

# Violation of Dapek Salah Customary Law in Bengkulu: Forensic Psychological Analysis Toward The Criminal Behavior of Indigenous

Rangga Jayanuarto<sup>1</sup>, Khudzaifah Dimiyati<sup>2</sup>, Absori Absori<sup>2</sup>, Natangsa Surbakti<sup>2</sup>

<sup>1</sup>Lecturer at University of Muhammadiyah Bengkulu, Indonesia

## Abstract

**Introduction:** Every law is a system which means law bases on the unity of the mind. Customary law is understood as a law that lives in a “living law” society, legal values and a sense of justice that lives in society. All takes place after the values lived by the society under the filter of legal ideals and moral ideals prevailing in the society concerned. Without the law as an effective social control, humans potentially can lead to behavior that can bring destruction to humans. In Bengkulu, the law that lives in the community is known as the law of *adat dapek salah*. Violation of the law can be acts of a person or group of people who disturb the balance in the indigenous peoples. The violation of the law is an act of deviant behavior that is negative in which each culprit will be charged with various kinds of traditional sanctions. The research of forensic psychology analysis is needed to see the behavior of customary criminal crime in violation of customary law. The assessment is carried out to provide an overview of the mental state of the offender. This is in line with forensic psychology as the study of subjects in terms of cognitive, effective and behavior in relation to the legal process.

**Material and Method:** This research is a qualitative research which produces descriptive data in the form of written or oral words from people and observed behavior. Qualitative research is also called naturalistic research. This study departs from naturalistic inquiry whose findings are not found from statistical calculations.

**Findings:** Customary law of *Dapek Salah* in Bengkulu as a social model directs to accommodate the entire social system which includes the function of norm system. The function of norm system is to correct behavior that deviates from the relevant rules (violations). These rules are the framework of human behavior orientation (members of the social system). Norms are also often referred to as rules of conduct and blueprints for behavior in a society. This can also lead to anti-social behavior or asocial behavior which could be a factor causing criminal behavior. Criminal behavior toward the *Dapek Salah* law is an act that causes adverse reactions and corrections and the balance of the community. In the study of forensic psychology analysis, criminal behavior on the law depends on the perception of the respective actors. Aspects of perception consist of cognitive aspects (thoughts), affective aspects (feelings), and aspects of conation (behavior). Individual perceptions can influence and motivate subsequent behavior, if the object of perception is judged unpleasant then the behavior is negative.

**Conclusion:** Violation of the *Dapek Salah* is a phenomenon, a person or group of people who violate customary law (criminal behavior) so as disturbing the balance in indigenous peoples' value. In the forensic psychological analysis, criminal behavior of the law depends on the perception of the respective actors. Aspects of perception consist of cognitive aspects (thoughts), affective aspects (feelings), and aspects of conation (behavior). Individual perceptions can influence and motivate subsequent behavior, if the object of perception is judged unpleasant then the behavior is negative. In the basic concept of psychology, there is something wrong with the minds of the perpetrators so that they are involved in criminal behavior. Imbalance relationship between Id, Ego and Superego makes humans weak and consequently more likely to commit deviant behavior or criminal behavior.

**Keywords:** *Violation of Dapek Salah Customary Law, Criminal Behavior, Forensic Psychology*

## Introduction

Every law is a system which means its rules are unanimity based on the unity of the mind<sup>1</sup>. In Indonesian legal system, there is a customary law. Customary law is understood as a law that lives in a “living law” society, legal values and a sense of justice that lives in society<sup>2</sup>. The unwritten rule of law is determined by the leadership of the alliance, but it comes from habit, code of conduct, from code of conduct to customs, from customs to legal norms<sup>3</sup>. All takes place after the values lived by the community under the filter of legal ideals and moral ideals prevailing in the society concerned.

Law is indeed a human necessity<sup>4</sup>. Without law as an effective social control, human potentially can lead to behavior that can bring destruction to humans, as Lun Fuller said, “human is the only species that chooses its own kind as its preferred prey”<sup>5</sup>. Customary law as a social control system has given its role in the framework of creating community order<sup>6</sup>. Logical consequences as a means of social control, customary law is born, grew and developed in a social system.

