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Uang Panai And Its Legality: When Tradition Intersects With Civil Law

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Abstract

This study examines the legal position of uang panai, a traditional form of payment in Bugis-Makassar marriage customs, within Indonesia's civil law system. The practice, deeply rooted in local culture, symbolizes respect, social status, and familial honor. However, its contemporary implementation often intersects with the formal legal order, raising questions regarding its classification as a lawful civil contract, a conditional gift, or an adat-based moral obligation. Using a normative juridical approach, this article analyzes relevant provisions of the Indonesian Civil Code (KUHPerdata), the 1945 Constitution, and Law No. 48 of 2009 on Judicial Power, alongside empirical findings from legal and sociological studies. The results show that while uang panai fulfills the elements of a binding agreement under Article 1320 of the Civil Code, its absence of written documentation and inconsistent enforcement create legal uncertainty. The state's constitutional recognition of customary law under Article 18B(2) of the Constitution remains largely declarative rather than substantive. Consequently, disputes involving uang panai are often settled through informal adat forums without enforceable legal authority. To harmonize tradition and modern law, this research recommends the formulation of local regulations (peraturan daerah) and the development of judicial precedents that establish fair, proportional, and gender-sensitive standards for customary contracts. Such legal integration would ensure that uang panai remains a respected cultural practice while achieving the legal certainty and justice mandated by Indonesia's civil law framework.

Keywords: Adat Law, civil law, legal practice, marriage custom, uang panai

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1. Introduction

The social phenomenon that accompanies the tradition of money in the BugisMakassar society displays a complexity that goes beyond just wedding rituals. Uang panai, which in Bugis is known as doi menre and in Makassar language as doi panai', is a gift from the groom or his family to the woman's family as part of the traditional procession before the marriage contract. As a cultural aspect that has taken root, the money of panai holds a symbolic meaning: it is not only a symbol of the readiness and commitment of the husband-to-be in establishing a married life, but also a reflection of respect for the woman's family as well as appreciation for the social role and status of the bride-to-be. As reported, the value of this penny is greatly influenced by factors such as education level, social status, and the descendants of the bride-to-be. In this context, money panai serves as a social tool to affirm hierarchy and stratification in indigenous peoples, as well as an economic indicator in traditional marriage.

In the changing times, the practice of money no longer only displays traditional meanings, but also begins to have real social and economic implications. The small amount of the penny is now often an object of bargaining between the bride's family, and has even changed from a symbol of individual

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tenacity to a kind of "tariff" or price that must be met by the groom-to-be. For example, reports show that the amount of money for women graduates of S1 in the South Sulawesi region can reach Rp 100 million or more, and for women with noble backgrounds or high social status, it can even reach billions of rupiah. This condition creates economic pressure on the part of men and their families, as well as poses social risks such as marriage delays, financial anxiety, and even the tendency to elope (silariang) in response to these burdens. Furthermore, this change in the value of the panai raises moral and social questions regarding justice, gender equality, and whether the practice of this tradition has shifted from its original meaning as a tribute to women to a commodification of marriage.

When the tradition of the money of the panai is confronted with the national legal system, fundamental questions arise regarding its status and legal arrangements in the realm of civil law. From a normative juridical perspective, it is necessary to analyze whether money can be qualified as a form of legal engagement under the Civil Code (KUHPerdata), for example as a gift or grant made in the context of a marriage contract or more appropriately positioned as part of the teachings of Islamic law, namely mahr (maskawin), or still only as a custom that has not been explicitly regulated in positive law. The Civil Code states that each agreement is born by consent or law (Article 1233) and that the conditions for the validity of the agreement consist of four elements in Article 1320. Thus, if there is an agreement between the family and the groom to give the money, it can theoretically be considered to meet the element of consent. However, the challenge arises when not all written or formal elements are met, or if the value of the money is forced to exceed the limit of reasonableness so that it is contrary to the principles of justice or propriety (Article 1338 paragraph 3 of the Civil Code). Furthermore, customary law and national law in Indonesia interact in a model of legal pluralism, which recognizes that customary norms can coexist with positive law as long as they do not conflict with public order and decency (see also Article 18B of the 1945 Constitution). In this context, the question arises: to what extent does national law recognize or accommodate the tradition of the money of the panai, and can the giving of the money of the panai be demanded or returned if the marriage is annulled or the groom's party fails to meet the obligation? This situation shows the importance of a normative study of the legality of money in Indonesian civil law.

