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Jl. Prof. KH. Zainal Abidin Fikri KM. 3.5 Palembang 30126 Telp. +62711362427
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Local Wisdom Becomes the Commander in Criminal Resolution

Andriyani¹, Rusmala Dewi²

^{1,2}Fakultas Syariah dan Hukum Universitas Islam Negeri Raden Fatah
Palembang, Sumatera Selatan
Email: andriyani_uin@radenfatah.ac.id

<p>Keywords: Customary Law; Customary Crime; Local Wisdom; Tradition; Urf.</p> <p>DOI: 10.19109/nurani. v%i%i.19935</p>	<p>Abstract: Settlement of criminal cases through peaceful means is highly recommended, especially in minor criminal cases. This is important so that cases do not accumulate. This method is widely applied in customary law which prioritizes restorative justice. However, not all customs that exist in society can be accepted by Islamic law. Therefore, this research conducted a study of the "teping tawar" custom that exists in the Ibul Village community. The research uses a qualitative type with a field research model. The data processed consists of primary, secondary and tertiary data. The research was conducted in Ibul Village, Belida Darat subdistrict. The results of the research reveal that in the tepung tawar tradition there is a very high element of forgiveness. This aims to ensure that there are no grudges between the disputing parties, so that they can continue to live peacefully side by side in society. In the Ibul village community, it is customary for "teping tawar" to be the commander-in-chief in resolving criminal cases of abuse. There are no elements that conflict with Islamic law in this customary practice, so the "teping tawar" custom is included in the al-'urf al-shahihah category so it can be accepted as a legal basis.</p>
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Introduction

Handling cases by applying customary law usually prioritizes restorative justice, where the perpetrators, victims, the perpetrator's family and the victim's family discuss to reach an agreement. Restorative resolution of criminal cases has been carried out in all prosecutor's offices in Indonesia. As confirmed by the Attorney General, Burhanuddin, more than a hundred minor criminal cases have been resolved restoratively. This aims to ensure that the resolution of criminal cases will prioritize peace or what is called restorative justice, especially for minor cases (Hasanuddin, 2020).

The community chooses to resolve cases through customary law because the process is faster than resolving cases through the judicial system. Apart from that, resolving cases through customary law will avoid the practice of judicial tyranny, the costs will be lighter, the punishment given

will be more effective in deterring criminals so that they no longer repeat crimes, and can prevent other people from doing bad things that can harm other people. Apart from that, the method for resolving cases in this way is clear and open, involving all elements of society.(Fitriati, 2017)

Cases that are resolved using customary rules are usually minor crimes. Like in Lampung, for example, elopement cases that occurred in the Lampung Pepadun traditional community, domestic violence cases, traffic accident cases, land cases, embezzlement cases, fraud cases, minor abuse and so on. However, there are also many minor criminal cases that are resolved through formal justice.(Ulil, 2019)

According to the results of research conducted by Aguswandi, it was stated that minor criminal acts that occurred in Gampong and Mukim (the name of the NAD Province area) should not be immediately processed through litigation but must first be tried in the customary court..(Aguswandi, 2021). Settlement of criminal cases that are resolved through a non-litigation process is carried out according to the wishes and agreement of both parties.(Syarifuddin, 2019)

In fact, it is not only minor criminal cases that can be resolved according to customary law, but also other criminal acts such as corruption. Corruption cases resolved through non-litigation, such as in West Sumatra. In this case, the resolution of corruption cases can be resolved by means of consensus by the community in the Nagari Government, traditional trials at the Nagari customary density (KAN), giving customary punishments in dealing with cases.(Fitriati, 2017)

Apart from West Sumatra, in Lampung there is also local wisdom called "megow pak tulang bawang" which has a process with certain stages in resolving criminal cases. The first stage begins with the perpetrator providing a period of time to meet the victim. This is done to ensure that the victim is no longer emotional so that fears of riots between the parties can be avoided. Next, one of the perpetrator's families visited the victim's family with the aim of asking for peace. If the victim agrees, the next stage will be carried out, namely, determining the time and place where peace will be implemented. The peace agreement was attended by equalizers from both parties, the perpetrator, the victim, the family of the perpetrator and the victim. The peace ceremony was also attended by the village head and police (Pratama, 2016).

