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Criminal Customary Of Baduy Society

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ABSTRACT

The existence of Baduy community in Lebak Regency is classified into 3 (three) groups, namely: a. Inner Baduy (Urang Kanekes); b. Outer Baduy (Urang Panamping); c. Baduy Dangka. In general, it can be described that the first group called the Baduy Dalam (Urang Kanekes) community is a society that obeys the entire rules or rules set by Pu'un (Kepala Adat). Baduy Dalam community lives in 3 (three) villages of Cibeo, Cikartawana, and Cikeusik. Related to the custom law in Baduy Dalam, for its adherents there is the enforcement of customary law, that is with the enforcement of customary criminal law for the offenders are subject to strict sanctions. One is the customary criminal society Baduy Dalam which provides social crime penalties for the community Banduy In violation of customary law. Philosophically Social work penalty is in harmony with the fifth principle of Pancasila, which is social justice for all the people of Indonesia, in which the value of hard work is included. In carrying out the social work crime, the convicted person is required to work hard in serving the crime. Social work crime is the "indigenous culture" of the Indonesian nation, because in Indonesian customary law is not known criminal deprivation of independence, namely imprisonment and imprisonment. The conformity of values adopted by the Indonesian nation with the values of social work crime is a driving force in the successful implementation of social work crime.

Keywords: *Penal, Customary, Social Penal*

INTRODUCTION

The country of Indonesia has a wealth of customs and cultures of diverse. Cultural diversity contained in various tribes in Indonesia is a wealth of Indonesians who need to get protection from the Government of Indonesia. This is in accordance with the contents of the fourth paragraph of the 1945 Constitution, the contents of which are stated: "Later than that to form an Indonesian state government that protects the whole nation and the entire blood of Indonesia, and to promote the common prosperity, to educate the life of the nation, and to participate in the implementation of world order based on eternal freedom and social justice, the independence of the



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Indonesian nation in a Constitution of the State of Indonesia, formed in a composition of the state of the Republic of Indonesia sovereign people based on: Belief in the Almighty, a just and civilized Humanity, Indonesian Unity, and Democracy led by the wisdom of wisdom in deliberation / representation, and by realizing a social justice for all Indonesian people ".

Subsequently, the objectives of the state are translated into Article 18 B Paragraph (2), jo, Article 28 C Paragraph (2) and Article 32 Paragraph (1) of the 1945 Constitution. Article 18 B Paragraph (2) of the 1945 Constitution which is stated as: "The State recognizes and respects the unity of indigenous and tribal peoples along with their traditional rights as long as they are alive and in accordance with the development of society and the principle of the Unitary State of the Republic of Indonesia, as governed by law."

As for the provisions of Article 28 C Paragraph (2) of the 1945 Constitution, the content is stated: "Every person shall have the right to advance himself in his collective struggle for his rights to build up his society, nation, and country". Based on the provisions of the 1945 Constitution mentioned above, it is clear that the existence of indigenous peoples in Indonesia received recognition from the Government of Indonesia.

This means that the Government of Indonesia places indigenous communities in a strong position and has an important role in the life of the nation and state in Indonesia. This provision is the constitutional basis for the right of customary law community to govern itself and uphold its customary law, but cumulatively must meet the following conditions: 1. As long as it is alive. 2. In accordance with the development of society. 3. In accordance with the principle of the Unitary State of the Republic of Indonesia. 4. Arranged in legislation.

The contents of Article 32 paragraph (1) of the 1945 Constitution stated: (1) The State promotes the national culture of Indonesia in the midst of world civilization by guaranteeing the freedom of society in maintaining and developing its cultural values. Departing from the provisions of the 1945 Constitution, it can be seen there is good faith from the Government of Indonesia to protect indigenous peoples in Indonesia. In



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order to realize legal protection for indigenous peoples in Indonesia, the Government of Indonesia promulgates Law No. 5 of 1960 on Agrarian Principles, Law No. 5 of 1979 on Village Governance, and Law no. 49 of 1999 on Forestry. However, the substance in the various laws and regulations mentioned above has negated the existence of indigenous and tribal peoples.