The debate shows that there is a common point as well as tension between customary law and positive law, especially in the context of legal pluralism in Indonesia. Legal pluralism is a condition in which the customary law system, religious law, and state law coexist and influence each other (Bedner & Van Huis, 2018). In the context of money panai, this pluralism becomes particularly relevant because Bugis-Makassar customary law has a strong social mechanism to enforce customary norms, while national law often does not accommodate the complexity of these local values. This raises questions about the legality of the money panai: whether it has legally binding power, and the extent to which national civil law can accommodate social practices derived from customary values.

Globally, similar phenomena are also found in various other cultures, such as dowry in India, lobola in South Africa, and bride price in some Southeast Asian and Pacific countries (Anderson, 2007; Ansell, 2020). Although they have different forms and purposes, they all reflect the economic and social roles in the traditional marriage structure. In India, dowry practices often raise legal issues related to domestic violence and gender discrimination, which are then regulated through the Dowry Prohibition Act 1961 (Roy, 2019). In South Africa, lobola even gained legal recognition in the Recognition of Customary Marriages Act 1998 which affirmed the validity of customary marriages (Himonga & Moore, 2015). In contrast to this context, in Indonesia, money has not been explicitly regulated in the national legal system, thus creating a legal vacuum in practice (Abubakar, 2021). This vacancy has legal consequences, especially when there is a dispute or annulment of a marriage involving the return of the panai.

From a civil law perspective, the relationship between two parties who agree to give money can be qualified as an engagement based on Article 1233 of the Civil Code which states that each engagement is born either by consent or by law. This means that as long as there is an agreement and meets the conditions for the validity of the agreement as stipulated in Article 1320 of the Civil Code, the practice of money can be considered valid as a civil contract (Mahmud, 2022). However, complexity arises when the commitment is not expressed in written form and relies only on social norms. In such

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conditions, customary law is often the main reference in dispute resolution, as affirmed by Article 5 of Law Number 48 of 2009 concerning Judicial Power, which recognizes the existence of unwritten law as a source of law (Putri & Rahman, 2020).

As a social phenomenon that has institutionalized, penis cannot be understood solely as an economic transaction, but also as a symbol of respect for the dignity of women's families (Rahim, 2018). However, modernization and commercialization in the practice of penis money has now caused a social dilemma. The increasingly high value of the panai money is often an economic burden for the prospective groom and even triggers the postponement or annulment of the marriage (Syamsuddin & Sari, 2020). In the context of civil law, this raises questions about the principles of justice and propriety in the engagement, as affirmed in Article 1338 paragraph (3) of the Civil Code. Can excessive penny obligations be considered contrary to the principle of propriety and create an imbalance in the engagement?

Normatively, Indonesian civil law provides space for the recognition of practices derived from customs, as long as they do not conflict with public order and decency (Subekti, 2019). This means that customary law can coexist with national law, especially in the realm of family law and engagement. However, the problem lies in the criteria for customary law recognition, which often lack operational clarity at the judicial level (Bedner & Vel, 2018). In the context of money, there is no consistent jurisprudence regarding the legal status of the gift, whether it is considered part of a dowry, grant, or engagement that can be legally sued in the event of a marriage annulment (Susanto, 2021).

Previous studies have generally focused on the socio-cultural aspects of money, rather than on in-depth normative juridical analysis. For example, a study by Wibowo (2018) highlights the social function of the panai money as a symbol of family prestige and honor, while Abubakar (2021) emphasizes the morality and social pressure aspects of the tradition. Meanwhile, legal studies such as those conducted by Mahmud (2022) only review aspects of civil law in general without examining the concrete interaction between customary norms and national legal principles. Therefore, there is still a research gap in seeing money as a customary law phenomenon with civil implications, not just a social tradition.

In addition, there is also a dimension of gender justice and human rights in the practice of money. Although it is often considered a form of appreciation for women, in practice, money can cause economic subordination to men, because it demands high material fulfillment before marriage (Sahriani & Yusri, 2021). In this context, the practice of money has the potential to violate the principle of equality as stipulated in Law Number 16 of 2019 concerning Marriage which emphasizes the importance of equality between husband and wife in rights and obligations. Therefore, normative studies on the legality of money are not only important in the context of civil law, but also in the framework of the protection of human rights and gender equality in Indonesia.

