



## Clan Traditions and Social Justice: An Examination of Customary Leadership in Bengkulu Province

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**Abstract:** This study examines the persistence of clan traditions in local politics, focusing on the role of customary leaders in leadership elections in the former Pekal Sultanate, Mukomuko Regency, North Bengkulu Regency, Bengkulu Province. A qualitative approach was employed, involving in-depth interviews, questionnaires, and continuous observation with customary leaders, local government officials, and community members. The study reveals that the Pekal community has taken steps to preserve their cultural values and institutions, including the re-declaration of their community institution and the appointment of a new Sultan. However, challenges such as political interference, lack of recognition of customary land rights, changes in village governance, shifts in perspective within the community, commercialization of customary sanctions, and outside influences threaten the traditional role of the Clan Head. This research highlights the importance of preserving indigenous cultural institutions and the need for efforts to protect them from external challenges. The findings contribute to the broader discussion on the intersection of tradition and modernity in Indonesia, emphasizing the significance of recognizing and respecting local wisdom in governance and decision-making processes.

**Keywords:** Clan Head, Local wisdom, politics, leadership, customary

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### 1. Introduction

Traditional customs and laws are widely recognized across the world. The recognition of customary law and beliefs is often reflected in legal systems or regulations. For instance, in New Zealand, this recognition is codified in the Bill of Rights Act (1990) and the Human Rights Act (1993), among others (Thontowi et al., 2012). The recognition of indigenous peoples' rights and their access to natural resources (land) is also acknowledged internationally. This is evident in the International Labour Organization (ILO) Convention No.169 concerning Indigenous and Tribal Peoples in Independent Countries, which came into force on September 5, 1991, mandating that governments respect the culture and spiritual values of indigenous communities, particularly in relation to the land they inhabit or use (Ismi, 2013).

In Indonesia, since the implementation of a national democratic system through state uniformity politics, local institutions within the local political system have gradually become extinct. Local wisdom in leadership selection has been replaced by national mechanisms regulated through various laws. However, this local wisdom persists and continues to function in the leadership elections within the Pekal tribe in Mukomuko Regency, Bengkulu. The customary head (adat leader) plays a very strategic role and is highly respected in the elections of village heads, members of the Regional House of Representatives (DPRD), and regents and deputy regents. For example, in the last Village Head election in 2016, the decision of the clan determined the candidate for the Village Head in Sibak Village, Ipuh District, North Bengkulu Regency, and the Village Head was eventually elected based on the consensus of the clan leaders. Similarly, in the DPRD elections of 2009 and 2014, candidates endorsed by the clan leaders were elected as members of the DPRD in Mukomuko Regency. During the 2016 local elections, the clan leaders agreed on a candidate for deputy regent from the former Pekal Sultanate, who was then elected as the Deputy Regent of Mukomuko for the 2016-2021 term. Experts consider the application of local wisdom in leadership as a unique model in determining leadership candidates (Saptomo, 2010). Leadership in governance that is culturally oriented to implement the values of local wisdom is highly strategic and has a noble aim of addressing the moral decay in society (Bagea, 2018). Local wisdom can serve as a basis for leadership character and can even have a reverse benefit, where leadership character based on local wisdom can become a means of solving global leadership issues (Jatirahayu, 2013). Local leadership cannot be separated from the history and culture prevalent in society (Maulina et al., 2016).

So far, research on the relationship between local wisdom and leadership tends to focus on three aspects. First, local wisdom serves as a source of legitimacy for leaders (Jati, 2013). Leadership legitimacy does not always originate from government regulations (Labolo, 2015). During the era of regional autonomy, there has been a shift in governance legitimacy, reflecting the complexity of leadership democratization in Indonesia and the strengthening of local leadership (Choi, 2009).

Second, local wisdom has been seen as a source of best practice (*manunggaling kawula-gusti*). Local wisdom has integrated into the environment and system of beliefs, norms, and culture, and is expressed through long-standing traditions. In fact, local leadership traditions have become an entrenched culture across the archipelago, with different regions, including Bengkulu Province, which is close to South Sumatra and West Sumatra, possessing intact leadership traditions. For instance, in South Sumatra, the well-known Marga leadership system is led by a Pasirah. The position of Pasirah in the traditional leadership structure is particularly interesting because it is characterized by contradictions in the value system or cultural-political structure. The cultural structure that describes the Pasirah's position involves values that define a person's status within the social stratification of the Marga community (Adhuri, 2014). In Minangkabau (West Sumatra), the local leadership concept known as *Tungku Tigo Sajarangan* consists of three groups of leaders, which closely relate to the Minangkabau community's leadership system: *ninik mamak* leadership, *alim ulama* leadership, and *cerdik pandai* (scholar) leadership.