In Islamic law, the resolution of criminal cases is regulated in such a way, both regarding Hudud, Qisas or Diat, and Ta'zir. Jarimah Hudud is a criminal act whose form has been determined so its number is limited. Apart from that, the sanctions for the hudud finger have also been determined and are God's right, so there is no element of forgiveness for those who make the finger. Jarimah qisas or diat has also been determined in terms of type and sanctions, but in this jarimah there is an element of forgiveness and is the right of the victim and the victim. The Ta'zir Jarimah is different from other Jarimah, because it is related to the development of society and its benefits. The practice of ta'zir itself has been partly determined by sharia (Hakim, 2010).

In fact, the objectives of the criminal justice system formally, informally (criminal settlement according to customary law), and according to Islamic law as mentioned above are the same, namely to provide a deterrent effect to criminals and other people in the community, to provide security for society in general, and protect the rights of victims.

Basically, Islamic law has long recognized the customs that exist in society as long as they are in accordance with Islamic law. With this it can be seen that not all customs must be abolished, but there are also some that must be preserved. One example of custom recognized by Islamic law is cooperation in trade with a profit sharing system. In this regard, the ulama have agreed that customs which are in accordance with Islamic law can be used as the basis of sharia, but must meet certain conditions (Zein, 2019). The existence of customs (al-Urf/al-'Adah) in the development of Islamic law is recognized by the ulama. Like Asy-Syatibi who explains customs with the term 'adah in al-muwafaqat (Ibrahim, 2008).

Customs regarding the resolution of criminal cases are also found in other areas, such as the "tepung tawar" custom. This "tepung tawar" custom is carried out by the people of Ibul village, Beliida Darat District, Muara Enim Regency, South Sumatra Province. The tradition of "tepung tawar" is also found in South Kalimantan, namely among the Banjar and Dayak Meratus communities. However, it seems that this tradition only has the same name, but the ingredients and purpose are different. As written by Mohammad Fathi Royyani, "tepung tawar" is a custom used for traditional medicine, rites of passage such as having a new motorbike, having a new car, even a house (Royyani, 2014).

From the research conducted by Mohammad Fathi Royyani, it is clear that the "tepung tawar" custom in Ibul Village is very different from the tepung tawar custom described above. The tepung tawar custom that will be studied in this paper is a custom that is carried out in the context of resolving criminal cases in the local community.

Based on the descriptions above, the author wishes to conduct research on the resolution of criminal cases using the "tepung tawar" custom in Ibul village, Belida Darat District, Muara Enim Regency, South Sumatra Province. Thus, the author will study these customs in depth by analyzing them based on the concept of 'urf in Islamic law. This research aims to see whether resolving criminal cases through the custom of "tepung tawar" in Ibul village, Belida Darat District, Muara Enim Regency, South Sumatra Province can be an appropriate effort to tackle crime. Not only that, this research also aims to see whether it is in accordance with Islamic law or not.

Method

This research is qualitative research. Qualitative research is a research model that prioritizes material that is difficult to measure with numbers. This qualitative research is also a type of research where the results are not obtained through statistical procedures or other forms of computing, such as life, a person's behavior, the role of organizations, social movements can be calculated as census data, but the analysis is qualitative. Furthermore, such research is also included in the category of research using

descriptive methods, namely methods for researching the condition of human groups, or a condition, a system of thought, even an event in the present. The approach method used in this research is the normative legal method.

This research will be carried out in Ibul village, Belida Darat District, Muara Enim Regency, South Sumatra Province. The author used primary and secondary data to conduct research. Primary data is data taken in the field. In this case, primary data is data from the people of Ibul Village, Belida Darat District, Muara Enim Regency, South Sumatra Province. Secondary data is data obtained from library materials and documentation. Secondary data for this research is divided into primary legal sources and secondary legal sources.