Good law is the law in accordance with the law that lives in society<sup>7</sup>. In Bengkulu, the law that lives in the community is known as customary law of *Dapek Salah*. Violation of the *Dapek Salah* is a phenomenon, a person or group of people who violate customary law (criminal behavior) so as to disturb the balance in indigenous peoples<sup>8</sup>. At this point, violation of *Dapek Salah* as a law that lives in the community should not occur. This is because the law is an embodiment of the real legal feelings of the community<sup>9</sup>, it is also a blueprint of behavior that provides guidelines and or benchmarks for community behavior.

In Bengkulu, violation of the customary law can be inevitable wrong called as criminal behavior. Criminality as an act or behavior that is detrimental to the sufferer or victim is also very detrimental to the community in the form of loss of peace and order<sup>10</sup>. Criminality is also an activity which is opposed by the community because it violates the law, social and religion as well as psychological harm<sup>11</sup>. If criminal behavior arises in the form of a violation of customary law, it can be concluded that something has gone wrong with the behavior of the act. Violation of the customary law is an act of deviant behavior in which each culprit will be charged with various kinds of traditional sanctions. A violator is not necessarily identical with chaotic behavior but it could be accidentally or in a desperate condition. Among

deviant behaviors, some are triggered by psychiatric conditions that suffer from disorders, mental illness, and others which appear physically healthy. However, there is also based on the growth of the decision to violate the law even though he does not suffer from mental disorders and this is very closely related to the socio-psychological aspects (environment)<sup>12</sup>.

Therefore, the study of forensic psychology analysis is needed to see the criminal behavior of customary law in a psychological perspective. The assessment is carried out to provide an overview of the mental of the offender. This is in line with forensic psychology as the study of subjects in terms of cognitive, effective and behavior in relation to the legal process<sup>13</sup>. Based on the above, it is necessary to see how violations of *Dapek Salah* in Bengkulu City as a study space forensic psychology analysis.

## Material and Method

This research is a qualitative research which produces descriptive data in the form of written or oral words from people and observed behavior. Qualitative research is also called naturalistic research<sup>14</sup>. This study departs from naturalistic inquiry whose findings are not found from statistical calculations<sup>15</sup>.

## Findings

### A. Violations of the *Dapek Salah* Law in Bengkulu

*Dapek Salah* customary law as a social model directs to accommodate the entire social system which includes the function of norm system whose task is to correct behavior that deviates from the relevant rules (violations). These rules constitute the orientation framework of human behavior (members of the social system)<sup>16</sup>. Norms are one of the basic concepts to explain human behavior and causes of violations. Norms are rules that govern behavior at certain times and situations. Norms are also interpreted as behaviors that are psychologically accepted and expected by the community. Norms are also often referred to as rules of conduct, and blueprints for behavior.

Violation (Dapek Salah Customary Law) has the following principles<sup>17</sup>:

1. Violations of customary law or a sense of community justice.
2. The violation will cause a shock in the community's legal balance, and
3. Customary law sentences to the criminal so that the balance happens in society

As for the forms of violation of Dapek Salah customary law are taking or damaging other people's belongings, beating, holding the opposite sex who is not a *muhrim*, committing adultery, traveling with someone who is not a *muhrim*, meeting someone who is not a *muhrim*, doing something unpleasant to a neighbor, disturbing someone's yard, damaging the environment, embarrass others, and disturb others.

In a social context, criminal behavior is a social behavior that is learned in a community group. This is based on the assumption that humans live in groups and depend on other humans. This terminology can only be applied to humans, and only humans have the capacity to enter into abstract social relations. Without the influence of society, groups of people will not be able to talk and behave socially. Therefore, punishing people in a place for a certain period can produce dramatic acts of behavior. The loss of community and group relations can be a variable that can explain why someone commits criminal behavior. This can also lead to anti-social behavior or asocial behavior which could be a factor causing criminal behavior<sup>18</sup>.

