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A Legal Analysis of Gambling Practices Within The Wara Ritual In North Barito Regency

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Abstract: This research aims to analyze the practice of gambling that occurs during the Wara Traditional Ceremony in Barito Utara Regency, as well as the law enforcement efforts made by the police regarding this issue. The Wara ceremony is part of the religious tradition of the Dayak Lawangan Hindu Kaharingan community, which aims to guide the souls of the deceased to the afterlife. However, the practice of gambling during this ceremony has deviated from its spiritual purpose, becoming a form of entertainment involving monetary bets. This conflicts with Indonesian positive law, particularly Article 303 of the Criminal Code (KUHP), which prohibits gambling. This study uses an empirical approach to explore how gambling practices take place in the ceremony and the challenges faced by the police in addressing it. The findings indicate that while gambling is considered part of a long-standing tradition, it cannot be justified under national law. Therefore, preventive efforts involving law enforcement, local government, and traditional leaders are necessary to address this issue. Legal education and the establishment of clear regulations are essential to maintain the balance between cultural preservation and law enforcement.

Keyword: Gambling, Wara Traditional Ceremony, Law Enforcement.

INTRODUCTION

The *Wara* ritual in the Hindu Kaharingan Dayak Lawangan tradition is a religious ceremony passed down through generations. It aims to guide the spirits of the deceased—known as *Liau* and *Ju'us*—back to their origins so they may unite purely with the Creator¹. This ritual is led by a *Balian Wara* (BW), a spiritual figure skilled in delivering sacred chants and mantras as a means of spiritual communication. The BW not only conveys messages regarding the soul's journey but also serves important social and cultural roles, such as

¹ Tardi Edung, 'Balian Wara Position of Dayak Lawangan', *International Journal of Linguistics, Literature, and Culture*, 4.4 (2018), pp. 103–11.

maintaining balance between humans and nature, and preserving ancestral values through oral tradition.

This is a religious tradition of Hindu Kaharingan that has developed among the Dayak community, serving as a final tribute to ancestral spirits. The ritual aims to guide the soul (*diau*) to the realm of eternity, *Kalong Bulau*, after passing through *Mount Lumut* (*Bawon Lumut Piyuyan Turu Tengan*), where spirits gather before reaching a higher spiritual state as *Dewa Kalalungan*². The ritual is performed through generations with a complex structure and stages, involving various ritual elements such as *patugur*, buffaloes, and *panyamayan*.

The *Wara* ritual in Hindu Kaharingan tradition is believed to connect worshippers with their ancestors and manifestations of the Divine through symbolic elements, one of which is the *pantugur*. The *pantugur*, a wooden statue carved from *ulin* wood in human form, serves both as a place to tie sacrificial animals and as a physical representation of ancestors who are honored with love and responsibility³. This process not only reflects reverence for ancestors but also instills values such as *tattwa* (philosophy), ethics, responsibility, and aesthetics.

However, the philosophy and sacred goals of the ritual are often undermined by the misuse of the *Wara* ceremony as a guise for gambling activities by certain individuals. The large gatherings during the ritual are exploited to host betting games that have no relation to the spiritual meaning of the ceremony⁴. Although carried out covertly, these gambling activities continue year after year without proper oversight, shifting the sacred atmosphere into an entertainment event laden with moral risks.

Openly held betting activities not only disregard spiritual values but also violate criminal law, as stipulated in Article 303 of the Indonesian Criminal Code (KUHP) regarding gambling offenses⁵. Such acts are subject to legal sanctions because they are conducted publicly and in the context of religious events, which should be free from any elements of illegality⁶. In addition to causing social disturbances and degrading the value of the ritual, these practices also reflect neglect of the law—an issue that should be addressed by law enforcement to uphold customary dignity and legal norms.