The population selected in this study were all residents of Ibul village, Belida Darat subdistrict, Muara Enim district, South Sumatra Province. The samples chosen were people who had practiced the tradition of tepung tawar (both perpetrators and victims) and community leaders in the village.

Researchers used two methods to collect data, namely by interview method and literature study. In the interview method, researchers will interview people who have been directly involved in the tepung tawar tradition (both the perpetrator and the victim) and community figures in the village who really know about this "tepung tawar" tradition. The approach used in interviews is a social constructionist approach, namely the interviewer explores data through structured and/or semi-structured interviews so that an interpretation will be produced in the form of a narrative that is very dependent on the research context (Hartono, 2018).

Researchers conduct semi-structured interviews, that is, researchers will prepare questions in advance that will be answered by respondents. This is done so that the interview activity becomes focused and runs according to the expectations of the researcher/interviewer. Interview activities were carried out to obtain primary data in this research. In the literature study method, researchers collect legal materials by reading, quoting, taking notes and reviewing reading materials related to the research problem, such as various verses of the Koran, hadith, statutory regulations, judge's decisions, books, journals, research results of legal experts, proceedings, newspapers and internet browsing.

Meanwhile, in data analysis, researchers used qualitative descriptive analysis methods. This means that the data obtained will be processed and described and will be connected in such a way that it can be presented in a systematic written form, clearly answering the problems formulated above. There are three activities in analyzing data, namely data reduction, data display and conclusion (Fadli, 2021). Data reduction is selecting the main things, focusing on what is considered important and discarding things that are considered unnecessary. Data display is an activity carried out after data reduction, namely data presentation. In this case, the data presentation will be in the form of a description. The next stage is drawing conclusions.

Result and Discussion

Settlement of criminal cases through the "tepung tawar" custom in Ibul village

Customs in one area do not apply to other areas. Likewise, the naming of a custom does not have the same meaning. The "tepung tawar" custom in Ibul Village is not necessarily the same as the "tepung tawar" custom in other areas. For example, the tradition of "tepung tawar" in South Kalimantan, specifically among the Banjar and Dayak Maratus communities, is a tradition that uses biodiversity for various purposes; traditional medicine, planting cycle rituals, house moving rituals, and other transition rites (buying a motorbike, occupying a house). In the use of *tepung tawar*, plants are an important means. Plants cannot be replaced with other synthetic equipment. In the *tepung tawar* ritual itself, the plants used are divided into two important components. First, the plant is torn into small pieces and then tied like a broom, but small in size. Usually when making this equipment, there are types of plants that have wide and long leaves. Such as coconut, banana, pandan, and other types of reeds. (Royyani, 2014)

The tradition of *tepung tawar* in the Malay community of Sarawak is the ceremony of sowing yellow rice, planting corn, potpourri of flowers and pouring scented water on the bride and groom (Bohari & Magiman, 2020). The custom of *tepung tawar* in the Pontianak Malay community is divided into two, namely it is carried out at accompanying events such as weddings, hair cutting, circumcisions, building a house, and moving house. Meanwhile, goods or equipment purchased such as cars, motorbikes, boats, generally vehicles. The tools used for *tepung tawar* are rice flour, yellow rice, *juang-juang* leaves with the stems tied together, and tea. Next, each is put into a different small bowl and the bowls are placed on a small tray. People who sprinkle water on event processions and objects or goods are people who are respected or elders and are seen as religious figures, community leaders and traditional leaders. In practice, there are 4 types of *tepung tawar*, namely *tepung tawar* for corpses, for equipment, for the body and for the house. These four types have differences in terms of the tools and materials used (Ramadhan, 2019).