This condition can be seen in Article 1 of Law no. 41 of 1999 which states that: "Customary forest is state forest within the territory of customary law community". Further clarified with Article 66 of Law no. 41 of 1949 whose contents are declared: Paragraph (2) Inauguration and abolition of indigenous and tribal peoples as referred to in paragraph (1) shall be stipulated by a Regional Regulation. Paragraph (3) Further provisions in paragraphs 1 and 2 shall be governed by a Government Regulation.

Furthermore, in Article 67 paragraph (1) of Law no. 49 of 1999 stipulated on the condition of existence of customary law whose contents: a. The community is still in the form of paguyuban (*rechtsgemeenschap*); b. There is an institution in the form of its traditional ruling device; c. There is a clear customary law area; d. There are institutions of legal instruments, especially customary justice, which are still adhered to; and e. Still collecting forest products in the surrounding forest areas for the fulfillment of daily living needs.

In essence, indigenous peoples in Indonesia have the characteristics as mentioned in Article 67 paragraph (1) of Law no. 49 of 1999 above, one of which is the existence of Baduy people who live in the South Kendeng Mountains, located in the administrative area of Lebak Regency, Banten Province.

The existence of Baduy community in Lebak Regency is classified into 3 (three) groups, namely: a. Inner Baduy (Urang Kanekes); b. Outer Baduy (Urang Panamping); c. Baduy Dangka. In general, it can be described that the first group called the Baduy Dalam (Urang Kanekes) community is a society that obeys the entire rules or rules set by Pu'un (Kepala Adat). Baduy Dalam community lives in 3 (three) villages of Cibeo, Cikartawana, and Cikeusik. The second group, the Baduy Luar community is a group of Baduy people who have been influenced by the culture from outside, including the influence of modern technology. The domicile of Baduy Luar community is in the



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village of Cikadu, Kaduketuk, Kadukolot, Gajeboh, Cisagu, which surrounds the area of Baduy Dalam. The third group is Baduy Dangka is a community who live outside the Baduy area. Currently there are only 2 villages left, namely Padawaras (Cibengkung) and Sirahdayeuh (Cihandam). The function of this Kampung Dangka as buffer zone (buffer zone) for outside influences to the Baduy community.

In the background of the problem has been explained that the Baduy community has its own customary government under the leadership of Pu'un (Kepala Adat) highest among the Baduy community, which is assisted by Jaro, who has a position under Pu'un.

Based on the uniqueness of Baduy people who have their own customary government institutions, the following problems can be formulated: What is the customary criminal form of Baduy Dalam society? And What are the principles of criminal social work in customary criminal law of Baduy Dalam society?

METHOD

In this research, using descriptive research method, that is research aimed to discuss existing problems by collecting data, compiling, classifying, and analyzing Social Work Crime in Criminal Adat Baduy Society.

1) Study the document, by studying the books that have something to do with the research conducted.; 2) Interview, is a data collection tool that is done by question and answer directly from the source. The form of questions used in the interviews is open using interview guidelines. Secondary data sources, ie data collected by others outside the researcher, in the form of document studies. Secondary data referred to in this research is data obtained from library materials. Inside this secondary data consists of three legal materials, namely :

This primary legal material is derived from several laws and regulations relating to the problems in this study, including: a. 1945 Constitution of the State of the Republic of Indonesia; b. Law Number 1 / Drt Year 1951 Law Number 12 Year 2005 on Ratification



of the International Covenant On Civil and Political Rights (International Covenant on Civil and Political Rights); c. Law Number 39 Year 1999 on Human Rights;

2) Secondary Legal Material. This secondary legal material provides an explanation of the primary legal material derived from several literature and other scientific papers that can explain the problems in this study.

3. Data analysis method. This study will only analyze secondary data, by analyzing deductively from the special statement to the general statement.