Third, research tends to view local wisdom as an obstacle to the functioning of state-regulated governance systems. However, in empirical contexts, several questions arise regarding the role of customary law in village governance (<https://busurnews.com/2017/>). This indicates that state law is not the only form of law that applies in society. If law is understood as a cultural instrument that functions to maintain social order or as a means of social control, then in addition to state law, there are other legal systems such as folk law (customary law), religious law, and self-regulation mechanisms within society. This is referred to as the fact of legal pluralism in legal anthropology studies (Nurjaya, 2011).

This paper aims to examine in detail the relationship between local wisdom and democratic practices, particularly in the selection of leadership candidates. Accordingly, three questions can be posed: (1) how is local wisdom (clan system) practiced in political leadership; (2) how effective is the local democratic system (local wisdom) in ensuring local democracy; and (3) why does local wisdom persist amidst the global changes occurring in society?

This paper is based on the assumption that the functioning of a democratic system cannot be separated from the cultural context of a society. When democracy is merely political democracy, public interests are

neglected. In many societies, the presence of cultural democracy serves as a force that ensures the rights of the people on the one hand, and guarantees the continuity of an accommodative system on the other.

## 2. Literature Review

Customary law, as a law that emerges from the thoughts and feelings of a community, is born from the values that live within the respective society. The persistence of customary law as a way of life in Indonesian society is due to the legal norms that align with their worldview (Al Baar et al., 2010). In Indonesia, one of the laws that reflects the nation's identity is customary law, which embodies the spirit of the nation from century to century (Wignjodipuro, 1983; Susylawati, 2013).

Customary law is an unwritten rule that lives within the indigenous communities of a region and will continue to exist as long as its people adhere to the customary laws passed down to them from their ancestors. Therefore, the existence and position of customary law within the national legal framework cannot be denied, even though customary law is unwritten and, based on the principle of legality, is considered unofficial. Customary law will always exist and live within the community (Manarisip, 2013).

At the National Customary Law Seminar held from January 15 to 17, 1975, organized by Gadjah Mada University and the National Law Development Agency, customary law was defined as "the original Indonesian law that is not codified in the legislation of the Republic of Indonesia, which in certain aspects contains religious elements." The seminar formulated the concept of customary law in the context of legal development in Indonesia, including: First, that the adoption of materials from customary law essentially uses the concepts and principles of customary law to be formulated into legal norms that meet societal needs; second, the modernization and adaptation of customary legal institutions to contemporary needs; and third, the incorporation of customary law concepts and principles into new legal institutions. Thus, customary law remains relevant today because justice and truth, which are the objectives of law, must reflect the justice and truth that live in the people's conscience.

Special attention in the formation of Indonesian law toward the existence of customary law is evident from the norms contained in legislation. As a fundamental law, the 1945 Constitution explicitly recognizes and respects regional governmental units that are special or unique in nature, as well as recognizing and respecting customary law communities and their traditional rights, as long as they still exist and are in accordance with societal development and the principles of the Unitary State of the Republic of Indonesia. In addition to recognizing and respecting special regional governmental units, the state also acknowledges and respects the customary laws that apply within customary law communities. However, this recognition is contingent upon their continued existence and alignment with societal development and the principles of the Unitary State of the Republic of Indonesia. The concept of special or unique regional governmental units can be seen in the explanation of the 1945 Constitution (before amendments) in Chapter IV, Article 18, which addresses regional governance (Surpha, 1992). The 1945 Constitution affirms the existence of customary law communities. In Article 18B, paragraph (2) of the 1945 Constitution, as a result of the second amendment, it is stated that the state recognizes and respects customary law communities and their traditional rights, as long as they still exist and are in accordance with societal development and the principles of the Unitary State of the Republic of Indonesia, which are regulated by law (Abdurrahman, 2015). The recognition of customary institutions within the village governance system, as stipulated in Article 95 of the Village Law No. 6 of 2014, allows village governments and village communities to establish village customary institutions. These village customary institutions are responsible for preserving the customs and customary laws that apply and for organizing customary functions that form the original order of the village.