Not much different from the plain flour custom above, Karimun district also has the same custom, namely *tepek tepung tawar*. *Tepek tepung tawar* is a traditional Malay ceremony as a form of offering gratitude for the fulfillment of a wish or business. This ceremony is carried out in two conditions, both to humans and to objects. *Tepung tawar* in its implementation to accompany the process of wedding ceremonies, thanksgivings, circumcisions and other activities related to giving thanks for good fortune or the fulfillment of wishes is a kind of ritual that is always carried out in Malay society (Hendra, 2022).

The Malay community of North Sumatra also knows the custom of *tepung tawar*. This tradition is symbolized as a tradition as an embodiment of happiness, safety, prosperity, and other good things that are symbolized by people who practice *tepung tawar*. This tradition is often carried out at events such as weddings, circumcisions, funerals, and other traditions that are a form of gratitude. This tradition is a symbol of gratitude and joy for ethnic

Malays towards God. At weddings, the tradition of *tepung tawar* is symbolized as a form of blessing from the extended family to the bride and groom to avoid all bad things in married life. In this tradition, there are several special tools and materials which are divided into three types, namely: herbal medicine, *perinjis*, and incense. First, the sowing potion contains various flowers and rice of various colors which are placed in a small container which is used as a sowing agent in the *tepung tawar* process. Second, the *perinjis* concoction consists of a bowl filled with water, sliced kaffir lime, and seven types of leaves tied together, and used as a sprinkler. Third, incense which consists of metal incense filled with burned incense. However, in this tradition, incense is only used as a fragrance or ceremonial complement, which does not have any meaning (Batubara et al., 2022).

From the description above, it can be seen that the custom of *tepung tawar* is widely known among Indonesian people, although some uses are the same and some are different. Like the custom of *tepung tawar* which is known to the people of Ibul Village, Belida Darat District, Muara Enim Regency. There is a difference between the custom of *tepung tawar* in Ibul Village and the custom of *tepung tawar* in other areas. The custom of *tepung tawar*, known in Ibul Village, is a way of resolving minor criminal cases.

The custom of *tepung tawar* in Ibul Village, Belida Darat District, Muara Enim Regency has existed since ancient times, namely the time of their ancestors. From the results of interviews, no one knows for sure when this *tepung tawar* custom started. All the people interviewed said that the custom of *tepung tawar* had existed since ancient times, the custom of *tepung tawar* existed before they were born. The implementation of *tepung tawar* is carried out by the party who has done wrong to another person. The meaning of error here is committing an act that can harm or injure another person, whether done intentionally or unintentionally, whether done by a child or an adult. The wound can be a wound that bleeds or just a bruise, bruise or swelling.

This *tepung tawar* consists of one kilo of rice, one coconut, one free-range chicken egg and enough money. However, based on the results of interviews with traditional leaders, there are those who add salt, and there are also those who add kitchen spices. In practice, there are differences in each person who uses this *tepung tawar*. There are those who provide complete *tepung tawar* and there are also those who provide incomplete *tepung tawar*. For example, some only give rice and money, others only give half a kilo of rice, coconut and salt. However, this is not a problem for the people of Ibul Village. So far, the recipient of the *tepung tawar* has never refused what the perpetrator gave him.

In this tradition of *tepung tawar* there is a medicinal concoction that must be given by the person who caused the wound. This concoction is believed to speed up the healing of the wound. Based on the results of interviews with traditional leaders, the concoction is made from finely crushed galangal and lemongrass. In practice, not everyone who carries out this *tepung tawar* custom gives this concoction. From the interview results, there was only one person who gave the concoction to be applied to the wound. The concoction is not made from finely crushed galangal and

lemongrass, but is made from lemongrass and a little rice which is chewed by the perpetrator.

If the victim's injuries are so severe that they must be hospitalized or require serious treatment, the perpetrator must bear all the costs incurred. If the perpetrator does not want to take responsibility, the victim can report it to the village head. In this case the village head will call all parties to mediate. If there is no peace between both parties, the victim can take legal action.