RESULT AND DISCUSSION

Legal Basis for the enactment of Customary Criminal Law

The presence of customary law does not consider or consider whether it will be recognized or not by the power of the State, but because it must arise. Words should appear indicating the authenticity of customary law. Basically it emerges from within the community itself autonomously and is therefore called authentic. By borrowing the term from Hart, the customary law is closer to the primary rules of obligation than the state law made purposeful and therefore closer to the secondary rules of obligation .

Customary law is incongruous or strongly intertwined with the local culture. The word "culture" here indicates a strong traditional emotional element of the customary law. It is also a law that is heavily laden with certain values of values. Even in certain areas of Indonesia such as Aceh, for its adherents, customary law is identical with religious law. Then by accepting and practicing customary law, people feel at once cultured.

Associated with customary law in Indonesia, for its adherents there is the enforcement of customary law, namely with the enforcement of customary criminal law to beagi violators are subject to strict sanctions. One example, in Bali there is a written source of customary criminal law as proposed by I Made Widnyana as follows:

First, Manawa Dharmasastra (Manu Dharmasastra) or Weda Smrti (Compendium Hindu Law).



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Second, the Book of Four Religion is the Book of Religion, Book of Adi Religion, Book of Purwa Religion, Book of Kutara Religion. Third, Awig-Awig (Banjar, traditional village) are the rules or wishes of local customary law community that are created and legalized through a muyawarah and written on palm leaves or paper.

In Awig-Awig it contains restrictions that the community may not engage in or the obligations to be followed by that society, which if violated results in the imposition of sanctions by the community through its adat leadership.

Based on the opinion of I Made Widnyana mentioned above can be seen that customary criminal law in Indonesia has existed, born, grow and develop in Indonesia since long. The existence of customary criminal law in Indonesia is regulated in the provisions of Article 1 and Article 5 paragraph (3) sub b Emergency Law no. 1 of 1951 on Temporary Measures to Organize Unity of Structure, Power and Events of Civil Courts.

Within the provisions of Article 1 of Act No. 1 of 1951, it is mentioned that except the village court of the entire governing body of the gubernemen, the independent jurisdiction (*zelbestuurrechtspraak*) except the religious courts if the court is in accordance with the living law is a part of the autonomous court, and the judiciary adat (*Inhemsee rechtspraak in rechtsreek bestuur gebied*) unless the court is in accordance with the law of life is a separate part of the customary court has been abolished. The basic nature of the provision means that Act No. 1 of 1951 has eliminated other court bodies except the general, religious and rural courts

in the provision of Article 5 paragraph (3) sub b of Act No. 1 of 1951 stated that:

The civil material law and for the time being the civil law criminal law which has been in effect for the territories of the Swapraja and those previously tried by the Adat Tribunal, is still applicable to the subjects and the person with the understanding that a lawful act the living should be considered a criminal act, but unequaled in the Criminal Code, it is deemed punishable by a sentence no later than three months in jail and / or a fine of five hundred rupiah, that is, as a substitute punishment if the



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customary law imposed is not followed by the parties the convicted person and the intended replacement shall be deemed to be equal by the Judge with the greatest degree of conviction, that if the customary judgment imposed by the judge's mind transcends him with the imprisonment or fine referred to above, then the defendant's error may be subject to a substitute sentence of up to 10 years in prison, with the understanding that the punishment of customary law the order of the judges is not aligned with the times always replaced as mentioned above, that an act which according to the living law should be considered a criminal act which is appealed in the Criminal Code, it is deemed to be threatened with the same punishment as its most similar appeal to a criminal act.

Departing from the above provisions terdapat 3 basic conclusion provisions of Article 5 paragraph (3) sub b Drrt Act no. 1 Year 1951, namely:

Firstly, that an unequal or unequal criminal offense in the Criminal Code (KUHP), which is not as severe or as a minor criminal offense, is a prison sentence with a maximum of three months and / or a fine of five hundred rupiah (equivalent to minor crimes), the minimum as set forth in the provisions of Article 12 of the Criminal Code which is 1 (one) day for imprisonment and a fine of at least 25 cents in accordance with Article 30 of the Criminal Code. However, for customary criminal offenses, the threat of criminal punishment shall be no longer than 10 (ten) years, as a customary penalty servant not served by the defendant.

