cases of violations that occur in any conflict except murder. In this case, the traditional deliberation of the members of the Enggano traditional institution before imposing sanctions or customary reactions on the perpetrator, there are several binding guidelines from traditional leaders or traditional elders, namely as follows:

- a. Have evidence of a mistake or violation, if there is no evidence then it is prohibited to impose sanctions on someone.
- c. There is an admission of guilt by the perpetrator

Currently, these guidelines are the basis for traditional elders in imposing balanced sanctions for perpetrators' mistakes. Imposing sanctions by the Enggano traditional institution on perpetrators of violations *Kikono* This is a result of deviant actions within the local customary community to coerce the perpetrator *Kikono* This complies with the customary provisions of the Enggano community in Enggano District, North Bengkulu Regency. In this customary trial stage, several stages are carried out as follows:

- 1) Opening of the trial
  - a) The host of the Enggano traditional institution was the head of the tribe concerned at the opening of the trial.
  - b) Reading of reports or complaints by the tribal chief from the perpetrator
- 2) The head or leader of the congregation led by *Paabuki* listen to explanations from the parties
  - a) Listen to the explanation of the statement from the female perpetrator
  - b) Listen to the explanation of the statement from the male perpetrator
  - c) Listen to explanations from witnesses
  - d) Then hold a discussion or meeting between traditional functionaries
- 3) Next is the Chairman of the Enggano traditional institution *Paabuki* will read out the results of the meeting regarding the determination of customary sanctions against perpetrators which must be implemented.
- 4) The chairman of the hearing gives the parties the opportunity to submit objections regarding the determination of sanctions.
- 5) Then the parties submitted their objections regarding the determination of customary sanctions



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- 6) Next it is decided by *Paabuki* The head of the Enggano traditional institution made a letter of peace and the agreement was signed on a stamp.

The trial stage process above in the customary trial process is carried out only once or only in one day that has been agreed upon by both parties and there is no repetition of the trial process, but from the reporting stage to the trial stage and the imposition of sanctions, the period for resolving the violation is eight to ten days due to discussions to determine the right time. At this stage of the customary trial, the nominal amount that must be given by the perpetrator is based on the results of an agreement between both parties and is agreed to without any coercion. The role of traditional functionaries in this trial is to resolve the problem of violations *Kikono* where the traditional leader functions to provide sanctions to parties who actually commit violations *Kikono* because of the traditional leader *Paabuki* who became the leader in the peace process.<sup>26</sup>

### 3. *Sanction Implementation Stage*

In the implementation stage of sanctions for customary violations *Kikono* which in the book on the collection of Enggano customs and arts and culture is categorized as a minor crime and is resolved by custom through the Enggano customary institution, namely the implementation of customary sanctions and compensation for perpetrators of customary violations. *Kikono* This is done on the same day at the end of the event, so you must carry out all the sanctions that have been determined in the results of the traditional trial. Based on article 34 of the book on the collection of customs and indigenous arts and culture of Enggano regarding the form of legal requirements/sanctions, however (there are changes every year) both parties who commit adultery causing damage to someone's household are subject to the following:

- a. To husband or wife Rp. 20,000
- b. One set of clothing according to the sex of the adulterer
- d. Greeting money, fine, forgiveness to the tribal chiefs of the parties involved adultery amounting to IDR 20,000
- e. Peace witness money to each:
  - 1) The friendly tribes amounted to IDR 20,000

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<sup>26</sup> Interview with the Chairman of the Enggano Paabuki Traditional Institution, Mr. Milson Kaitora on October 7, 2024.