According to Kartini Kartono in her book *Social Pathology*, gambling can be understood as a deliberate act of betting, in which individuals or groups wager valuables with full awareness of the risks involved⁷. Gambling is associated with hopes tied to uncertain events such as games, contests, or occurrences with unpredictable outcomes. This activity often involves high uncertainty, triggering emotional tension and a strong desire for profit despite the awareness of potential losses. Thus, gambling is not merely a form of entertainment but a social behavior that involves expectations, risk, and uncertainty in facing unpredictable results.

Law enforcement against gambling practices in the *Wara* ritual area is a complex issue that demands serious attention from various parties. This area, known for its rich local traditions and culture, often becomes a venue for unregulated gambling. One challenge in

² Tiwi Etika, 'The Wara-Nyalimbat Ritual in Paring Lahung Village, Montallat District (Hindu Kaharingan Theological Study)', Widya Katambung, 7 (2016).

³ Ayuni Lestari, 'Study of Pantugur Educational Values in the Wara Hindu Kaharingan Ritual in South Barito Regency', Hapakat (Journal of Research Results), 2.1 (2023), pp. 24–37.

⁴ Kunti Ayu Vedanti and Rinaldi Sasmita, "Riek Liau's Philosophy: Examining the Phenomenon of Gambling in the Wara Ritual in North Barito Regency," Satya Widya: Journal of Religious Studies, 6.1 (2023), pp. 18–30.

⁵ Abdul Latif, 'The Concept of Gambling in the Claw Machine Game (Analysis Study of Article 303 of the Criminal Code and the Fatwa of the Indonesian Ulema Council (MUI) of Jember Regency)', 2023.

⁶ Samsul Qamar, 'Implementation of Criminal Sanctions for Criminal Acts Through Electronic Systems in the City of Banda Aceh', Student Scientific Journal of Criminal Law, 2.1 (2018), pp. 66–77.

⁷ Kartini Kartono. *Social Pathology* (Volume I). Jakarta: Rajawali, 2006; p. 58

legal analysis is the presence of differing cultural norms and values⁸. Many local residents consider gambling to be a tradition that is difficult to eliminate.

Therefore, the legal enforcement approach must consider local cultural aspects and involve the community in efforts to prevent and address gambling practices. Continuous education about the negative impacts of gambling—economically, socially, and morally—is necessary. By doing so, law enforcement can be more effective and gain full support from the local population.

Based on this background, this study aims to conduct an in-depth legal analysis of gambling practices occurring within the *Wara* ritual in North Barito Regency, focusing on the legal consequences of such actions. It seeks to answer two key questions: how legal analysis is applied to gambling practices within the *Wara* ritual, and what efforts are made by the police to address these practices in North Barito Regency.

METHOD

Research Method

This study employs an empirical approach to analyze the legal aspects of gambling practices within the *Wara* Ritual in North Barito Regency. It examines the applicable legal norms and collects real data from the community and law enforcement officials regarding the impacts and effectiveness of legal enforcement efforts.

RESULTS AND DISCUSSION

Legal Analysis of Gambling Practices in the Wara Ritual

In the context of the *Wara* traditional ceremony conducted by the Dayak Kaharingan community in Muara Teweh, North Barito Regency, there is a recurring phenomenon of gambling practices accompanying the ritual procession. Although not explicitly regulated in Regional Regulation No. 1 of 2010 concerning Dayak Customary Institutions in Central Kalimantan or Regional Regulation of North Barito Regency No. 1 of 2002, gambling has become a common element in the implementation of *Wara*. Such gambling activities are often perceived as a form of entertainment or cultural complement for attendees and are at times socially justified as a way of enlivening the traditional event.

However, from the perspective of Indonesian positive law, gambling constitutes an unlawful act as stipulated in Article 303 of the Indonesian Criminal Code (KUHP), which states that any form of game that involves betting on outcomes using money or goods is prohibited, unless authorized by competent authorities.