As the results of the interview show, the custom of *tepung tawar* has a good meaning for the community, namely creating a peaceful life for all the people of Ibul Village, Belida Darat District. The purpose of the *tepung tawar* custom is as follows: So that people who make mistakes always apologize for their mistakes; so that people who make mistakes are responsible for their actions; So that the victim and his family always forgive the perpetrator; So that every problem can be resolved peacefully; So that small problems can be eliminated and big problems become lighter; So that there will be no resentment in the future for the disputing parties; So that the disputing parties can continue to live peacefully; So that everyone, from children to adults, is always careful in carrying out actions so as not to harm other people.

Study of 'urf in the custom of *tepung tawar* in Ibul village

In the context of Indonesia, in its history, before the arrival of Islam, in certain communities there were groups of adherents of traditions or cultures which were sometimes considered to have no basis or basis in the Koran and Sunnah. This is because it originates from a society before the arrival of Islam. After the Indonesian people recognized and embraced Islam, the traditions or cultural heritage remained alive and preserved, as long as they were still used as guidelines for behavior. In other words, the majority of Indonesian people who have embraced Islam still accept certain traditional concepts by providing content or substance to Islamic teachings (Ibrahim, 2012).

Settlement of criminal cases through the custom of *tepung tawar* can be said to be resolution of cases through peaceful means or resolution of cases based on local wisdom. Peaceful resolution of criminal cases is also practiced in Islamic criminal law. Even in Islamic criminal law, peaceful resolution of cases is not only intended for light crimes but also serious crimes, such as abuse that causes serious injuries and disability for life and even murder that is committed intentionally.

In Islam, the crime of intentional murder is included in the qishash finger. Jarimah qishash is a finger that is given a qishash sanction or an action is repaid with the same action. For example, if you kill someone you will also be killed, if you injure someone you will also be injured, if you remove another person's body part then the same body part will be removed. However, actions like this are subject to qishash sanctions if done intentionally. This means that qishash is the main punishment for criminal acts targeting the soul or body parts which are carried out intentionally. However, in the qishash finger there is an element of forgiveness. This means

that if the victim or his heirs forgive the perpetrator's actions, the perpetrator will be free from qishash sanctions. If this happens, the perpetrator will be given diyat sanctions or a fine. Even in Islamic criminal law, the victim or his heirs can also forgive the perpetrator. If the perpetrator is also forgiven by the victim or his heirs, determining the sanctions for the perpetrator is left to the judge (Hakim, 2010).

Qishas is a tradition from pre-Islamic Arabia. In order to assess the practice of qishas, the Qur'an introduces new principles such as justice, equality, morality and individual responsibility. The qishas paradigm in the Qur'an emphasizes the rehabilitative concept, especially the restoration of people's morals, especially perpetrators of murder. This can be seen from the alternative punishments in the Koran, which include performing diyat, providing forgiveness, and seeking a peaceful solution. By fostering tolerance and eliminating animosity, this alternative punishment seeks to end conflict. The aim of qisas punishment is to maintain the continuity of human existence, not just to enforce social control by punishing criminals (Sodiqin, 2010).

One of the principles of applying qishas punishment in Islam is forgiveness. that a murderer cuts ties with a person or organization before committing murder. When qishas is performed, the destruction of this relationship occurs. Therefore, there is only one solution to this problem, namely forgiveness. By forgiving, their relationship is upheld, their affection is reawakened (renewed), and negative aspects in their relationship are eliminated. On this basis, Allah loves forgiveness for evildoers (Khasan, 2017).

The custom of *tepung tawar* in Ibul Village contains positive values, even these values are very in line with Islamic values. As is known, the custom of *tepung tawar* provides teachings to society such as: Teaching someone to be responsible if they make a mistake; Teach someone to apologize if they make a mistake; Teaches someone to always forgive and not have feelings of revenge towards someone who has done something wrong to him; Teaches someone to always prioritize deliberation in resolving various problems; Parents can set a good example for their children.