- 2) To the village coordinator or what is called the village head, IDR 20,000 money or objects to confirm peace to the aggrieved tribal party amounting to IDR 20,000
- f. It is mandatory to make peace with a husband who has been adulterated with conditions consisting of:
  - 1) One meter of white cloth was used as a base for the peace table
  - 2) The peace fine is IDR. 20,000 accompanied by a set of wedding clothes to be given to the husband who was adulterated
  - 3) Fine amnesty to:
    - a) The head of the husband's tribe who was committed adultery amounted to IDR 20,000
    - b) The fine for the father and mother of the husband whose wife was adulterated is IDR 20,000 each in cash.
    - c) Pay a fine to each tribal family of the adulterated family, each Rp. 20,000
    - d) Peace testimony money to the tribe of friends (witnesses) amounting to Rp. 20,000 and The local village head Rp. 20,000

Based on the results of the author's interview with the respondent, Mr. Johansen Kaarubi said that sanctions are sanctions written in Enggano customary law but every year there are nominal changes, he also said that perpetrators must be subject to appropriate sanctions so that they do not repeat the violation in the future, so it must be known that the process settlement of customary violations of infidelity *Kikono* through Enggano customary law, there is a main witness stage, namely the customary trial costs are all weighed by the two perpetrators in the amount of Rp. 2,500,000, then pay a fine of forgiveness money to the tribal chief Rp. 250,000, the village head Rp. 250,000, the chief of the perpetrator's friend's tribe Rp. 250,000 and one set of clothes to the married couple.

After that, the implementation of all the sanctions was carried out the next day at the tribal chief's house and the perpetrator also fed all the tribal chiefs along with other invitees, the stages of implementing traditional sanctions *Kikono* This is a form of Enggano customary law in resolving customary violations that occur in the community which is still carried out by the community which is still implemented by the Enggano tribe community in Enggano District, North Bengkulu Regency.

Settlement of customary violations of infidelity *Kikono* in Enggano District, North Bengkulu Regency, it legally has legal force which is recognized by the Indonesian state. This institution, as a law enforcement

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agency, carries out prosecution, adjudicating and imposing legal sanctions on violators of the norms that apply to existing regulations.

Settlement of customary violations of infidelity *Kikono* from the initial stage to the implementation stage of sanctions according to Enggano customary law, the process is carried out more quickly and without having to wait for a long judicial process and the resolution is carried out deliberately, fairly and peacefully so as to avoid commotion between parties in the process of resolving customary violations of infidelity. *Kikono* the. In this case, the customary sanctions which until now have been maintained by the indigenous community in Enggano District, North Bengkulu Regency with the aim of resolving customary violations of infidelity *Kikono*. This is done in a harmonious and peaceful family manner without any commotion.

The Enggano community in Enggano District, North Bengkulu Regency is one of the community groups that still adheres to customary law, namely Enggao traditional law, which grows and develops within its community and always maintains and preserves Enggano customs. In this case, it can be seen from the continued maintenance of the culture of local customary functionaries in carrying out their roles, one of which is against customary violations of infidelity. *Kikono* This was resolved through the Enggano traditional institution, where the resolution process began with the community reporting violations of customary infidelity *Kikono* this to the Chief of the tribe concerned, after the Chief listens to the explanation of the incident that occurred, then informs the perpetrator and then holds a discussion between the perpetrators about when and where the traditional ceremony will be carried out, then conveys it to *Paabuki*, Then *Paabuki* summon all related parties, namely traditional functionaries, members of the tribe and family of the perpetrator and victim, then proceed to the stage of imposing sanctions and implementing sanctions.

Customary sanctions against perpetrators *Kikono* This is a sanction that must be accepted for people who commit customary violations such as *Kikono* because they have harmed someone else's husband or wife and disturbed the peace of life in the village where they live. Then impose sanctions on the perpetrators *Kikono* This is in accordance with the local community's sense of justice, it can be seen that this sanction is carried out to achieve a sense of justice. This settlement shows that if a dispute occurs between the community, it tends to be handed over to traditional parties to resolve it based on customary law in a friendly manner, by deliberation to

reach a consensus. This also shows that settlements outside of formal court have existed and are still alive in the culture of Indonesian society.