In some regions of Indonesia, local wisdom has been adopted in the village governance system, such as in Papua Province, where the Kampung government is recognized. Kampung is an administrative division in Papua Province, Indonesia, under the district level. The term "Kampung" replaces "village," which was previously used in Papua, similar to other provinces in Indonesia. This designation follows the implementation of Law No. 21 of 2001 concerning Special Autonomy for Papua Province. Kampung is a legal community unit with defined territorial boundaries, authorized to manage and take care of the local community's interests based on local customs and traditions recognized and respected within the governance system of the Unitary State of the Republic of Indonesia. Kampung is not a subordinate of the

sub-district, as the sub-district is part of the district/city regional apparatus, and Kampung is not part of the regional apparatus (Kampung. <https://id.wikipedia.org/wiki>). Similarly, in the former Pekal Sultanate area of Mukomuko Regency and North Bengkulu Regency, Bengkulu Province, in some villages within that area, the selection of candidates for Village Head and public officials involves an agreement among local customary leaders (kaum) beforehand. This practice has been long-standing and continues to this day, although it has not been formalized like in Papua Province. The position of the Clan Head (Customary Leader) in the practice of governance within some communities remains recognized. Customary law communities express themselves through their leaders and their kin, who, in an ongoing process, make decisions in meetings as a crystallization of social reality" (Ter Haar, 1960). Therefore, the state, through the legislation it forms, incorporates elements of recognition of the existence of customary law.

Several pieces of legislation implicitly recognize the applicability of customary law, such as: 1) Law No. 39 of 1999 on Human Rights, 2) Law No. 41 of 1999 on Forestry, 3) Law No. 22 of 2001 on Oil and Gas, 4) Law No. 20 of 2003 on the National Education System, 5) Law No. 24 of 2003 on the Constitutional Court, 6) Law No. 27 of 2003 on Geothermal Energy, 7) Law No. 7 of 2004 on Water Resources, 8) Law No. 18 of 2004 on Plantations, 9) Law No. 31 of 2004 on Fisheries, 10) Law No. 26 of 2007 on Spatial Planning, 11) Law No. 27 of 2007 on the Management of Coastal Areas and Small Islands, 12) Law No. 30 of 2009 on Electricity, 13) Law No. 32 of 2009 on Environmental Protection and Management, 14) Law No. 18 of 2013 on the Prevention and Eradication of Forest Destruction, 15) Law No. 1 of 2014 on Amendments to Law No. 27 of 2007 on the Management of Coastal Areas and Small Islands, and 16) Law No. 6 of 2014 on Villages. Additionally, the existence and rights of customary law communities are also regulated in several special autonomy laws, including: 1) Law No. 21 of 2001 on Special Autonomy for Papua Province, 2) Law No. 11 of 2006 on Aceh Governance, and 3) Law No. 13 of 2012 on the Special Status of the Special Region of Yogyakarta (Warman, 2016).

### **3. Methods**

#### **3.1. Research Design**

This research was conducted in the former Pekal Sultanate, located in Mukomuko Regency and North Bengkulu Regency, Bengkulu Province. The Pekal tribe is one of the indigenous tribes of Bengkulu, and is one of the eight largest tribes currently in the province. The Pekal tribe has distinct characteristics that differentiate it from other tribes, particularly in terms of customs and language. Several interesting aspects of the Pekal tribe, which was once its own sultanate and under the influence of the Indra Pura Kingdom of West Sumatra and the Palembang Darussalam Sultanate of South Sumatra, are explored in this study. However, this research focuses on the tradition of the "Kaum or Customary Leader," who plays a role in determining formal leadership candidates within the community.

#### **3.2. Data collection and sampling**

This qualitative survey study involved various elements of the community and local government to understand their views on the application of local wisdom in the governance system in the area. In-depth interviews were also conducted with all selected stakeholders of the local government and community leaders. In addition, specific informants were provided with questionnaires containing directed questions, as needed for the research. This is consistent with the characteristics of qualitative research.

This qualitative research was conducted based on the actual conditions encountered in the field. The researcher remained open to any responses and answers from the respondents that emerged during the research process. Additionally, there was an adaptation to the homogeneous social environment of the Pekal community, which is formed by a single tribe inhabiting a specific area. The primary sources of information were the main subjects, namely, the individuals, groups, communities, or societies being studied, who served as the sources of information. Sampling was conducted based on knowledge, including ordinary community groups, village officials, and public/political officials.

#### **3.3. Data Analysis**

The analysis was carried out continuously from the beginning of the research in April 2018 until November 2018. The collected data were processed inductively to draw conclusions in the form of themes, patterns,

and models that accurately reflect the phenomenon of local wisdom in the former Pekal Sultanate community, aiming to understand the system prevailing in that society (Rahmat, 2009; Mahdi, 2016).

In general, this research is expected to contribute thoughts or material for study and scholarship in the field of local wisdom in the leadership systems of customary communities, particularly in understanding the specific power of the Clan in making decisions related to the nomination of formal positions within the community. Such local wisdom represents the rich diversity of the Indonesian nation. Moreover, this research is also expected to provide input and contributions to the body of knowledge in constitutional law that adheres to the Pancasila democratic system.

