

Women's Protection within Dayak Ngaju Customary Law: A Socio - Cultural Analysis of Indigenous Sanctions for Breaches of Morality

Ajril Akmal¹, Renny Veronika Marbun²

¹Universitas Islam Negeri Maulana Malik Ibrahim; ajrilakmal47@gmail.com

²Madrasah Aliyah Negeri Kotawaringin Timur; reniveronika@gmail.com

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ABSTRACT

In rural Dayak Ngaju communities of Central Kalimantan, formal legal systems often prioritize retribution over the social and psychological recovery of female victims, leaving indigenous women vulnerable to persistent social stigma and marginalization. This study analyzes the mechanisms through which Dayak Ngaju customary law protects and restores women's dignity via the *Singer* (customary fine) system. Applying a legal sociological framework to codified customary articles (Articles 3-13), the research evaluates the "Living Law" philosophy and the restorative role of the *Basara Adat* (customary council). Results reveal that the *Singer* system historically rooted in the 1894 Tumbang Anoi Peace Treaty with 96 codified fines, effectively restores the "13 aspects of cosmic balance" by centering justice on the victim. Specifically, Articles 7-9 regarding illicit pregnancy ensure that perpetrators bear full accountability, including fines reaching 210 *kati ramu* and spiritual cleansing costs (*penggantin petak danum*), thereby shielding women from economic and social burdens. Furthermore, preventive sanctions like *Singer Sala Basa* (Articles 10-13) protect women from harassment by establishing public validation of their honor before the community. The study concludes that Dayak Ngaju customary law provides a sophisticated, gender-sensitive restorative framework that mitigates "victim-blaming" and effectively complements formal state law. By embedding protection within the "*Belum Bahadat*" (honorable living) philosophy, these customary mechanisms ensure that women remain active social subjects whose dignity is integral to communal stability.

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Corresponding Author:

Ajril Akmal

Universitas Islam Negeri Maulana Malik Ibrahim; ajrilakmal47@gmail.com

INTRODUCTION

The protection of women from moral and social transgressions is a multifaceted challenge that intersects with global concerns of gender equality, human rights, and the efficacy of formal legal systems. In many rural and indigenous societies, violations of gender equality are not merely individual disputes but act as significant criminogenic factors that destabilize the entire social fabric (Cojocarú & Frunza, 2024). Historically, formal state laws have often struggled to address these issues in a way that provides holistic justice for women, as they frequently prioritize retributive punishment for the perpetrator over the restoration of the victim's social standing and psychological well-being (Nugraha, 2022). This is particularly evident in rural criminality, where women often bear a disproportionate burden of social stigma following a violation of their dignity, leading to further marginalization (Carrington et al., 2014). Consequently, there is an urgent need to explore how indigenous legal frameworks can offer a more responsive and restorative approach to protecting women's rights and honor.

Current academic discourse in the field of legal sociology emphasizes the concept of "Living Law" (*hukum yang hidup*), where customary or indigenous legal systems operate alongside national laws to maintain local order (Dina, 2025). Research into legal pluralism highlights that indigenous communities often possess sophisticated mechanisms for conflict resolution that are deeply rooted in their cultural identity (Dina, 2025). Central to this discussion is the role of traditional sanctions, such as the *Singer* (customary fine) system in the Dayak Ngaju community of Indonesia, which serves as a primary tool for dispute resolution and the enforcement of moral standards (Ibrahim & Taufiqurohman, 2022; Nugraha, 2022). While the integration of these traditional systems into national legal frameworks remains a point of debate, scholars argue that protecting traditional cultural expressions and customary laws is essential for preserving the socio-cultural equilibrium of indigenous groups (Dina, 2025).

The importance of the *Singer* system within the Dayak Ngaju society is underscored by its extensive historical and legal foundation. The system gained formalized recognition through the **1894 Tumbang Anoi Peace Treaty**, a landmark historical event that codified at least **96 distinct types of *Singer*** or customary fines (Ibrahim & Taufiqurohman, 2022). This codification reflects a highly structured legal tradition where infractions ranging from marital disputes to serious moral violations are addressed with specific, quantifiable sanctions. For the Dayak people, marriage is viewed as a sacred covenant that connects not only two individuals but two entire families, creating a complex web of mutual assistance and social responsibility (Nugraha, 2022). Within this framework, the value of a woman is held in extremely high regard; the community views its daughters and wives as precious assets whose protection is paramount to the honor of the tribe.