As for resolving violations of customary infidelity *Kikono*, this is in accordance with the theory of resolving customary violations in general, as explained by Tolib Setiady, that if a meeting held by individuals, families or neighbors does not reach an agreement or because one or the other is not sustainable, the matter needs to be continued with the Relative Head or Traditional Head.<sup>27</sup> This settlement contains good stages, but its implementation is not too difficult to implement and in the implementation of the settlement there are rarely any obstacles encountered.<sup>28</sup>

Based on the results of interviews with *Paabuki* Mr. Milson Kaitora explained that the resolution of the Enggano customary violation was resolved according to custom. Mr. Milson Kaitora said that in the last five years there were two cases that were resolved according to custom. Furthermore, the Chief of the Kaarubi tribe also said that there was a case of settling a violation of the custom of infidelity *Kikono*. In the last five years there have been two cases too. The following is a description of two cases of resolution of customary violations of infidelity *Kikono* in Enggano District, North Bengkulu Regency are as follows:

1. *Cases in 2024 between immigrants (not Enggano people) and Caana Village*

Based on an interview with the Kaana village secretary, Herlina's mother confirmed that there had been incidents of violations of the customs of infidelity *Kikono*. In his village, one of them has a family. The perpetrators DI are 27 years old and DS is 25 years old, coincidentally the perpetrator DS already has a husband and the perpetrator DI is DS's ex-boyfriend before he

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<sup>27</sup> Tolib Setiady, *Intisari Hukum Adat Indonesia dalam Kajian Kepustakaan*. (Bandung: Alfabeta, 2008). In this context, Tolib Setiady outlines general theories of how customary violations are resolved, including cases like *Kikono* (adultery). According to Setiady, when a dispute arises within a community—whether between individuals, families, or neighbors—and an agreement cannot be reached through initial meetings, the matter is escalated to a higher authority. In many indigenous communities, this authority is typically the Relative Head (*Kepala Kerabat*) or Traditional Head (*Pemimpin Adat*), who is tasked with overseeing and resolving such conflicts in accordance with customary law. In the case of resolving *Kikono* (adultery), the process involves not only addressing the individual wrongdoing but also restoring social harmony. The involvement of a Traditional Head in such cases ensures that decisions reflect both the social values and the collective wellbeing of the community. The social control exerted by customary leaders is often seen as an effective means of maintaining order and mitigating conflicts without resorting to formal judicial mechanisms.

<sup>28</sup> Interview with Paabuki, Mr. Milson Kaitora, on October 7, 2024

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married her husband. Based on interviews with traditional leaders of traditional institutions *Paabuki* Mr. Milson Kaitora, this incident started when the husband felt suspicious about the behavior of his wife, DS, who often went out without permission and the DI perpetrator who visited Enggano took the time to meet him.

One day the husband of the female perpetrator opened his cellphone and read a message to meet the male perpetrator and after that the DS went out without permission to meet the DI perpetrator somewhere and the husband of the female perpetrator DS went to the Head of the traditional house and his in-laws reported his suspicions and together at the DI's house or place and found the perpetrator alone in the house even though they were not a married couple. Then the traditional leaders brought the perpetrator's couple *Kikonoto* the traditional leader's house *Paabuki* so that they can be questioned. After various examinations, the perpetrators admitted that they had had a romantic relationship, so they were taken and resolved through traditional deliberations at the Enggano traditional institution. The traditional deliberation process brings together the entire family from both parties, both the wife and husband are gathered together with the community, in this traditional deliberation the perpetrator and his family must apologize to the wife's and husband's families in front of the entire community and the tribal chief.<sup>29</sup>

### 2. *Case in 2022 between fellow residents of Malakoni Village*

Mr Sugeng Priyono as secretary of Malakoni Village confirmed the incident of violating the customs of infidelity *Kikono* In his village, the male perpetrator BS was 30 years old and the female perpetrator WT was 27 years old who was married to a fishing worker. The incident started with community anxiety who saw BS often visiting WT at her house when her husband was gardening. They seemed to have been close for a long time and were chatting like partner. So, with the complaint, the husband began to suspect that his wife had done it *Kikono* when the husband was gardening, one day the husband of the female perpetrator pretended to say goodbye to his wife for several days of gardening. Previously, the husband had reported his suspicions to the traditional head, after the husband left the house and the husband and the tribal head returned to his house, the female perpetrator found the perpetrators alone inside. room even though they were not a

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<sup>29</sup> Setiady, *Intisari Hukum Adat Indonesia dalam Kajian Kepustakaan*.

married couple, then the tribal chief immediately took them to the house of the chairman of the Enggano traditional institution *Paabuki* to ask for information.