The global phenomenon also shows how the modern legal system seeks to strike a balance between recognition of local traditions and universal principles of human rights. In some countries such as South Africa and Kenya, legal arrangements regarding bride prices affirm that the customary practice remains valid as long as it does not cause exploitation or injustice (Ansell, 2020). Meanwhile, in India, dowry practices are prohibited because they often cause violence against women (Roy, 2019). This condition shows that the position of money in the Indonesian legal system needs to be studied in a broader perspective, namely how the law can accommodate local wisdom without causing violations of the principles of justice and equality.

From the perspective of legal theory, the analysis of uang panai can be attributed to the theory of recognition of customary law by Van Vollenhoven and Ter Haar, which states that customary law is a law that lives in society (living law) and must be recognized as part of the national legal system (Hooker, 1978; Griffiths, 1986). In the Indonesian context, this theory is strengthened by Article 18B paragraph (2) of the 1945 Constitution which states that the state recognizes and respects the unity of customary law communities and their traditional rights as long as they are alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia. Thus, the recognition of the legality of the money of the panai is actually part of the constitutional implementation of respect for customary law in the national legal system.

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However, the problem that arises is how the limits of the legality of money in the context of civil law are. Can it be the basis for a lawsuit if one of the parties does not meet the agreed obligations? Does the money that has been handed over have to be returned if the marriage is annulled? These questions demand normative analysis based on the principles of civil law, such as the principle of consensualism, the principle of freedom of contract, and the principle of justice (Setiadi, 2020). In addition, it is also necessary to examine the extent to which Indonesian civil law provides space for the applicability of customary law through the principle of lex specialis derogat legi generali, where more specific customary norms can apply above the provisions of general civil law.

Thus, this article aims to analyze the legality of uang panai in the perspective of Indonesian civil law with a normative juridical approach, as well as examine the implications of legal pluralism on the recognition of local traditions in the national legal system. This research is expected to contribute to enriching the civil law literature on the relationship between customary norms and national law, as well as offering a more comprehensive framework of analysis regarding the position of money as a legal phenomenon that lives in society.

2. Method

This research uses a normative juridical approach, which focuses on a systematic examination of positive legal norms and legal principles that govern legal relations in society. This approach is relevant because the object of the study, namely the legality of money is a customary practice that has the potential to cause civil law consequences. In the normative juridical approach, the main sources of research include primary legal materials in the form of laws and regulations such as the Civil Code (KUHPerdata), Law Number 16 of 2019 concerning Marriage, and Law Number 48 of 2009 concerning Judicial Power. Secondary legal materials are obtained from legal literature, scientific articles, and relevant research results related to legal pluralism, customary law, and the relationship between customary norms and positive law (Marzuki, 2017; Irianto, 2020; Bedner & Vel, 2018). The analysis is carried out in a descriptive-analytical manner, namely by describing existing social phenomena and legal practices, then interpreting relevant legal norms to find juridical principles that can explain the position of money in the Indonesian civil law system (Soekanto & Mamudji, 2019).

In addition, this study also uses a conceptual approach to examine the doctrines of civil law and customary law related to the principles of justice, freedom of contract, and recognition of unwritten law. This approach is used to interpret the concept of money in the legal context as part of the living law that lives in society (Griffiths, 1986; Hooker, 1978; Bedner & Van Huis, 2018). Data analysis is carried out qualitatively through the process of interpreting norms and doctrinal comparisons between the provisions of national civil law and Bugis-Makassar customary practices. Thus, this method allows researchers to uncover the extent to which the tradition of money can gain legal legitimacy in the Indonesian civil system and how the principle of legal pluralism can be used as a basis for its recognition without causing conflict with the principles of justice and decency (Mahmud, 2022; Subekti, 2019; Setiadi, 2020).