## **4. Results**

### **4.1. The Practice of the Clan System in Local Leadership (Practice of the Local Democratic System)**

The practice of the clan system in local leadership refers to the traditional governance structure of indigenous communities, where clan leaders or elders hold decision-making authority. This system is rooted in customary law and cultural heritage, and is characterized by participatory and inclusive decision-making processes. In this system, clan leaders are responsible for representing their community's interests and making decisions that benefit the collective good. The clan system is often decentralized, with power held at the local level, and emphasizes community engagement and participation. This traditional governance structure is still practiced in many indigenous communities today, and is recognized as an important part of their cultural identity and autonomy. Despite the challenges posed by modernization and external influences, the clan system remains a vital part of local democratic practices and community-driven governance.

#### **4.1.1. The Practice of the Clan System in Village Head Elections**

The election of Village Heads is regulated by Law No. 6 of 2016 concerning Villages. There are 13 formal requirements for becoming a Village Head, as stipulated in Article 33 of Law No. 6 of 2016 on Villages. This is appropriate since the Village Head holds the highest leadership position both in governance and in the community. The same practice is observed in the former Pekal Sultanate area, particularly in Sibak village, which has implemented these provisions with an additional requirement: the approval of the Clan Heads. In this village, candidates for Village Head must come from one of the clans, as typically there are 3 to 6 clans in a village. The Clan Heads will hold a meeting, and if the candidate is to come from Clan A, Clan A is then allowed to prepare its candidate, who could be a single candidate or multiple candidates. For the next Village Head election, however, Clan A is not given the opportunity again, ensuring that the Village Head only serves one term, even though the Village Law allows for two terms. In contrast, in Semundam village, only Clan A is allowed to put forward a candidate for Village Head, even though there are also Clan B and Clan C, because Clan A is the oldest clan in the village.

The purpose of the Clan Heads' deliberation in determining the Village Head candidate is to maintain harmony, as expressed by a traditional leader in Sibak village:

"This village of Sibak has a large population and consists of 6 clans. If the nomination process were left open, it could lead to friction between clans and even among the villagers themselves. Therefore, the clan elders agreed to regulate the nomination of the Village Head on a rotational basis."

#### **4.1.2. The Practice of the Clan System in the Election of DPRD Members**

In the Pekal community, the nomination of candidates for the Regional House of Representatives (DPRD) follows the regulations set out in Law No. 7 of 2017 concerning General Elections. The selection of candidates is the authority of the political parties participating in the election. The candidates nominated by the political parties are then submitted for approval by the Clan Heads, who will also communicate to the community that Candidate A has been endorsed for the Regency DPRD and Candidate B for the Provincial DPRD. The choice of party is left to Candidates A and B, with the emphasis being on the individuals rather than their party affiliations. For instance, a community leader, referred to as BH, was deemed capable of representing the Pekal community and was unanimously supported by all clans. As a

result, BH secured a seat, even though he was from a minor party. In the subsequent election period, BH was still approved to run again, but when his party did not qualify for the election, BH switched to another party and was re-elected. Since BH had already served two terms as a Regency DPRD member, the clan leaders agreed that BH should not run again for the same position but should instead be nominated for the Provincial DPRD. BH accepted the decision of the clan leaders and ran for the Provincial DPRD with another new party, again receiving support from the clan leaders. However, in the 2019 election held on April 17, 2019, BH faced limited support as the electoral district was outside the clan's traditional area.

The results of the simultaneous regional elections held on April 17, 2019, confirmed this, as BH received the highest number of votes in his electoral district and has now been inaugurated as a member of the Provincial DPRD of Bengkulu for the 2019-2024 term.

#### **4.1.3. The Practice of the Clan System in the Election of Regents**

The nomination process for the regent also involves deliberation among the clan leaders. Given that the Pekal tribe's territory in Mukomuko Regency is limited to one district, Ipuh District, and another in North Bengkulu Regency, Ketaun District, the clan leaders recognize the difficulty in selecting a candidate to be proposed as regent. Realistically, they usually decide on a candidate for deputy regent to support. In fact, since the introduction of direct elections for regent and deputy regent, the deputy regent of Mukomuko has always come from the Pekal tribe. The role of the clan leaders in the election of the regent and deputy regent is significant, thus mitigating the concerns that the costs of regional head elections are very high and tend to involve money politics (Nadia dan Kemala Movanita, 2018; Kompas.com: 2018). In the Pekal area, however, the impact of money politics is relatively absent. At the time of this research, the Deputy Regent of Mukomuko was also serving as the Acting (Plt.) Chief of the Pekal Clan, as the definitive Chief had passed away.