After sharing the examination, the perpetrators admitted that they had had sexual intercourse, so they were taken and resolved in a traditional deliberation where the entire family from both parties, both husband and wife, were gathered with the community, in this traditional deliberation the perpetrator and his family had to apologize to the wife's and husband's families in front of the entire community and the chief of the tribe concerned.<sup>30</sup>

Based on two descriptions of violations *Kikono* above, in resolving it, the Enggano people chose to use Enggano customary law to resolve these customary violations through Enggano customary institutions. The settlement carried out through customary peace goes through the stages described above, namely, the report stage, the customary trial stage and the implementation stage of customary sanctions. In the settlement process, everything went well, smoothly and resulted in a fair decision for both parties and all members of the tribe and the Enggano community. Based on the results of interviews with the head of the Enggano traditional institution *Paabuki* in Enggano District, North Bengkulu Regency, Mr. Milson Kaitora, to resolve customary violations, several stages are as follows:

## Conclusion

The existence of customary law as a manifestation of local wisdom is reinforced by a range of legal instruments, including Emergency Law No. 1 of 1950, the Supreme Court Jurisprudence Decision No. 1644 K/Pid/1988 dated May 15, 1991, the 1945 Constitution, Ministry of Home Affairs Regulation No. 18 of 2018 regarding Village Community and Village Customary Institutions, and Law No. 1 of 2023. In Enggano, customary law is formally codified in a document titled *Compilation of Customs and Original Arts and Culture of Enggano Island*. This legal framework not only establishes a set of rules but also embodies the norms and values passed down through generations. Dispute resolution on Enggano Island, grounded in local wisdom, proceeds through a series of stages: the reporting phase, the trial/customary ceremony phase, and the enforcement of sanctions.

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<sup>30</sup> Interview with Kaana village secretary Mrs. Herlina on October 8, 2024

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It is recommended that the North Bengkulu Regency Government expedite the ratification of a Regional Regulation on the Recognition and Protection of the Enggano Customary Law Community. Such a regulation would provide a formal foundation for the fair resolution of customary violations, ensuring that the processes align with the local norms and customary law applicable in Enggano District. Both the residents of Enggano District and visitors to the area are encouraged to comply with the prevailing customary regulations. Furthermore, the local community should be encouraged to actively preserve the customary laws of Enggano District, as part of efforts to maintain and protect the cultural identity and local wisdom of Enggano in North Bengkulu Regency.

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### Interviews

Interview result with Kaana Village Secretary, Herlina, on October 8, 2024, in Kaana Village, Enggano District, North Bengkulu Regency.

Interview result with Paabuki, Milson Kaitora, on October 7, 2024, in Meok Village, Enggano District, North Bengkulu Regency.

Interview result with Sulastri (Head of Service at the Meok Village Office), Mufi (Head of Village II of Meok Village) and Armos (Head of Government at the Meok Village Office), on October 8, 2024 in Meok Village, Enggano District, North Bengkulu Regency.

Interview result with the Chairman of the Enggano Paabuki Traditional Institution, Mr. Milson Kaitora on October 7, 2024.

Interview result with the Head of the Kaarubi Tribe, Suhaedi Kaarubi, on October 8, 2024, in Malakoni Village, Enggano District, North Bengkulu Regency.

Interview result with the Secretary of Apoho Village, Sugeng, on October 8, 2024, in Kaana Village, Enggano District, North Bengkulu Regency.

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