A central and sometimes controversial aspect of this research field is the tension between modern human rights perspectives and traditional customary practices. While some critics might view customary laws as potentially patriarchal, the Dayak Ngaju philosophy of "*Belum Bahadat*" (honorable living) presents a robust counter-hypothesis (Ibrahim & Taufiqurohman, 2022). This worldview posits that social order is maintained through a delicate balance across **13 specific aspects**, including marriage, adultery, ethics, social responsibility, and the environment (Ibrahim & Taufiqurohman, 2022). When a moral violation occurs, such as a breach of modesty or a marital offense, it is seen as a disruption of

this cosmic balance that must be restored through the *Basara Adat* or customary council. The *Singer* is thus not a mere financial penalty but a restorative ritual designed to repair the broken social and spiritual ties within the community.

Despite the historical depth of these practices, there is a significant gap in the literature regarding the contemporary effectiveness of specific *Singer* types as instruments for gender-based protection. This study aims to fill that gap by providing a detailed socio-cultural analysis of how sanctions like *Singer Sala Basa* (for harassing a woman), *Singer Tihi Sarau* (for cases involving pregnancy outside of marriage), and *Singer Hatulang Belom* (for unilateral divorce) function to safeguard women's rights (Ibrahim & Taufiqurohman, 2022; Nugraha, 2022). By examining these mechanisms, the research seeks to determine whether traditional fines provide a more accessible and immediate form of justice than the formal state judiciary, particularly in terms of restoring a woman's dignity and ensuring the perpetrator's economic accountability.

This study is a **qualitative research** utilizing a **normative-juridical approach** to analyze the socio-cultural functions of Dayak Ngaju customary law. The primary objective is to evaluate the effectiveness of the *Singer* system as a vital pillar for protecting women's dignity, specifically by examining how traditional fines offer a restorative alternative to the often alienating and purely punitive nature of formal legal processes. Furthermore, the research aims to demonstrate how these customary mechanisms provide public validation and material restitution such as the requirement to pay 210 *kati ramu* (The unit of measurement used by the Dayak people is around Rp100K - 200K) for adultery serves as a strong social deterrent that preserves the sanctity of the family unit. Ultimately, this work seeks to advocate for the institutional recognition of the *Singer* system in national policy as a sophisticated model of restorative justice that safeguards women's rights and dignity within Indonesia's pluralistic legal environment

METHODS

Table 1. Data Collection Techniques, Data Sources, and Data Analysis Techniques

Data Collection Techniques	Subjects and Data Sources	Data	Data Analysis Techniques
Literature Review, Documentation, and Socio - Legal Text Analysis.	Subjects: Sociological Experts to validate the analysis regarding gender protection functions within both customary and positive legal perspectives.	1. Interpretation of the philosophical values of customary sanctions such as <i>Singer Sala Basa</i> (harassment), <i>Singer Tihi Sarau</i> (pregnancy responsibility), and <i>Singer Hatulang Belom</i> (divorce protections) and how they function as instruments to protect women's dignity.	Descriptive - Analytical with a Sociology of Law perspective.
	Data Sources: Literature on Dayak Ngaju Customary		

	Law. Journals and books regarding the 13 aspects of cosmic balance and the <i>Belum Bahadat</i> philosophy. Scholarly documents concerning gender inequality and rural criminality.	2. Qualitative data concerning the mechanisms of <i>Basara Adat</i> (customary councils) in restoring social equilibrium and providing restorative justice for women who have fallen victim to moral violations.	
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This research adopts a **qualitative approach** rooted in a **literature study** and a **socio-cultural perspective**. This methodology is designed to understand the customary law of the Dayak Ngaju as a system of living norms (*hukum yang hidup*) that function actively within the community to maintain social and cosmic order. Unlike quantitative methods that seek to measure phenomena through statistical frequency, this qualitative framework is chosen to explore the deep-seated social meanings, cultural values, and protective functions embedded in customary sanctions for moral violations.