#### **4.2. The Effectiveness of Local Wisdom (the Clan System) in Local Politics**

The deliberation among the clan leaders to determine candidates for formal government leadership has had a positive impact on the conduct of safe and peaceful elections. There have been no post-election protests, unlike in many other areas where disputes often lead to challenges in the Constitutional Court (kompas.com; 2018). One community leader stated:

"Since the introduction of direct elections, the Pekal community has never protested or taken election results to court. This is different from other community groups, where disputes after elections almost always lead to challenges in the Constitutional Court. The Pekal community has never experienced major unrest as a result of elections (SD, Pekal Community Leader and Government Official in North Bengkulu Regency)." Particularly in the Village Head elections, the candidate selection is already determined in advance through the decision of the clan leaders."

As is well known, the formal leadership election system across most of Indonesia is often associated with money politics. However, with the nomination system based on deliberation among the clan leaders, money politics is minimized (Basuki, 2019).

The Pekal community is economically capable, even though Bengkulu is one of the poorest provinces. However, the Pekal community, located in North Bengkulu Regency and Mukomuko Regency, does not contribute to the poverty rates in the province (<https://bengkuluekspress.com>, 2019; <https://regional.kompas.com>, 2015). As a result, money politics in public office elections does not have a significant impact. One of the factors influencing money politics is poverty, where money politics becomes an opportunity for people to obtain money. Those who accept money often do not consider the consequences, such as engaging in bribery and vote-buying, which are illegal activities (Hasan, 2009). Indeed, the Indonesian population still faces poverty issues in both urban and rural areas (Yatim et al, 2010).

#### **4.2.1. The Position, Role, and Legitimacy of the Clan Head (Customary Leader) in Leadership Elections**

The Pekal community is devoutly Muslim, and therefore the Clan Head also serves as a guardian of Islamic values within the community, which are integrated into their customs. The Pekal community has a saying similar to that of the Minangkabau community: *adat basandi syara', syara' basandi Kitabullah* (Muftisany, 2015; Zed, 2010). Therefore, the decisions made by the Clan Heads are considered the best and are binding on the entire community, including in matters of governance. The Clan Head is elected by the community; however, in certain villages, such as Semundam, the Clan Head must come from Clan A, while in other villages, the Clan Head is elected by the community regardless of their clan origin.

The tradition of deliberation among the clan heads has been established since the formation of the Pekal community, which arose from the integration of the Minangkabau and Rejang tribes, forming a unique identity.

As HSB stated: "What has been decided jointly by the Clan Heads must be obeyed by all members of the Pekal community, and this has been enshrined in the Declaration of the Reestablishment of the Former Pekal Sultanate" (HSB is the individual currently recognized as the Sultan of Pekal).

#### **4.2.2. Customary Basis for the Legitimacy of the Role of the Clan Head/Customary Leader (What foundation is used to legitimize the role of the clan head?)**

The position of the Clan Head (Customary Leader) holds strategic importance within the Indonesian constitutional framework. Although the constitution does not specify the limits of authority/power of the Customary Leader, the recognition of their existence is sufficient to provide legitimacy to the Clan Head (Leader) to govern the customary community in their area. In each village, customary regulations have been formalized in writing, either through Village Regulations or in the form of Village Head Decrees that detail the customs and traditions of the village community. To maintain and implement these established customary provisions, Customary Clan Institutions are formed, which hold strong authority and legitimacy in upholding local customs (Mansur, Sopianto, and Mahzuni, 2013).

Recently, there has been a resurgence in the implementation of customary decisions in various cases. Although the decisions of customary judges are not explicitly recognized in the judicial hierarchy, in practice, they are acknowledged as long as the customary law community is recognized and regulated by local regulations. Thus, every decision issued by a customary judge is binding on the relevant customary law community. Legally, court rulings carry more legal weight than customary court decisions because they are based on positive law (Hadi, 2012). In addition to Article 18B, Article 28i Paragraph (3) of the Second Amendment to the 1945 Constitution and Article 32 of the Fourth Amendment to the 1945 Constitution serve as legal grounds for the recognition of the existence of customary communities, specifically providing a basis for the presence of customary communities and their judicial systems (Wiratraman, 2013). Furthermore, the existence of the Clan Head is regulated by Village Regulations made by the Village Consultative Body together with the Village Head. All villages in Mukomuko Regency and North Bengkulu Regency inhabited by the Pekal community, which forms the core of the Pekal tribe, have their own Village Regulations, particularly those governing local customs.