Second, customary crimes which are appealed in the Criminal Code, the threat of criminal punishment is similar to the criminal punishment contained in the Criminal Code, such as the customary crimes of Drati Kerama in Bali or Mapangaddi (Bugis), Zina (Makassar) comparable to the criminal act of adultery as stipulated in Article 284 Criminal Code.

Thirdly, customary sanctions as mentioned above may be the principal or principal punishment by a judge in examining, adjudicating and adjudicating acts which, according to the living law, are considered to be unequal crimes in the Criminal Code,



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whereas an offense against which there is an offense in the Criminal Code should be imposed sanctions in accordance with the provisions of the Criminal Code.

In line with the enactment of customary law as set forth in the Act of Drr Number 1 Year 1951 mentioned above, in 2000 issued MPR Stipulations governing the implementation of customary criminal law, namely in Article 1 number (1) and (2) Decree MPR-RI Number III / MPR / 2000 on the Source of Law and Order of Legislation Regulation that determines the source of law is the legal source used as material for the preparation of legislation stating that the source of law consists of written and unwritten legal sources. Thus it can be said that the enactment of customary criminal law in Indonesia has a legal basis.

Understanding Customary Criminal Law

The existence of customary law is inseparable from customary law. Customary law has the following definitions :1. Laws that are not made intentionally; 2. Laws that show strong spiritual aspects; 3. Laws that are closely related to the basics and the structure of the local community. The Dutch East Indies law became the formal basis for the enactment of customary law giving the stance on customary law as "de onder hen geldende, met hunne godsdienden en gewoonten samen hangenden rechtsregelen".

If the success of the regulation by law is judged by its usefulness to the common living environment in which the law applies, then in the past the customary law has fulfilled that measure. To borrow a sense in legal anthropology the customary law has fulfilled the ideological function of the law, the rules are perceived by community members as proper rules to channel and control the behavior of their community members.

In relation to one of the control functions in customary law, the existence of adat (sanction) is very important to restore the balance that has been torn apart as a result of the violation of customary law itself. The definition of customary crime can be found in several doctrinal views as follows:



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First, Ter Haar BZN assumes that what is considered a delict is any one-sided disturbance (eenzijdig) to equilibrium and every collision in terms of one on the material and immaterial life goods of one person or of the many persons constituting a unity (gangs). Such actions give rise to a reaction of a nature and a small size dutentukan by customary law (custom reactie), because the reaction where the balance can and should be restored (mostly by way of payment of violations in the form of goods or money).

Based on the opinion of Ter Haar BZN mentioned above, Nyoman Serikat Putra Jaya is of the opinion that in order to be called as a customary criminal act, the act must cause a shock in the balance balance of the community. The shock is not only if the rule of law in a society is violated, religious, ethnic and religious norms are violated .

In the meantime, Van Vollenhoven mentioned that indigenous delict was an unlawful act , while Hilman Hadikusuma mentioned that customary law is living law and will continue to live as long as there is a human culture, customary criminal law can not be removed by legislation, invitation. If a law against which it was wiped out, it would be useless. In fact the criminal law of the legislation will lose its source of wealth, because the customary law is more closely related to anthropology and sociology than legislation .

Based on some opinions on adat criminal law as described in the above description it can be mentioned that customary law is an act that violates the feelings of justice and propriety that live in society so as to cause disturbance of peace and balance of the community concerned. Therefore, to restore peace and the balance occurs custom reactions as a form of restore disturbed magical tranquility with the intention of being a form of nullifying or neutralizing an unlucky state due to a customary offense.