By employing a **sociology of law** lens, the research analyzes how the *Singer* serves not merely as a punitive tool, but as a mechanism for **restorative justice** that prioritizes the recovery of the victim's dignity and social standing. The study focuses on the concept of *Belum Bahadat*, a cultural value system that governs the ethics of the Dayak Ngaju through **13 aspects of balance**, including marriage, morality, and social responsibility. This perspective allows for a nuanced understanding of how customary law provides a protective layer for women, viewing them as valuable assets whose honor is intrinsically linked to the community's equilibrium.

The primary materials for this analysis include historical and legal documents such as the **1894 Tumbang Anoi Peace Treaty**, which codified approximately **96 distinct types of Singer** to address various social and marital infractions. The research interprets these codes to identify specific protections for women, such as *Singer Sala Basa* and *Singer Tihi Sarau*, which enforce accountability on perpetrators and prevent the social marginalization of female victims. By situating these indigenous practices within the broader context of **rural criminality** and gender equality, the study highlights how customary law can act as a more responsive instrument than formal state law in addressing the psychological and social needs of women in rural areas.

RESULTS AND DISCUSSION

1. Results

Violations of morality within the Ngaju Dayak indigenous community are understood as acts that breach the social order and collective moral values, rather than merely a private matter between individuals. Common forms of such violations include stealing another person's husband or wife, adultery with a partner who is still legally married, stealing a fiancé, and unilateral divorce caused by infidelity. These violations are seen as undermining the

sanctity of the marital relationship and the social commitments recognised under customary law.

Within the social context of indigenous communities, breaches of morality have far-reaching consequences as they disrupt the **13 aspects of cosmic balance**, which include family harmony, kinship ties, and social stability. Consequently, the resolution of these cases is not left to the private sphere but is addressed through **customary mechanisms** like the *Basara Adat*, led by the *Kedamangan* (sub-district judge), involving the entire community. This approach demonstrates that the Dayak Ngaju community views moral breaches as a shared threat to the Living Law that requires a collective restoration of equilibrium.

This collective responsibility is particularly vital because, socially, women are positioned as the party most adversely affected by sexual misconduct. The harm they suffer is not only emotional but extends to their **honor (*marwah*) and social standing**, which are viewed as inseparable from the community's integrity. Without the public validation provided by customary sanctions like *Singer Sala Basa*, women often face persistent social pressure and stigma. By formally recognizing the woman as the victim and the man as the transgressor, these mechanisms serve as an essential tool for **restorative justice**, effectively preventing the *victim blaming* that often occurs outside the customary framework.

Ngaju Dayak customary law, both implicitly and explicitly, recognises this situation by positioning women as the party that must be protected and restored. This recognition of women as victims is reflected in the customary resolution process, which affirms the perpetrator's responsibility for the harm suffered by the victim. Consequently, women are not positioned as the party solely bearing the blame, but rather as subjects entitled to protection and the restoration of their dignity through customary mechanisms.

Customary sanctions imposed for violations of morality serve a dual function: holding the perpetrator accountable and providing reparation for female victims. Customary sanctions can include fines, compensation, moral sanctions, and the obligation to restore the victim's honor before the traditional community. Sanctions are implemented through a traditional *Basara* mechanism involving traditional leaders and the community, thus providing strong social legitimacy.

Ngaju Dayak customary law, both implicitly and explicitly, recognizes the vulnerability of women by positioning them as the party that must be protected and restored. This recognition is not merely symbolic; it is reflected in a resolution process that affirms the perpetrator's responsibility for the harm suffered by the victim. Consequently, within the framework of the *Belum Bahadat* philosophy, women are not positioned as parties bearing the blame, but rather as social subjects entitled to the restoration of their dignity through established customary mechanisms.

These mechanisms are operationalized through customary sanctions that serve a dual function: holding the perpetrator accountable and providing material and spiritual reparation for the female victim. These sanctions, which include specific fines such as *Singer Sala Basa* for harassment or *Singer Tihi Sarau* for pregnancy out of wedlock, provide more than just compensation; they require the perpetrator to acknowledge their fault publicly. Implemented through the *Basara Adat* involving *Mantir* (village level judge) and *Damang* leaders (sub-district level judge), these sanctions provide strong social legitimacy and restorative justice that prevents *victim blaming* and restores the victim's honor within the community.