#### **4.2.3. Cultural Conception of Leadership (Cultural Perspective on the Definition of Leadership and the Ideal Leader)**

As it is known, "Culture is created by its leaders; leaders are created by culture..." (Schein, 1991). In a survey of the top five companies in Canada, 82 percent of leaders acknowledged and stated that culture has a very strong impact on their companies' performance (Gulo, 2018).

Therefore, the culture of deliberation within local democracy among the Pekal tribe, which is part of the dynamic Malay culture, adheres to the principles of justice within the community. Leadership is an essential dimension that must exist within human social groups, including within the Pekal community, which upholds the values of democracy and deliberation. As expressed by Muhammad Takari:

"In Malay culture, the aspect of leadership has been incorporated into the concept of customs. In Malay culture, there is the concept of tetrapartite customs, which includes: (a) adat yang sebenar adat, which refers to natural laws originating from Allah, such as the custom of the sun rising in the east, water being wet, and fire burning; (b) adat yang teradat, which refers to long-standing habits that eventually become part of Malay customs, for example, in the early to mid-century, the traditional attire of the Malays included wearing a destar (headband), but later on, the Malays began wearing kopiah or peci. Eventually, the peci became part of Malay attire; (c) adat istiadat, which refers to ceremonial activities such as weddings (walimatul urs), launching boats, prenatal ceremonies, earth-touching ceremonies, and others; (d) adat yang diadatkan, which refers to the leadership system within Malay culture. All these customs are guided by and based on Islamic teachings, conceptualized as adat bersendikan syarak, syarak bersendikan kitabullah. In more general terms, customs in Malay culture are based on Islamic teachings".

Moreover, the Pekal community has long been a well-ordered society, originating from the governance of the Sultanate, influenced by two major kingdoms in Sumatra, such as the Indra Pura Kingdom and the Palembang Darussalam Sultanate.

### **4.3. The Persistence of Local Wisdom (Strengthening the Role of the Clan Head) in the Social and Political Systems of Mukomuko**

#### **4.3.1. Why the Clan Head is Respected: The Basis of Adherence (Respect) to the Clan System (Clan Head) by the Community**

The Clan Head plays a crucial role in preserving and maintaining the culture of the Pekal community. As a revered figure, the Clan Head is capable of providing dynamic hope to the community. In carrying out the duties of upholding customs within the clan, the Clan Head acts without burden, as they have no superior; the Clan Head is the sole authority in administering local customs, especially in ritual matters that are highly respected by the community.

Additionally, the Clan Head, in accordance with their position, is responsible for protecting the community from negative external influences that may erode their values. As part of their role, the Clan Head is tasked with upholding the law and defending the clan against any external interventions. The Clan Head functions as a social controller, as described by Backmann: "Law can also manifest in the form of local regulation mechanisms (inner order mechanism or self-regulation) that effectively serve as a means of social control within the community" (Benda-Beckmann, 1994).

Due to these roles and responsibilities, the Clan Head, as both an individual and an informal leader, gains legitimacy from the community. In return, the community adheres to the directives issued by the Clan Head. Specifically, in the Pekal community, this adherence is also based on formal legitimacy enshrined in Village Regulations, which are rooted in local wisdom.

As expressed by a Pekal community leader: "They believe that obeying and implementing customary rules is a way to preserve culture and fulfill religious obligations" (BH, Pekal community leader).

#### **4.3.2. How the Clan Institution and the Role of the Clan Head are Preserved: Mechanisms Developed for Preservation**

It is essential to recognize that culture is not a myth, but rather the values present in society that serve as a cohesive force in realizing the society envisioned by the founding fathers of this nation, embodied in Pancasila as the foundation of the state, which is derived from local wisdom (Humaeni, 2013; Angeline, 2015).

The Pekal community, which has existed since the 14th century (Burhan, 1988), still retains some values that need to be preserved. Therefore, with their own awareness, the Pekal community institutionally re-declared itself on July 29, 2017, by appointing a new Sultan, Haji Sultan Bangsa, who took the title Tuanku Gulamatsyah II, as the Sultan of Mukomuko Bengkulu. The coronation was performed by Daulat Yang Di Pertuan Raja Alam Minangkabau Sultan Taufik Thaib. The Mukomuko Sultanate historically has close ties with the Pagaruyung Kingdom of Minangkabau. He was also officially recognized as the Chief Clan Head of Pekal (<https://busurnews.com>, 2017).