Legal analysis of gambling practices during the *Wara* ceremony reveals a dilemma between cultural preservation and law enforcement. On one hand, *Wara* is part of the traditional practices of the Dayak Kaharingan customary law community, protected by the Constitution and supported by local regulations, including recognition of customary law and institutions. On the other hand, the existence of gambling within this ritual potentially contradicts national laws that apply generally. This dilemma highlights a normative conflict between the customary legal norms upheld by the Dayak Kaharingan community and the national criminal law norms, particularly concerning the prohibition of gambling.

Local governments and customary institutions such as the Regional Assembly of the Hindu Kaharingan Religion (MD-AHK) and the Dayak Customary Council (DAD) are placed in a difficult position: to preserve cultural heritage while not ignoring national statutory provisions.

Furthermore, the presence of gambling in the *Wara* ritual can undermine the religious and sacred essence of the ceremony. *Wara*, as a ritual of spiritual purification in the

⁸ Samsul Qamar, Op.Cit., p. 73.

Kaharingan belief system, is inherently sacred and spiritual in nature—not intended as an entertainment event involving betting activities. The inclusion of gambling elements in the ritual proceedings may shift public perception of *Wara*, from a respected customary religious practice to a communal event driven by economic motives. Additionally, the potential exploitation of customary culture through gambling-related commercialization opens the door to deviation from moral and cultural values that should be preserved—especially when profits from gambling are not managed transparently or are used by parties unrelated to customary institutions.

Based on previous studies, the following are several regulatory points and provisions related to gambling practices during the *Wara* ceremony⁹:

Tabel 1. Regulations Related to Gambling Practices in the Context of the Wara Traditional Ceremony

Regulation	Relevant Article	Provision Content	Legal Analysis
Indonesian Criminal Code (KUHP)	Article 303 paragraph (1)	Anyone who intentionally offers or provides an opportunity to gamble, or participates in a gambling enterprise, shall be subject to criminal penalties.	Gambling practices, in any form—including in traditional ceremonies—are prohibited by national law and constitute a criminal offense if not officially licensed by the competent authority.
The 1945 Constitution of the Republic of Indonesia	Article 18B paragraph (2) and Article 28I paragraph (3)	The state recognizes and respects traditional law communities and their cultural identities as part of human rights.	Recognition of customary traditions is not absolute and is subject to national legal provisions. The preservation of customary culture does not justify violations of criminal law norms.
Regional Regulation of Central Kalimantan Province No. 1 of 2010	Article 1 points 14, 15, 17	Defines customs, traditions, and customary law practiced by the Dayak community, and acknowledges them.	No clause is found that legitimizes gambling as part of protected customary law. Customary law must not conflict with national interests or criminal law.
Regional Regulation of North Barito Regency No. 1 of 2002	Article 1 letters k, l, u, x	Regulates preservation, community customs, and customary areas in North Barito Regency within the framework of customary law.	This regulation allows for the preservation of traditions but does not explicitly permit gambling. Therefore, gambling remains unlawful under national law even if conducted within a customary context.
Law No. 6 of 2014 on Villages	Article 95 paragraph (3)	Village customary institutions are responsible for empowering, preserving, and developing traditions as a form of customary recognition.	The role of customary institutions should aim to uphold the values and dignity of tradition; hence, the <i>Wara</i> ritual must be free from elements that violate positive law.

Based on the legal analysis of gambling practices during the implementation of the *Wara* Traditional Ceremony by the Dayak Kaharingan community in Muara Teweh, it can be concluded that such gambling activities contradict national positive law, particularly Article

⁹ Sandy Ekki Wiratama Buana, Implementation of Customary Institutions in the Context of Enforcing Regional Regulation Number 1 of 2010 concerning Dayak Customary Institutions in Central Kalimantan in the Principles of Regional Autonomy (Study of the Wara Traditional Ceremony in Muara Teweh, North Barito, Central Kalimantan) (Bachelor's Thesis, Faculty of Law, Ahmad Dahlan University, 2020).