3. Result and Discussion

The Legal Quality of Giving Money in Indonesian Civil Law

The study of money as a social and legal practice requires proper placement within the framework of Indonesian civil law. Normatively, the recognition of a legal act depends on the fulfillment of the elements of the obligation as stipulated in Article 1233 of the Civil Code, which affirms that every agreement is born by consent or by law. Furthermore, Article 1320 of the Civil Code specifies four conditions for the validity of an agreement: agreement of the parties, legal competence, certain objects, and halal causes. Based on this construction, the tradition of giving a penis that involves an agreement between a man and a woman (and their families) can be categorized as a civil obligation, as long as it fulfills the principle of consensualism and does not conflict with public order. However, unlike written agreements, customary agreements are often only expressed in the form of verbal or symbolic agreements, thus raising evidentiary issues when disputes arise before formal law (Setiadi, 2020).

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From the perspective of customary law, uang panai is not only seen as an economic exchange, but also a symbol of respect for the dignity of women's families. This tradition shows that the alliance is not only bound by economic intentions, but also by moral and social values, which are the living law in the Bugis-Makassar indigenous people. According to the view of legal pluralism, as stated by Griffiths (1986) and reinforced in the research of Bedner et al. (2018), the legal norms that live in society often have the same binding power as written law, as long as they are socially recognized and obeyed. In this context, money can be considered a socially valid and morally recognized form of customary engagement, although it does not yet have an explicit foundation in the national legal system. This is in line with Article 18B paragraph (2) of the 1945 Constitution, which affirms the state's recognition of the unity of customary law communities and their traditional rights as long as they are alive and in accordance with the principles of the Unitary State of the Republic of Indonesia.

However, the position of the money in the eyes of national law remains problematic. Theoretically, the panai money has the potential to qualify as a conditional grant if the grant is made unilaterally without direct reciprocal obligations, but with certain social conditions such as the continuation of the marriage. In civil law doctrine, conditional grants are regulated in Articles 1674–1693 of the Civil Code, which allow grants with certain conditions, including cancellation conditions. This means that if the marriage is not carried out, then the gift can be withdrawn. However, because the money is not entirely voluntary, but the result of family negotiations and social pressure, the element of vrijwilligheid or voluntariness that is the essence of grants is often not fulfilled (Subekti, 2019). Therefore, doctrinally, the categorization of panai money as conditional grants also faces limitations.

The problem is even more complex when the tradition of money panai is confronted with the principle of freedom of contract enshrined in Article 1338 of the Civil Code, which states that all agreements made legally are valid as laws for those who make them, but must be implemented in good faith and not contrary to public order or decency. If the practice of money raises an excessive economic burden for one of the parties, then normatively the agreement can be considered contrary to the principles of justice and propriety. A number of empirical studies show that the high nominal amount of panai money is often the cause of postponement or even annulment of marriage in the Bugis-Makassar community, thus causing an imbalance in the legal relationship between the parties (Rahim et al., 2020; Syamsuddin et al., 2021). In this context, Indonesian civil law demands a contractual balance between the parties, as emphasized in the Aristotelian theory of justice which is the basis of the principles of propriety and fairness in contract law (Marzuki, 2017).

Furthermore, in the context of legal pluralism, the position of the money can also be viewed through a convergence approach between customary law and Islamic law. In Islamic law, mahr (maskawin) is a financial obligation given by the husband-to-be to the future wife as a sign of seriousness and responsibility. However, in contrast to mahr, the money of the panai is given not to the bride, but to her family, and the amount is determined by the woman's social status, education, and family status. Normatively, this shows that uang panai is not identical to mahr, because it does not meet the elements of women's personal rights as stipulated in the Compilation of Islamic Law (KHI) Articles 30–32. However, the overlap between these two practices often leads to confusion in legal settlement, especially in regions that adhere to the religious and customary justice systems simultaneously (Mahmud et al., 2022).

In the normative juridical framework, money can be positioned as a form of conditional customary engagement, which is an agreement that is morally recognized by the community, but can be given legal status if it meets the elements of the agreement in the Civil Code. This approach is in line with the recognition theory put forward by Van Vollenhoven and Ter Haar, that customary law must be recognized as part of the national legal system as long as it lives in the legal consciousness of the community (Hooker, 1978). Based on this theory, the state does not need to "create" new legal norms to legalize uang panai, but rather simply provide legal recognition of customary practices through interpretive norms and jurisprudence. For example, if there is a dispute over the refund of the panai due to the annulment of the marriage, the court can make the customary agreement as valid evidence of an agreement under Article 1339 of the Civil Code, which stipulates that an agreement is not only binding on the matters expressly agreed, but also on everything that according to the customary customs is followed by the parties. Thus, positive law has a juridical basis for recognizing the legal force of money, without having to turn it into an entirely new category of law.