At the coronation, around a thousand guests crowded the Pekal Throne. The event was attended by Kings, Sultans, and Customary Leaders from various regions in Indonesia, representatives from the central government, and local government officials. The public also flocked to witness this grand event in the history of Bengkulu's cultural customs. The researcher was specially invited as an intellectual figure concerned with preserving the cultural values of the Bengkulu community (Bangsa, 2017). The local government granted special status to the Pekal community, such as requiring additional support from the Clan Head in the nomination of Village Heads.

#### **4.3.3. Challenges to the Social Institution of the Clan System (Clan Head/Customary Leader) in the Future: What Could Weaken or Eliminate the Clan Head?**

The issues faced by customary territories in governing their regions are not solely the result of power struggles within the customary governance itself but are also due to political interference, from the colonial era to the present day. There is little difference between the time when the region was colonized by foreign powers—ranging from the British to the most influential, the Dutch, as well as the Japanese occupiers—and the period after the proclamation of Indonesia's independence, during which Bengkulu became one of the provinces of Indonesia. A crucial issue in this era is the lack of recognition by the state of customary land rights, despite their existence being guaranteed in the constitution (Arizona & Cahyadi, 2013).

The enactment of Law No. 6 of 1969 on the Declaration of the Non-Applicability of Various Laws and Government Regulations in Lieu of Laws, and Law No. 1 of 1967 on Foreign Investment, has implications for changes in village governance. These laws meant that village governments were no longer free to govern themselves but became part of regional government under the direction of the central government (Mechael, 2014).

Within the Pekal community itself, there has been a shift in perspective regarding the application of customary practices. The researcher found that decisions regarding customs varied from one village to another. For example, in Village A, new residents from outside must pay a significant sum of money to become members of the clan. There was also evidence of commercialization in the imposition of customary sanctions, with fees set by the Clan Head for the rituals to annul the punishment (Mahdi, 2022).

In addition, there has been a significant influence from outside the community, as the surrounding areas of the Pekal community are inhabited by immigrants, particularly transmigrants who have long settled in the region.

### **5. Discussion**

This research aims to understand the existence of local wisdom that continues to persist within the community of the former Pekal Sultanate in Mukomuko Regency and North Bengkulu Regency, Bengkulu Province. This local wisdom includes the role of the Clan Head (Customary Leader) in the succession of leadership regulated by the state. The Clan Head in this community holds legitimacy in determining candidates for Village Head, members of the Regional House of Representatives (DPRD), and the Regent/Deputy Regent.

As is known, villages are granted authority to manage village governance. The nomination of village heads and public leaders is fully regulated by law and implemented throughout Indonesia. For example, Articles 18 and 19 of Law No. 6 of 2014 on Villages specify that "Village authority includes the authority in the administration of Village governance, implementation of Village development, community development, and empowerment of the Village community based on community initiatives, original rights, and Village customs." The explanation of Article 19 states: "The term 'original rights' refers to rights that are inherited and still exist, as well as initiatives of the Village or Village community in accordance with the development of community life, including the system of customary community organization, institutions, customary law, Village treasury land, and agreements in the Village community's life."

In Regional Regulation No. 2 of 2015 on the Implementation of Village Head Elections, Article 21 stipulates that candidates for Village Head must meet the following requirements: a. be an Indonesian citizen; b. be devoted to the Almighty God; c. uphold and practice Pancasila, implement the Constitution of the Republic

of Indonesia of 1945, and maintain and preserve the integrity of the Unitary State of the Republic of Indonesia and Bhinneka Tunggal Ika; d. have at least completed junior high school or its equivalent; e. be at least 25 (twenty-five) years old at the time of registration; f. be willing to be nominated as village head; g. be registered as a resident and reside in the village for at least 1 (one) year before registration; h. not be currently serving a prison sentence; i. have never been sentenced to prison based on a court decision with permanent legal force for committing a crime punishable by a minimum of 5 (five) years in prison or more, unless 5 (five) years have passed since completing the prison sentence and the person has openly and honestly informed the public about their past conviction and is not a repeat offender; j. not currently have their voting rights revoked in accordance with a court decision with permanent legal force; k. be in good health; l. have never served as Village Head for 3 (three) terms; and m. meet other requirements as regulated by Village Regulations.

As stipulated in point m, "other requirements as regulated by Village Regulations," it turns out that the village regulations in Mukomuko Regency and North Bengkulu Regency do not include provisions requiring a recommendation or decision from the Clan Head for someone to run for Village Head. Although it is not formally written, candidates for Village Head and other public officials would not dare to run without the approval of the clan's deliberation. As explained by ST:

His candidacy as Village Head was the result of deliberation among the Clan Heads. For ST, being nominated as a candidate for Village Head was an honor because the Clan Heads in that area are highly respected individuals with strategic positions in the village. "If I were to refuse," ST stated, "it could lead to other social issues and be seen as disloyalty to the Clan's decision. This is my way of participating as a member of the customary community who submits to the decisions of the Clan Head." (ST is the Village Head in the area of the former Pekal Sultanate).