303 of the Indonesian Criminal Code (KUHP), which explicitly prohibits all forms of gambling without official authorization. Although the existence of customary law communities is recognized in the 1945 Constitution and several regional regulations, this recognition cannot be interpreted as justification for violations of criminal law. Regulations such as Central Kalimantan Provincial Regulation No. 1 of 2010 and North Barito Regency Regulation No. 1 of 2002 do acknowledge and promote the preservation of Dayak customary law and institutions, but they do not provide legal grounds for gambling practices in a traditional context.

The dilemma between cultural preservation and the enforcement of national criminal law highlights the need for concrete action from local governments and customary institutions to prevent the continued tolerance of unlawful practices. Institutions such as MD-AHK (Regional Council of Hindu Kaharingan Religion), MAKI, and DAD (Dayak Customary Council) need to strengthen internal customary regulations to ensure that the sacred and religious values of the *Wara* ritual remain protected from activities that compromise its spiritual purpose. If gambling practices persist, they will not only create legal violations but also distort the meaning of the *Wara* ritual as an expression of respect for ancestral spirits and traditional beliefs. Harmonization between customary law and national law is an urgent necessity to maintain alignment between cultural preservation and compliance with state law.

Therefore, anticipatory measures are needed, such as additional local regulations or reinforcement through internal customary rules that prohibit gambling during the *Wara* ceremony. Customary institutions like MD-AHK and MAKI should take the lead in formulating joint agreements to distance the ritual from practices that violate national law. Local governments can also provide legal assistance and conduct public education to help communities better understand the boundaries between preserving tradition and complying with the law. Aligning customary and national legal frameworks is essential to ensure the sustainable implementation of the *Wara* Ceremony without breaching national legal standards. This effort can also serve as a model for legal harmonization that prioritizes local wisdom while remaining within the framework of national law.

Police Efforts

To further explore the efforts of the Central Kalimantan Police in preventing and tackling gambling activities during the *Wara* traditional ceremony, the researcher conducted an interview with Mr. Samparaja, Head of Administration and General Affairs of the Criminal Investigation Unit at the North Barito District Police¹⁰, hereafter referred to as the Informant.

Based on the interview, it was explained that the police face several challenges in preventing and addressing gambling practices during the *Wara* Traditional Ceremony, particularly due to the clash between customary law and national law. According to the interview, the police are in a legal dilemma. On one hand, national law clearly prohibits gambling; on the other, the local customary community perceives such practices as part of a long-standing tradition. This is reflected in the statement: “In the past, it was only done by grieving family members inside the house. But now, stalls are rented out and it has become open to the public.” This shift in how the ritual is practiced—from a private family matter to a public gambling event—has increased the difficulty of legal enforcement.

The police face difficulties in conducting investigations into gambling practices during the *Wara* ceremony due to the deep-rooted social and cultural aspects within the local

¹⁰ Interview with Mr. Samparaja as Head of Administration and Secretarial Affairs of the Criminal Investigation Unit at the North Barito Police on Friday, May 23, 2025, at 11.25, at the North Barito Police.

community. Moreover, the gambling is often held at venues rented specifically for the event, complicating prevention efforts. As noted in the interview: “It’s always in the same places. Most of these events take place in rented venues.” This indicates that gambling during the *Wara* ceremony has evolved into a commercial activity, detached from the sacred values that the ritual is supposed to uphold. Therefore, the police must collaborate with relevant parties, such as local governments and customary leaders, to resolve the issue in a way that is culturally sensitive but still in compliance with national law.

Preventive efforts by the police must involve a more holistic approach, considering that many community members still view gambling in traditional rituals as legitimate due to its long-standing presence. As stated in the interview: “The organizers themselves don’t dare to say it’s wrong because they refer to the phrase ‘this has been practiced by our custom for generations.’” Therefore, the police need to adopt an educational and persuasive approach by involving traditional leaders, *Damang*, and local communities to convey that gambling in traditional ceremonies is contrary to the laws of Indonesia. This effort requires collaboration between legal and customary institutions to ensure that traditional customs are respected without ignoring the rule of law.