This integrative approach between customary law and civil law is also strengthened by the results of research on legal pluralism in Indonesia, which affirms that the recognition of local norms is part of the process of constitutionalization of local wisdom in the national legal system (Bedner et al., 2018; Irianto et al., 2020). In the context of money, this kind of recognition can avoid the criminalization of traditional practices and encourage the emergence of legal certainty. At the same time, however, such recognition must be accompanied by normative boundaries so as not to legitimize economic exploitation or gender discrimination that is contrary to the principles of modern law and human rights. Therefore, the main challenge in the juridical qualification of money panai is not just to find the equivalent of articles in the Civil Code, but to ensure that the social values that underlie it can be harmonized with the principles of justice, equality, and legal certainty in the modern and plural Indonesian legal system.

The Interaction of Customary Law and National Law: Implications of Legal Pluralism and Legal Certainty

The interaction between customary law and national law is a fundamental dynamic in the Indonesian legal system that adheres to a pluralistic character. From the colonial period until now, the Indonesian legal system has known more than one legal regime: customary law, religious law, and positive law that applies nationally. In the modern context, legal pluralism is not only a social fact, but also a constitutional principle. Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia explicitly recognizes the existence of customary law communities and their traditional rights, as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia. Thus, customary law practices such as the tradition of giving panai money have constitutional legitimacy as a form of cultural expression of indigenous peoples. However, challenges arise when these customary practices interact with the principle of legal certainty in the national legal system, which demands clarity of norms, sanctions, and consistent law enforcement mechanisms (Asshiddiqie, 2014).

One of the main debates in the context of legal pluralism in Indonesia is about the degree of recognition of customary law in the national legal system. Constitutional recognition does not necessarily imply juridical certainty in its implementation. Customary law often lives in the social consciousness of the community, but does not always receive formal recognition through positive legal instruments (Rahardjo, 2012). In practice, recognition of customary law is declarative, not constitutive, meaning that customary law is recognized as long as its existence is recognized by its own people. However, such recognition does not automatically confer executory power when dealing with positive law that demands certainty. This tension is evident in the practice of money panai, which is socially accepted and obeyed, but formally has no explicit basis in laws and regulations, so its position depends on the interpretation of judges when disputes occur.

In the context of national law, the principle of legal certainty is an important pillar attached to the principle of the state of law (rechtstaat). Article 1 paragraph (3) of the 1945 Constitution emphasizes that Indonesia is a country of law, which requires certainty in every legal action. Gustav Radbruch said that legal certainty (rechtssicherheit) is one of the fundamental values of law besides justice (gerechtigkeit) and usefulness (zweckmäßigkeit). In the context of legal pluralism, tensions arise because customary law is often elastic and contextual, while national law is rigid and universal (Rahardjo, 2009). As a result, when the practice of money raises a dispute—for example, regarding the return of money after the annulment of marriage—questions arise about which jurisdiction and legal norms should be used: customary law recognized by the community, Islamic law if the parties are Muslim, or national civil law based on the Civil Code (KUHPercivil).

This conflict of norms shows that legal pluralism in Indonesia is asymmetrical, where customary law coexists but remains subordinate to state law (Bedner & Van Huis, 2018). This has serious implications for legal certainty because the public does not always know the legal settlement mechanism. A study conducted by Fauzi (2016) shows that in many cases in South Sulawesi, conflicts related to money are resolved through customary forums without involving formal institutions. This

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mechanism is effective in maintaining social harmony, but does not provide juridical certainty if one of the parties does not comply with the results of the deliberations. Thus, legal pluralism presents a dilemma: on the one hand it preserves the continuity of local traditions, on the other hand it obscures the certainty of formal law.

In the Indonesian legal system, Law Number 6 of 2014 concerning Villages is one of the regulations that strengthens the position of customary law, including customary villages, by providing authority for indigenous peoples to regulate and resolve their own affairs based on local customary law. However, this law does not provide substantive regulation on the validity of customary law in the context of civil or marriage law, including the issue of panai money. As a result, customary law recognition remains administrative, not substantive. The Constitutional Court through a number of rulings—for example, the Constitutional Court Decision No. 35/PUU-X/2012 on customary forests—emphasized that the recognition of customary law should not stop at the symbolic level, but must be followed by real implementation in regional policies and regulations (Constitutional Court, 2012). This principle can be extended in the context of customary marriage, that the recognition of the practice of money should be accompanied by a juridical mechanism that guarantees legal certainty for the parties.