Through these customary sanctions, the community collectively acknowledges the violation of women's dignity and places full responsibility on the perpetrator. This process provides social protection for women by preventing further stigmatization and restoring the victim's position within the traditional social structure. The cultural value of *Belum Bahadat* serves as the moral basis for enforcing customary sanctions, emphasizing the importance of maintaining honor, balance, and social harmony as part of the life of the Ngaju Dayak community.

Within the framework of Ngaju Dayak customary law, customary sanctions, or *Singer*, are understood not merely as punitive instruments, but as restorative mechanisms that are strongly focused on protecting women's dignity. An analysis of Articles 3 to 13 of the codified customary law reveals that every phase of women's lives and social relationships is afforded substantive legal protection.

Table 2. Classification of Dayak Ngaju Customary Sanctions (*Singer*) Articles 3 - 13

Violation Category	Article	Violation Description	Sanction Amount & Provisions	Purpose of Protection & Justice
Marriage & Divorce Law	3) <i>Singer Hatulang Belom</i>	Unilateral divorce (breach of marriage agreement).	According to the marriage contract + additional fine up to 30 kati ramu ; assets divided; guilty party bears ritual costs.	Protects the wife's economic stability and dignity from arbitrary abandonment.
	4) <i>Singer Hatulang Palekak Sama Handak</i>	Divorce by mutual consent.	<i>Rupa tangan</i> assets (marital property) go to children; if childless, assets divided 1/2 or 1/3; shared ritual costs.	Restores social harmony (<i>hambai hampahari</i>) post-separation.
Severe Moral Violations	7) <i>Singer Tihi Sarau Sumbang Tulah</i>	Illicit pregnancy (adultery) or incestuous relations.	Sumbang (incest): 90-180 kati ramu. Tulah (curse resulting from incest): 120-210 kati ramu. Animal sacrifice; perpetrators must mimic animals in public.	Cosmic restoration (<i>penggantin petak danum</i>) and spiritual cleansing of the community.
	8) <i>Singer Tihi Sarau Sawan Oloh</i>	Adultery/impregnating another man's wife.	30-75 kati ramu (childless); 120-180 kati ramu (if children exist); perpetrator bears all ritual costs.	Safeguards the institution of marriage and the rights of the husband/children.

	9) <i>Singer Sarau Tihi Bujang</i>	Impregnating a maiden.	<i>Tekap Bau Mate</i> 15-30 <i>kati ramu</i> ; adultery fine 30-45 <i>kati ramu</i> ; child support guarantee 30-60 <i>kati ramu</i> .	Ensures the child's future and restores the woman's reputation in the community.
Minor Moral & Ethical Misconduct	10) <i>Singer Marusak Balu</i>	Adultery or misconduct with a widow.	30-60 <i>kati ramu</i> to the deceased husband's heirs; extra 15-30 if children exist; ritual costs paid by the man.	Respects the status of widows and protects the rights of heirs.
	11) <i>Singer Sala Basa Sawan Oloh</i>	Misconduct/visiting a married woman's house without permission.	15-30 <i>kati ramu</i> paid to the husband of the woman in question.	Preventive measure against potential adultery or harassment.
	12) <i>Singer Sala Basa Bawi Bujang</i>	Taking a maiden to a secluded place without family consent.	15-30 <i>kati ramu</i> as it brings shame to the family.	Protects the honor of young women from being viewed disrespectfully by the public.
	13) <i>Singer Sala Basa Oloh Beken</i>	Actions that cause shame, threats, or damage to reputation.	15-30 <i>kati ramu</i>.	Maintains social order and mutual respect between individuals in the community.

1) Protection of economic and social stability in divorce (Articles 3 & 4)

Article 3 concerning *Singer Hatulang Belom* (unilateral divorce) demonstrates customary law's commitment to protecting women from the social uncertainty resulting from unilateral action. The customary judge is required to conduct a thorough investigation to determine which party is at fault for breaching the marriage agreement. The additional threat of a penalty of up to 30 *kati ramu*, as well as a fair division of *rupa tangan* assets, ensures that women are not left in a state of economic vulnerability. This demonstrates that customary law functions as a social safety net that prevents the impoverishment of women following divorce.