As a concrete step, the police could monitor *Wara* ceremonies that have the potential to involve gambling. This monitoring must be coordinated with local governments and customary leaders, as mentioned in the interview: “Unless the police do it together with the local government and the *Damang*.” Through such collaboration, the police can identify potential gambling practices during traditional ceremonies before they occur and provide appropriate guidance to the public regarding the negative impacts of gambling—legally and socially. This approach prioritizes prevention over enforcement, which could otherwise lead to social tension between the customary community and law enforcement.

Furthermore, the police must firmly enforce the law against clear violations of Article 303 of the Indonesian Criminal Code (KUHP), which states:

- (1) Anyone who intentionally offers or provides an opportunity for gambling, or participates in a gambling operation, shall be subject to imprisonment for up to 10 (ten) years and a fine of up to IDR 25,000,000.00 (twenty-five million rupiah).
- (2) Gambling in this article includes all forms and types, whether conducted in public places or private homes.

However, such law enforcement must be carried out with caution, considering that the customary community views gambling in the *Wara* ceremony as part of their tradition. As mentioned in the interview: “This is a dilemma in law enforcement. In Indonesia, in general, customary law and national law are often in conflict.” Therefore, in carrying out legal actions, the police must ensure that every step taken respects local cultural sensitivities and does not damage the relationship between law enforcement and the customary community.

The final step that the police must consider is the importance of establishing clearer regulations regarding the implementation of the *Wara* Traditional Ceremony, especially in relation to gambling practices. Currently, there is no clear rule governing gambling in such ceremonies, as reflected in the interview: “At present, there are no clear rules regarding the *Wara* event and what kind of gambling is involved.” The police, along with the local government and customary leaders, need to push for local regulations or policies that firmly define the limits and prohibitions of gambling in traditional ceremonies. In doing so, efforts to address gambling practices during the *Wara* Ceremony can be more structured and provide legal certainty for the community.

CONCLUSION

Law enforcement efforts against gambling practices during the *Wara* Traditional Ceremony in North Barito Regency face considerable challenges, primarily due to the

conflict between long-standing customary law practiced by the Dayak Kaharingan community and national law, which prohibits gambling. Although gambling in this ritual is often perceived as a tradition passed down through generations, the practice clearly contradicts Indonesian law, particularly Article 303 of the Criminal Code (KUHP). This situation creates a dilemma for the police in enforcing the law without offending cultural values considered sacred by the local community.

As part of the solution, the police need to adopt a more holistic and culturally sensitive approach. Tighter monitoring of Wara ritual practices and close collaboration with local governments and traditional leaders are essential steps in preventing gambling during these ceremonies. An educational approach is also crucial to raise community awareness about the legal and social consequences of gambling. By actively involving the community in prevention efforts, law enforcement can be implemented without damaging the relationship with indigenous communities.

Ultimately, the establishment of clearer and firmer regulations regarding gambling practices in the Wara Traditional Ceremony is vital to provide legal certainty for the community. The police and local government must work together to create policies that protect traditional cultural values while upholding national law. With clear regulations, gambling practices can be avoided, and the Wara ritual can be conducted in accordance with its intended purpose—as a form of respect for ancestors and a spiritual expression of the Hindu Kaharingan community.

In addition, collaboration between law enforcement agencies and social institutions is essential. By involving community leaders and local organizations, law enforcement can be more effective and better accepted by the public. Firm sanctions should be imposed on those involved in gambling, but these should be accompanied by rehabilitation programs for individuals trapped in such practices. This approach is expected to help free Wara ritual areas from harmful gambling activities while preserving the existing cultural values.

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