Legal certainty in this context requires two things: (1) the clarity of the legal status of the panai money as an engagement, conditional grant, or recognized customary transaction; and (2) the existence of a legal mechanism that allows for fair and predictable dispute resolution. According to Utrecht (1962), legal certainty does not only mean the existence of written rules, but also the regularity of its application by judicial institutions. In this case, the formation of jurisprudence is important so that judges have guidelines in handling similar cases. However, until now, there has been no Supreme Court jurisprudence that explicitly regulates the status of money as the object of civil engagement, although several courts of first instance have touched on its social aspect in legal considerations (Fauzi, 2016).

From a normative perspective, a way out of the tension between pluralism and legal certainty can be pursued through an integrative model between customary law and national law. The state does not have to standardize all customary practices, but rather provides a legal umbrella that regulates boundaries, procedures, and settlement mechanisms that are accessible to the public. This approach is in line with the spirit of Article 28I paragraph (3) of the 1945 Constitution which guarantees the cultural identity of indigenous peoples, as well as the principle of living law recognized in Article 5 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power, which states that judges are obliged to explore, follow, and understand the legal values that live in society. Thus, the integration between customary law and national law is not just a form of cultural tolerance, but a means to realize legal certainty that is fair within the framework of Indonesian legal pluralism.

Implications of Civil Law and Norm Reformulation on the Legality of Panai Money

The juridical implications of the practice of giving panai money in Indonesian civil law are rooted in the issue of legal status, the basis of the engagement, and the potential legal consequences in the event of a violation or cancellation of the marriage agreement. In the context of positive law, the Civil Code is still the main reference for all forms of civil engagements, including customary agreements that have implications for the transfer of wealth. Based on Article 1313 of the Civil Code, an agreement is an act in which one or more people bind themselves to one or more other people. Furthermore, Article 1320 determines the conditions for the validity of the agreement, namely agreement, ability, certain objects, and halal causes. Thus, if the provision of the panai money is carried out on the basis of an agreement between the husband-to-be's family and the wife-to-be's family, and is not contrary to the law, then normatively it can be seen as a valid engagement (Subekti, 2019).

However, problems arise when the money is demanded back due to the annulment of the marriage or failure to fulfill the agreement. In the doctrine of civil law, the principle of restitutio in integrum applies when an agreement is null and void or annulled. However, the status of the panai money is often vague because it is not stated in a written agreement, making it difficult to prove in court (Fauzi, 2016). In practice, settlement is often carried out through customary mechanisms that do not have executory powers. This creates legal uncertainty for parties who feel aggrieved, because there is no formal instrument that can be used as a basis for enforcing rights or restitution.

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From the perspective of the principle of justice, the practice of money also needs to be evaluated through the lens of Article 1338 paragraph (3) of the Civil Code, which emphasizes that agreements must be implemented in good faith. If the nominal amount of the money is set disproportionately or causes a heavy economic burden on the male side, then it can be said that the agreement is contrary to the principle of propriety (redelijkheid en billijkheid). This doctrine is widely used in jurisprudence to assess the balance in contracts, as explained by Mariam Darus Badrulzaman (1993), that the principle of propriety is a moral and social measure in assessing the validity of contracts. Therefore, if the money agreement is made under social pressure or without an equilibrium of bargaining position, there are juridical reasons to declare that the agreement does not meet the principle of contractual fairness.

Furthermore, from the perspective of legal pluralism, the relationship between customary law and national law requires the integration of mutually reinforcing norms. The Indonesian state does not reject the existence of customary law, but places it as a living law that is recognized in the national legal system. This is affirmed in Article 5 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power, which states that judges are obliged to explore, follow, and understand the legal values and sense of justice that live in society. Thus, the judge has the authority to make the practice of money a material source of law in the consideration of the verdict, as long as it does not contradict the law, public order, or morality (Asshiddiqie, 2014). However, in judicial practice, there is no precedent or jurisprudence of the Supreme Court that explicitly discusses the money of panai as an object of civil law. This shows that there is a juris vacuum or a void of norms that needs to be filled immediately through legislation or the formation of jurisprudence.