Customary Government Baduy Society

The existence of customary criminal law is closely related to the life of an indigenous people, one of which is the Baduy community living in the province of Banten, which maintains local cultural values that are owned and believed in amidst the advancement



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of the civilization of the times, despite the many great changes in the towns surrounding Kanekes Village.

The attitude of "keukeuh" held by Baduy people does not make the Baduy people affected by modern life, this condition that encourages the number of domestic and foreign tourists who visit the traditional village Baduy community.

Baduy Customary Governance Structure

In social life, Baduy society has two system of government, that is national system by following the rule of Unitary State of Republic of Indonesia and adat system which follow custom of Baduy society. Both system is well acculturated, thus creating harmonization. System of formal government in Baduy society led by the Village Head called Jaro Pamarentah. The position of Jaro Pamarentah is under the camat, while for the adat leader in Baduy society is led by the highest leader, Pu'un.

Pu'un's existence is in three villages (Tangtu), namely Cibeo, Cikeusik and Cikertawana. Position Pu'un lasted for generations, but the position is not automatically passed from father to son, but other relatives can be selected to Pu'un. The lifting period of Pu'un is not specified. In the case of the transition of Pu'un's office, the transition is based on the ability to hold office control, while the daily executor of Kapu'unan customary government is carried out by Jaro which is divided into 4 (four) positions, namely: a) Jaro Tangtu, has a responsibility to carry out customary law on the citizens of Tangtu and to take care of other matters. b) Jaro Dangka or Jaro Dependent, Jaro Dangka in charge of guarding, taking care of, and maintaining the land titipan ancestors in and outside Baduy. Jaro Dangka is 9 (nine) people and added with 3 (three) Jaro Tangtu called Jaro Dua Belas, while the leader of Jaro Twelve is called Jaro Tanggungan. c) Jaro Pamarentah, customarily serving as a liaison between Baduy adat communities and the National Government. In carrying out his duties, Jaro Pamarentah assisted by pangiwa, carik, and kokolot overtime or village elders.



By looking at the customary government structures possessed by the Baduy community mentioned above, it can be argued that Jaro Tangtu, Jaro Dangka, and Jaro Tanggungan has a function as law enforcers when customary law Baduy community violated or violation of customary law Baduy community.

Criminal Principles of Social Work in Customary Law of Baduy Society

Sanctions or customary crimes in Baduy society as a form of adat reactions are imposed in case of violation of customary rules or adherents, then for the offender shall be liable to a penalty adjusted to the offense committed.

As for the forms of violation of pikukuh / hukum adat committed by Baduy society consists of: 1. Serious offenses; and 2. Light violation. Examples of minor violations committed in the form of bickering between people Baduy. Bentuk mild punishment for a Baduy residents who involved bicker in the form of warning by Pu'un to be given a warning. The gross violations for the Baduy community are dripping blood (wounding, killing), adultery and dressing with modern clothing like people living in towns surrounding Kanekes Village.

The severe penalties or customary criminal sanctions imposed on the offender were initiated by the local Jaro Tangtu calling and given a warning, subsequently received severe punishment by being admitted into a customary house of detention under the supervision of Jaro Dangka for 40 (forty days).

The provision of adat sanction for customary law violators Baduy community, is a reaction to restore the balance that was torn as a result of violation of customary law Baduy community. This condition is related to the settlement of legal issues among the Baduy community.

Concretely, the settlement of legal issues in Baduy society is done by way of peace. On this basis one of the efforts to solve the customary criminal case of Baduy community is to educate and nurture the attitude of the perpetrators of crimes that violate customary law . However, the settlement of criminal law issues at among Baduy



people can be reached in several ways according to Baduy customary law depending on the severity or lightness of criminal law violations committed.

The concept of criminal liability in Baduy customary law can be done by:

1. Ngabokoran Ceremony. In the implementation of Ngabokoran ceremony, some Ngabokoran materials are provided by the families of criminals in the form of: sepaheun device, consisting of: lemongrass (betel), gambier, areca nut. If the culprit has died, then Ngabokor material added with incense.