### **B. Forensic Psychological Analysis Toward the Criminal Behavior of the Dapek Salah Law in Psychological Perspectives**

Criminal behavior in Dapek Salah law is an act that causes adverse reactions, corrections and the imbalance of the community. Criminal behavior is not a hereditary phenomenon that is innate nor inherited biologically. Criminal behavior can be committed by anyone, both men and women, children, adults, and elder. Crimes can occur consciously, that is, think in advance, planned, and directed at a particular purpose. In addition, it can also be done in a semi-conscious, influenced by strong impulses from within a person, strong impulses (compulsions), and obsessions<sup>19</sup>.

In the study of forensic psychology analysis, the criminal behavior of Dapek Salah law depends on the perception of each actor. Aspects of perception consist of cognitive aspects (thoughts), affective aspects (feelings), and aspects of conation (behavior). Individual perceptions can influence and motivate subsequent behavior. If the object of perception is judged unpleasant, then the behavior is negative<sup>20</sup>.

In the basic concept of psychology, there is something wrong with the minds of the perpetrators so that they are involved in criminal behavior. The imbalance of the relationship between Id, Ego and Superego makes humans weak and consequently is more likely to commit deviant behavior or criminal behavior. That deviation results from excessive guilt as a result of excessive superego. People with excessive superego will be able to feel guilty without reason and want to be punished. The way people do to deal with guilt is precisely by committing a crime. Crimes are committed to defuse the superego because they unconsciously want a punishment to eliminate guilt. Apart from that, it also can be the principle of "pleasure". Humans have a biological basis that is urgent and works to achieve satisfaction (pleasure principle). This includes the desire for food, sex, and survival managed by Id. This cannot be obtained legally or in accordance with social rules, so people will instinctively try to do it illegally. Actually, a moral understanding of right and wrong that has been instilled since childhood should be able to work as a superego that counterbalances and controls the Id. But if moral understanding is lacking and the superego does not develop perfectly, a person can grow into an individual who is less able to control the impulse of the Id. This stimulates people to do anything to achieve what their needs. Criminal behavior is not the result of criminal personality, but it comes from ego weakness. An ego that is unable to bridge the needs of the superego and the id will be weak and make people prone to deviations<sup>21</sup>.

There are two factors that cause crime (criminal behavior of Dapek Salah law<sup>22</sup>):

1. Personal factors, including biological factors (age, sex, mental state) and psychological factors (aggressiveness, carelessness, and alienation).
2. Situational factors, including conflict situations and place and time factors.

Criminal behavior is often associated with a bad personality, for example to take revenge against others, often lie to his friends<sup>23</sup>, narcissistic, aggressive when

their egos are threatened, and intimate relationships with a partner will tend to be problematic because of his selfish attitude and his affair<sup>24</sup>. Psychopathy is also often associated with various forms of crime, including sexual violence and murder<sup>25</sup>.

Naturally, some people struggle to solve social problems through appropriate ways (accepted by the community), such as trying to be individuals who are pleasant and sensitive to the people around them. However, there are also those who choose to use social hostility strategies, which are carried out by individuals with bad characters<sup>26</sup>.

### Conclusion

Violation of the Dapek Salah law is a phenomenon, a person or group of people who violate the law so as to disturb the balance in indigenous peoples. If criminal behavior arises in the form of a violation of Dapek Salah law, so it can be concluded that something has gone wrong with the behavior of the act. Violation of the law is an act of deviant behavior that is negative in which each culprit will be charged with various kinds of traditional sanctions. In the study of forensic psychology analysis, the criminal behavior of the law depends on the perception of the respective actors. Aspects of perception consist of cognitive aspects (thoughts), affective aspects (feelings), and aspects of conation (behavior). Individual perceptions can influence and motivate subsequent behavior, if the object of perception is judged unpleasant then the behavior is negative. In the basic concept of psychology, there is something wrong with the minds of the perpetrators so that they are involved in criminal behavior. The imbalance of the relationship between Id, Ego and Superego makes humans weak and consequently is more likely to commit deviant behavior or criminal behavior.