In customary communities, the highest form of loyalty from community members is demonstrated through their participation in all community activities. The customary community makes decisions, including public policy, for the common good within the community. As stated by Hatington and Joan Nelson:

"Community participation is understood as the involvement of individuals or groups, actively participating in the formulation of public policy or legislation. Participation provides a space for the community to negotiate in the policy-making process, especially those that have a direct impact on the community's life" (Huntington and Nelson, 1990).

In the Pekal community, togetherness within a clan is highly prioritized. Various community activities reflect this value, such as when a family is preparing for a wedding and the parents of one of the parties involved are financially disadvantaged, especially if they are widowed. In such cases, the community comes together to provide collective assistance, as explained by HB:

"If a member of the Pekal community is planning a wedding and the parents of one of the individuals are financially disadvantaged, especially if the family is incomplete or the parent is widowed, the customary community will help cover all the necessary expenses. The Clan Head will organize a preparation committee meeting, inviting all community members whom the Clan Head believes are capable of providing assistance. The Clan Head will explain the family's situation and their needs to the meeting participants, who then spontaneously offer the amount of assistance they are willing to provide. If the Clan Head determines that the funds collected are still insufficient, another meeting will be held with the same agenda. If the funds are still lacking, the Clan Head will invite the women to participate in the meeting with the same agenda. According to HB, by the second meeting, the funds are usually sufficient to cover the wedding expenses." (HB is a Pekal community leader who is currently a member of the Provincial DPRD of Bengkulu).

According to BRN, "The assistance from the community doesn't necessarily have to be in cash; it could be in the form of goods, such as vegetables, livestock, firewood, rice, and other items needed for the wedding celebration. The community's enthusiasm for helping their less fortunate neighbors is very high, especially when someone in the community faces a disaster or hardship." (BRN is the Clan Head of Air Buluh village, South Mukomuko District, Mukomuko Regency).

In customary communities, the spirit of mutual cooperation (*gotong royong*) is a distinctive characteristic that is still preserved. Helping those who are in need or facing adversity is a collective obligation that must be maintained indefinitely, without the need for a request from the person experiencing the difficulty (Pasya, 2011).

## 6. Conclusion

The results of the study on the Pekal community reveal something unique, particularly in the nomination of formal government officials, such as Village Heads, members of the Regional House of Representatives (DPRD), and Regents/Deputy Regents. This uniqueness lies in the Pekal community's strong adherence to the tradition of Clan leadership, where the Clan can decide who will be nominated for these formal positions based on the decisions made in the clan's deliberations. This means that the Clan Head can make decisions that may contradict regulations established by the national government.

In determining candidates for Village Head, the Clan Heads in the village hold deliberations to decide on a candidate based on various considerations determined during the clan's meeting in that village. For instance, this practice is observed in Sibak Village, Ipuh District, Mukomuko Regency, while in other villages, there is more variation, allowing candidates from other clans within the village, as long as the decision is approved by the clan's deliberation. Specifically, in Sibak Village, which consists of several clans, the rotation system is applied: if this term's Village Head is from Clan A, then the next term's candidate will be from Clan B, and so on. For the nomination of DPRD members and the Regent/Deputy Regent, deliberations are held among the Clan Heads from all the villages in the Pekal region.

The Pekal community continues to uphold these traditions, which persist to this day. Interestingly, these traditions are not only applicable to the nomination of public officials but also in broader community matters where the Clan Head can make decisions deemed beneficial for the Pekal community.

These traditions are accommodated and supported by the local government, ensuring their continuity. For instance, in the nomination of Village Heads, the subdistrict or regency government, which acts as the organizing committee for village head elections, will ask for a letter of support from the Clan Head for the candidate, even though this is not a requirement under the law. The prevalence and persistence of clan traditions in the Pekal community are based on the following:

1. The Pekal community is homogeneous; if new residents settle in the village, they must submit to local customs by joining one of the clans in the village, subject to certain requirements.
2. There is support from the local government, such as in the nomination of Village Heads, where the election committee asks for a letter of support from the Clan Head, even though this is not mandated by law.
3. The Pekal community is very enthusiastic about preserving these traditions, as they are seen as a means of conflict resolution in the leadership selection process that commonly occurs in the community.
4. The community strongly supports the decisions of the Clan Head, as these are considered beneficial, especially in addressing difficulties faced by residents, such as during disasters or situations requiring community support, where the Clan Head can effectively mobilize the community.

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