2. Ceremony of Serah Pati. In ceremony Serah Pati, in principle is same with Ngabokoran, that is apologize to the ancestors because the perpetrators of crime and the village has been contaminated with the occurrence of criminal acts.

The difference is that the ceremony of "serah pati" is done for a serious crime, for example: murder, the ratio of the perpetrator has lost the soul (ngalengitkeun) soul which is the right of the Almighty .

The customary criminal form in Baduy society starts from a mild criminal sanction to heavy penal sanction consisting of:

1. Silih Ngahampura (forgiving each other); 2. Dikeluarkeun (removed from the Inward Baduy to the Baduy Luar (for Baduy Inhabitants) or removed from the Outer Baduy outside the Outdoor Baduy); 3. Categorized (reprimanded) or given warning at most 3 (three) times by Jaro Sami; 4. Objected (advised) and followed by a customary session whose execution may be conducted day or night; 5. Detention in customary house of detention; 6. Ngabokoran, the inner cleansing ceremony for the less serious crimes committed in each customary detention house located in Cihulu, Sarahkokon / Penyaweyan, Cibengkung (depending on the origin of the perpetrator's area). The law of the show as follows: Bokor Equipment provided by the perpetrator which includes lemongrass (betel), gambier, apu, menyan, boeh (shroud), keris. Sereh (betel) is eaten by traditional tools consisting of Pu'un, Girang Serat, Baresan, Slapan, Jaro Tangtu, while the one who gives forgiveness to the perpetrator is Jaro Tangtu. The Pu'un is in



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charge of passing on to the ancestors. 7. Serah Pati, an inner cleansing ceremony similar to Ngabokoran as a means of criminal liability for serious crimes committed, such as criminal offenses resulting in death. In relation to the Baduy traditional criminal law (Baduy) criminal law law, the existence of customary criminal law of Baduy society regulates some serious crime with severe penal sanction in the form of detention in customary house of at least 40 (forty) days , consisting of : a. Murder; b. Slander; c. Defamation; d. adultery; e. Rape; f. Theft; g. Fraud; h. Persecution; i. Witch (Santet /Julid); j. Land dispute. In addition, the Baduy community has a ban that has Baduy peculiarities consisting of: a. Prohibition of photographs and audio visual images (applies in the area of Inner Baduy: Cibeo, Cikertawana, Cikeusik); b. Ban on smoking (especially for Baduy people); c. Prohibition on the use of gold (especially the residents of Inner Baduy); d. Polygamy and Polyandry Prohibition (applicable to Baduy Dalam and Baduy Luar); e. Alcoholic beverages (applies to residents of Baduy Dalam and Baduy Luar); f. Prohibition of using modern clothing (for residents of Inner Baduy); g. Prohibition of using toiletries (applies in the area of the Inner Baduy); h. Prohibition of using vehicles (applies to residents of Inner Baduy); i. Prohibition for foreigners entering the area of the Inner Baduy; j. Prohibition of going to school and establishing school (applicable to Baduy Dalam and Baduy Luar); k. Prohibition to build mosques; l. Prohibition to cultivate the land into rice fields.

The most serious customary criminal sanction imposed on customary law offenders in Baduy is detention in a customary house of detention for a maximum of 40 days. As long as the prisoners are serving their sentences, these offenders are given the following duties: 1) Helping to grow crops, then the results are handed over to Jaro Dangka; 2) Submitting lemongrass, bokor, kris, and coins as a condition to hold a ceremony Ngabokoran in order to "beberes" after completing the time of detention in the customary house of detention.

In the Baduy area, there are currently 3 (three) customary detention houses, namely: 1) Kampung Cibeo has a traditional prison house in Cihulu; 2) Kampung Cikertawana



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has a customary house in Cibengkung; 3) Cikeusik village has a customary house of detention in Sarahkokon.