One of the normative solutions that can be proposed is an explicit regulation regarding the practice of giving money through regional legal instruments or national implementing regulations. Law Number 23 of 2014 concerning Regional Government provides authority for local governments to protect and develop local socio-cultural values, including customary law. Based on the principle of asymmetric decentralization, local governments can form regional regulations (Perda) that regulate the limits of the fairness of the panai money, the agreement mechanism, and the procedure for return if the marriage is annulled. This approach not only recognizes the existence of customary law, but also guarantees legal certainty through local codification. Some regions in Indonesia have taken similar steps towards other customary practices, such as belis in East Nusa Tenggara and honest money in Kalimantan (Bedner & Van Huis, 2018). A similar model can be adopted in South Sulawesi by involving indigenous leaders, legal academics, and judicial institutions in the formulation process.

In terms of national policy, the integration between customary law and civil law must also pay attention to the principles of gender justice and non-discrimination as guaranteed by Article 28I paragraph (2) of the 1945 Constitution and affirmed in Law Number 39 of 1999 concerning Human Rights. Although socially money is often considered a form of respect for women, in practice excessive values can cause subordination and inequality in economic relations between men and women (Sahriani & Yusri, 2021). Therefore, the reformulation of legal norms regarding money should not only consider formal legal aspects, but also sociological dimensions and substantive justice. The state needs to adopt a responsive legal approach, as stated by Rahardjo (2009), namely a law that is able to adapt to the dynamics of society and accommodate the values of social justice.

At the conceptual level, the reformulation of legal norms on money can be carried out through two paths: first, the establishment of special regulations or amendments in the marriage law that provide a legal basis for the recognition of customary practices that do not conflict with human rights; second, the establishment of jurisprudential guidelines through the Supreme Court that affirm the principles of justice, propriety, and protection of customary law practices in civil engagements. This approach is in line with the practice in some countries with a tradition of plural law, such as South Africa, which through the Recognition of Customary Marriages Act 1998 recognizes the customary practice of lobola (bride price) with certain normative limitations (Himonga & Moore, 2015).

Thus, the civil law implications of the panai money cannot be separated from the need for a reformulation of legal norms that combine customary values, the principle of social justice, and the principle of legal certainty. An explicit and integrative arrangement will give legitimacy to local traditions, avoid the commercialization of marriage, and ensure that the practice of money remains a symbol of respect, not a source of injustice in Indonesian legal society.

Conclusions

Based on the results of normative juridical analysis, it can be concluded that the practice of giving panai money in the Bugis-Makassar community reflects the existence of a living law that is still strong in the midst of a pluralistic Indonesian national legal system. This tradition has a deep social and symbolic meaning, but it also raises juridical problems when faced with the principles of national civil law. Normatively, the practice of money can be qualified as a form of legal customary engagement as long as it fulfills the elements of agreement, skill, certain objects, and halal causes as stipulated in Article 1320 of the Civil Code. However, the absence of explicit regulation in laws and regulations results in this practice being in the gray area between customary recognition and formal legal certainty. As a result, disputes related to panai money are often resolved through customary channels without executive power. This condition shows that there is a gap between the constitutional recognition of customary law communities as stipulated in Article 18B paragraph (2) of the 1945 Constitution and its normative implementation in the positive legal system. Therefore, the integration between customary law and national law needs to be strengthened immediately through more operational legal instruments, so that cultural values such as uang panai are respected without causing legal uncertainty. As a follow-up, local governments and judicial institutions are advised to develop legal regulations and guidelines that provide substantive recognition of the practice of money laundering within national civil law corridors. Regional regulations (Perda) can be an effective instrument to establish standards for the fairness of the value of the money, agreement procedures, and dispute resolution mechanisms. At the national level, the Supreme Court is expected to initiate the formation of jurisprudence or Circular Letter (SEMA) that provides guidance for judges in assessing customary engagements such as money based on the principles of justice and propriety as reflected in Article 1338 paragraph (3) of the Civil Code. This approach will create a synergy between respect for tradition and the certainty of modern law, so that customary law is not only symbolically recognized, but truly an integral part of the national legal system that guarantees substantive justice and the protection of the rights of all parties.

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