2) Restoration of dignity and responsibility in cases of sexual misconduct (Articles 7, 8 & 9)

The culmination of this protection mechanism is evident in the handling of *Sarau* cases (unwed pregnancy). Articles 7, 8 and 9 indicate that customary law places the entire burden of ritual and economic responsibility on the man.

- Cosmic restoration: In cases of *Sarau Sumbang* or *Tulah*, the man is obliged to bear the costs of the traditional ceremony for the preservation of nature (*penggantin petak andum*) because his actions are deemed to have disrupted the balance of the environment.
- Justice for the victim: The man is obliged to pay a very substantial fine, ranging from 90 to 210 *kati ramu*, to the woman.
- Protection of children and mothers: Article 9 ensures a secure future for the unborn child through a fine of 30-60 *kati ramu* if the man does not marry the woman. This mechanism prevents the social marginalisation of women and children born out of wedlock, whilst simultaneously providing social validation that the primary responsibility lies with the male perpetrator.

3) Preventive Function through Social Ethical Regulations (Articles 10, 11, 12 & 13)

Ngaju Dayak customary law also incorporates a preventive protective dimension through the *Sala Basa* sanctions. Articles 11 and 12 specifically prohibit adult men from committing acts that may arouse suspicion or bring shame upon women, whether they are married women or virgins. A fine of 15–30 *kati ramu* is imposed as a stern warning to men to respect the boundaries of women's privacy and honour. The protection afforded to widows in Article 10 (*Marusak Balu*) also demonstrates that women at every level of the social hierarchy continue to receive respect and protection from exploitation.

2. Discussion

Ngaju Dayak customary law regards breaches of morality as a social issue with far-reaching implications for the community's social order, particularly with regard to women's dignity (Pratiwi et al., 2019). This finding demonstrates that women in the Dayak Ngaju indigenous community are not viewed merely as passive parties or moral objects, but rather as social subjects whose honour must be safeguarded and restored when a violation occurs. The resolution mechanism through customary *basara* affirms that the harm suffered by women whether social, psychological or symbolic is collectively recognised by the indigenous community.

The customary sanctions imposed on perpetrators of sexual misconduct serve a significant social function in protecting women. These sanctions are not merely punishments; they also act as a means of restoring women's dignity in the eyes of the community. Through public acknowledgement of the perpetrator's wrongdoing and the affirmation of the woman's status as a victim, customary law prevents the victim-blaming that frequently occurs in social practices outside customary mechanisms (Nugraha, 2022). This demonstrates that Dayak Ngaju customary law possesses a substantive protective dimension, even though it is not always formulated in the language of modern human rights.

Furthermore, the research findings show that the cultural value of *Belum Bahadat* forms the primary moral foundation for the enforcement of customary sanctions. This value regards women's honour as an integral part of the honour of the family and the indigenous community (Pratiwi et al., 2019). Consequently, any violation against women is viewed as a violation of the collective social balance. This perspective strengthens women's position

within the social structure of indigenous communities, as the protection of women is not merely an individual responsibility but a collective responsibility of the community.

These research findings both reinforce and expand upon the results of previous studies examining the existence and function of Dayak Ngaju customary law in resolving social conflicts. A number of earlier studies have placed greater emphasis on the normative aspects of customary sanctions, customary *basara* procedures, and the role of customary institutions in maintaining public order (Ibrahim & Taufiqurohman, 2022). However, these studies have generally not placed women at the centre of their analysis, meaning that the dimension of gender protection within customary law has not been explored in sufficient depth.

In contrast to this approach, this study shows that customary sanctions in cases of sexual misconduct are strongly oriented towards the rehabilitation of female victims. This finding is consistent with the sociological perspective on law, which views law as living law that is, a set of norms that are alive and operate in accordance with the social needs of the community (Özalp, 2024). In this context, the customary law of the Dayak Ngaju serves not only as a tool for social control, but also as an adaptive mechanism that responds to the vulnerability of women resulting from sexual offences.