During the time of detention in the traditional prison house, the Baduy customs lawyers are supervised by Jaro Dangka which amounts to 5 people. After completing his term of detention (depending on the severity of the offense), the customary law offender is given advice and asked about the option to stay in Baduy In or in Outer Baduy, after Beberes was held after Jaro Dangka received consideration from Pu'un as the highest Customary Head in Baduy.

At this time there are 3 (three) Pu'un who hold the highest power in Baduy, namely: 1) Pu'un Jahadi was in Cibeo for the duty of Courage; 2) Pu'un Yasih is in Cikeusik for Government duties; 3) Pu'un Tarmah in Cikertawana for treatment of Baduy people who suffer from illness.

Positions held by each Pu'un is still a unity among inseparable Baduy society, which will provide consideration on Jaro Dangka in the implementation of beberes after the Baduy customs lawman underwent his prison term.

In terms of the form of punishment / punishment for the Baduy customary law, in the customary criminal society Baduy there are principles contained in non-custodial criminal action in the form of social work crime, in the form: 1) Farming (without enjoying the results), the results are handed over to Jaro Dangka; 2) Assisting Jaro Dangka's duties in daily work to maintain the village environment; 3) The term of detention is maximum 40 (forty) days depending on the severity of violation of customary law which is violated. In this case it is in accordance with the principle of substitution of a substitute criminal equivalent to the imposition of a short prison sentence of not more than 6 (six) months in jail.

He treated a Baduy customary lawyer as a social worker without being paid / earned a cultivation result during his time of detention is in accordance with the contents of the National Criminal Code Concept (Year 2012) which regulates the crime that threatens punishment less than 6 months in prison, can be replaced with social work. The rule



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is contained in the draft of the Criminal Code Draft in Article 66. Article 66 of the National Criminal Code (2012) concluded that the social work penalty is fifth in the main criminal type.

The details of the social work penalty are further elaborated in Article 88. The consideration of the imposition of criminal labor on the offender is outlined. Here is the sound of Article 88:

Paragraph 1. If the imprisonment to be imposed is not more than 6 (six) months or the fine is no more than category I, the imprisonment or the fine can be replaced by a social work penalty

Paragraph 2. In the imposition of a social work penalty as referred to in paragraph (1), the following matters shall be considered: a. Submission of the defendant to a crime committed; b. The defendant's decent working age is explained about the purpose and all matters related to social work crime; c. Approval of defendant after being explained about the purpose and all matters related to social work crime; d. Social history of the accused; e. Protection of the defendant's safety; f. Confidence The religion and politics of the accused; g. The ability of a tedakwa to pay criminal penalties

Paragraph 3. Implementation of social work crime should not be commercialized Social work penalty can be undertaken by criminals at least 7 hours and maximum 240 hours. This punishment can be repaid for 12 months. Thus, the customary criminal form of Baduy society has reflected the principle of social work crime as contained in the National Criminal Code concept which more reflects the character of Indonesian society.

CONCLUSION

Based on the analysis of the above problems can be drawn the following conclusions:

1. The Criminal Crime of the most severe customary Crimean Baduy people imposed on customary law offenders in Baduy shall be held in a customary detention house for a maximum period of 40 days. As long as the prisoners are serving their sentences,



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these offenders are given the following duties: a. Helping to plant it, then the result is to JaroDangka; b. Submitting lemongrass, bokor, kris, and coins as a condition to hold a ceremony Ngabokoran in order to "beberes" after completing the time of detention in the customary house of detention.

2. The application of customary law of indigenous people of Baduy Dalam can be put forward the principles of social work as follows: a. Social work penalty in the customary criminal society of Baduy Dalam in accordance with the values contained in the 2nd and 5th principles of Pancasila, which are just and civilized human values and social justice for all Indonesian people. b. The customary criminal of Baduy Dalam society can only be applied to lawbreakers who are threatened with short jail sentence (not more than 6 months); c. Prisoners in the customary criminal community of Baduy Dalam can improve the behavior with existing facilities in the community.

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