**Conflict of Interest:** None

**Source of Funding:** A source of their own funds

**Ethical Clearance:** None

### References

1. Soepomo. *Chapters of The Customary*. Jakarta : Pradnya Paramita., 1980. 25p.
2. Lilik, Mulyadi. Indonesian Customary Court Concept in the Future. *Jurnal Asian Social Science*. 2015. 11 (12). 2p. Accessed on 9 October 2019.
3. Hilman, Hadikusuma. *The Science of Law Customary Indonesia Introductory*. Bandung : Mandar Maju., 1992. 1p.
4. Adi, Sulistiyono. *Sues Domination Positivism In The Science of Law*. Surakarta : Sebelas Maret University Press., 2004. 1p.
5. Lon L Fuller. *Anatomy of The Law*. Pelican Book., 1971. 9p.
6. Suriyaman Mustari Pide. *Customary Law , Before , Now and Will Come*. Jakarta : Kencana., 2014. 95p.
7. Lili, Rasjidi. *The Rudiments of Philosophy of Law*. Bandung : Alumni., 1982. 47p.
8. *Compilation of Laws Customary Bengkulu City. The Area of A City Regulation Bengkulu Number 29 Year 2003 on The Implementation of The Customs The City of Bengkulu*. The Legal City Bengkulu Secretary. 2007.
9. Otje Salman Soemadiningrat. *Reconcept Adat Law Contemporary*. Bandung : Alumni., 2002. 6p.
10. According to The Experts Sociology Understanding Criminality. <https://justssh.wordpress.com/2018/10/16/pengertian-kriminalitas-menurut-para-ahli-sosiologi-lengkap/>. Accessed on 8 October 2019.
11. <https://www.pengertianmenurutparaahli.net/pengertian-kriminalitas-dan-contohnya/>. Accessed on 7 October 2019.
12. *Articles of A People Customary Psychology*. <https://lawyersinbali.wordpress.com/2012/01/11/penyimpanganmelanggar-hukum-teori-aspek-sosio-psikologis-dan-faktor-yang-mempengaruhinya/>. Accessed on 7 October 2019.
13. *Understanding, PsychologyScope and History*. <https://ilmukudibagikan.blogspot.com/2019/02/pengertian-psikologi-forensik-ruang.html>. Accessed 9 October 2019.
14. Nasution. *Naturalistic Qualitative Methods*. Bandung : Tarsito., 1996. 18p.
15. Basrowi & Suwandi. *Understand The Qualitative Study*. Jakarta : Rineka Cipta., 2008. 21-22p.
16. H, R, Otje Salman. *Legal Awareness in The Community to The Law of Heirs*. Bandung : Alumni., 2007. 45p.
17. Lilik, Mulyadi. *Criminal Law Customary , The Study , The Theory , The Norm , Practices and Procedures*. Bandung : Alumni., 2015 158p.
18. *Criminology in Perspective of Social Psychology*.

- <http://koentjoro-psy.staff.ugm.ac.id/wp-content/uploads/Kriminologi-1.pdf>. Accessed on 11 October 2019.
19. Kiki Rasdian Ningsah dan Joko Kuncoro. The Perception on Criminal Behavior in Personal The Big Five & The Legal Status of Women Prisoners & Woman Non Convicts. *Jurnal Proyeksi*. 2017. 12 (1). 28p.
  20. E, B, Hurlock. *Child Development Volumes*. Jakarta: Erlangga., 2005.
  21. G, Davies. C, Hollin & R, Bull. *Forensic Psychology*. John Wiley : Sussex., 2008.
  22. M, D, Weda. *Criminology*. Jakarta : Raja Grafindo Persada., 1996.
  23. D, A, Kashy & B, M, DePaulo. Who lies? *Journal of Personality and Social Psychology*. 1996.
  24. J, D, Miller. T, A, Widiger & W, K, Campbell. Narcissistic Personality Disorder and The DSM-V. *Journal of Abnormal Psychology*. 2010.
  25. E, H, O Boyle. D, R, Forsyth. G.C. Banks & M, A, Mcdaniel. A Meta-Analysis of The Dark Triad and Work Behavior : A Social Exchange Perspective. *Journal of Applied Psychology*. 2012.
  26. P, K, Jonason & G, D, Webster. *The Dirty Dozen : A Concise Measure of The Dark Triad*. Psychological Assessment. 2010.