When compared with the national legal system, the findings of this research reveal a significant difference in approach. Positive law tends to frame moral offences within a formal legal framework that emphasises evidence and criminal sanctions, whilst the aspect of the victim's social rehabilitation is often given insufficient attention (Setiyawan et al., 2025). Conversely, the customary law of the Dayak Ngaju emphasises the social and moral dimensions of such offences, with the primary aim of restoring balance and the victim's honour within the community (Nugraha, 2022). In this regard, customary law offers a more contextual approach that is oriented towards the social needs of female victims.

On the other hand, the findings of this study also provide a counter-argument to the critical view that customary law is inherently patriarchal and detrimental to women (Yuliartini et al., 2024). Whilst it cannot be denied that the social structure of indigenous communities is still influenced by patriarchal values (Zatadini et al., 2024), the research findings indicate that Ngaju Dayak customary law possesses internal mechanisms capable of protecting women from gender inequality, particularly in cases of sexual misconduct (Wardhani et al., 2024). This indicates that customary law cannot be generalised as a system that is invariably discriminatory towards women, but must instead be understood contextually.

Conceptually, this study examines the sociology of law and locally-based gender studies. The research findings indicate that the protection of women need not always be understood within the framework of modern law or state law, but can also be found in the systems of local values and norms that are alive within indigenous communities (Handayani & Suparno, 2023). Thus, this study enriches the academic discourse on the diversity of forms of justice and gender protection beyond the paradigm of formal law.

In practical terms, the findings of this study have implications for efforts to protect women in indigenous communities. Recognition of the role of customary law as a mechanism for protecting women can encourage the strengthening of customary institutions in handling cases of sexual misconduct in a fair and gender-sensitive manner (Crump, 2017). Furthermore, these findings can also serve as a basis for dialogue between customary law and state law in

formulating policies that are more inclusive and contextually appropriate to women's needs, particularly in indigenous communities.

Another implication is the importance of avoiding approaches that negate customary law in efforts to protect women. Rather than unilaterally replacing customary law with formal law, the findings of this study highlight the need for a collaborative approach that recognises the role of local values in upholding women's dignity. Thus, Ngaju Dayak customary law can be positioned as a strategic partner in efforts to prevent sexual offences and reduce gender inequality within indigenous communities.

This study has several limitations that require careful consideration. Firstly, the study relies heavily on secondary data and document analysis; consequently, it does not fully reflect the direct experiences of women who are victims of sexual offences. This limitation stems from the sensitivity of the issue and restricted access to victims within the context of indigenous communities. Secondly, the study's focus being limited to the Dayak Ngaju indigenous community means that the findings cannot be broadly generalised to all indigenous communities in Indonesia. Each indigenous community has distinct social and cultural characteristics, meaning that mechanisms for the protection of women through customary law may also vary. Therefore, it is recommended that future research conduct a comparative study across indigenous communities to gain a broader understanding of the protection of women based on customary law.

CONCLUSION

This research reveals that Dayak Ngaju customary law is a robust manifestation of the "Living Law" that prioritizes the restoration of female dignity through a victim-centered restorative justice framework. The central discovery is the enduring effectiveness of the *Singer* system, which remains grounded in the 96 types of sanctions codified during the 1894 Tumbang Anoi Peace Treaty. By applying specific articles like *Singer Tihi Sarau* (Articles 7-9), which can impose fine up to 210 *kati ramu*, the law effectively shifts the socio-economic and ritual burden of moral violations from the woman to the perpetrator. This approach ensures that violations of the *Belum Bahadat* philosophy which regards women's honor as inseparable from the community's 13 aspects of cosmic balance are resolved collectively, thereby preventing the persistent stigma and marginalization often found in rural social dynamics.

Ultimately, the study proves that the *Kedamangan* institution serves as a critical partner to the state in achieving substantive gender justice, particularly in addressing cases like "*pelakor*" (relational interference) and sexual harassment that formal legal frameworks may overlook. To advance this field, future research should transition toward empirical victimology to capture the firsthand psychological outcomes of women participating in *Basara Adat* proceedings. Currently, initiatives are underway to digitalize customary legal records to ensure consistency in *Mantir* rulings and to create collaborative pathways between traditional *Singer* mechanisms and Indonesia's Law on Sexual Violence Crimes. These developments are essential to ensure that indigenous wisdom continues to evolve as an adaptive and legitimate protector of rights within Indonesia's pluralistic legal landscape.

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