One must apologize for wrongs done to others. According to Muhammad Noer, Islam teaches humans to immediately apologize when someone realizes their mistake. Because an apology is an attempt to erase a mistake (Noer, 2009). Removing and forgetting all the hurt and injustice felt due to other people's actions in order to build healthier relationships is one of the main components of forgiveness (Khasan, 2017).

History has shown a lot that Islam has always upheld forgiveness as one of its fundamental values and principles. The Prophet Muhammad SAW often appealed and ordered us to ask Allah for enormous blessings, one of which is patience and the ability to forgive other people, even though they are our enemies (Khasan, 2017).

Many of the verses of the Qur'an contain the formulation of His words related to forgiveness, such as: (Soponyono, 2023)

1. In surah ash Shura verse 40:

وَجَزَاءُ سَيِّئَةٍ سَيِّئَةٌ مِّثْلُهَا ۗ فَمَنْ عَفَا وَأَصْلَحَ فَأَجْرُهُ عَلَى اللَّهِ ۗ إِنَّهُ لَا يُحِبُّ الظَّالِمِينَ ﴿٤٠﴾

2. In surah At Taghaabun verse 14:

وَإِن تَعَفُوا وَتَصْفَحُوا وَتَغْفِرُوا فَإِنَّ اللَّهَ غَفُورٌ رَّحِيمٌ ﴿١٤﴾

3. In surah Ali Imran verse 133 and 134:

وَسَارِعُوا إِلَى مَغْفِرَةٍ مِّن رَّبِّكُمْ وَجَنَّةٍ عَرْضُهَا السَّمَوَاتُ وَالْأَرْضُ أُعِدَّتْ لِلْمُتَّقِينَ ﴿١٣٣﴾
الَّذِينَ يُنْفِقُونَ فِي السَّرَّاءِ وَالضَّرَّاءِ وَالْكَبِيمِ وَالْغَيْظِ وَالْعَافِينَ عَنِ النَّاسِ ۗ وَاللَّهُ يُحِبُّ
الْمُحْسِنِينَ ﴿١٣٤﴾

4. In surah An Nuur verse 22:

وَلْيَعْفُوا وَلْيَصْفَحُوا ۗ أَلَا تُحِبُّونَ أَن يَغْفِرَ اللَّهُ لَكُمْ ۗ وَاللَّهُ غَفُورٌ رَّحِيمٌ ﴿٢٢﴾

5. In surah Al A'raaf verse 199:

خُذِ الْعَفْوَ وَأْمُرْ بِالْعُرْفِ وَأَعْرِضْ عَنِ الْجَاهِلِينَ ﴿١٩٩﴾

The hadiths whose formulations are related to forgiveness can be understood in the following hadiths: (Soponyono, 2023)

1. *Allah will not increase someone's forgiveness except with glory, And no one will lower himself to Allah but Allah will exalt his rank. (Hadith narrated by Bukhari and Muslim).*
2. *If anger has left (troubled) you, then get rid of it by apologizing. Indeed, on the Day of Resurrection there will be a voice calling; stand up whoever has reward with Allah! There is no one standing except those who forgive. Haven't you heard the words of Allah subhanahu wa ta'ala: whoever forgives and repairs relationships, his reward will be with Allah.*
3. *You should forgive because the act of forgiving will add glory to a servant. Forgive each other so that you can get glory from Allah. (Hadith narrated by Bukhari and Muslim)*
4. *Whoever forgives a lot will live long.*
5. *Forgive those who make mistakes, Allah will protect you from a bad fate.*

In the wisdom of the Koran and hadith above, Islam focuses more on forgiveness and of course it cannot be denied that forgiveness is done at the request of or without being asked by the person who made the mistake.

Forgiving does not mean showing that someone is weak because they are unable to reply. The wisdom of the Koran and hadith focuses more on giving forgiveness because it shows the nature of a person's superiority and nobility based on the results of his learning from the nature of Allah who is all-forgiving and most merciful, regardless of how big the mistakes made by other people are. Thus, a person with his forgiving nature has chosen the path of Allah subhanahu wa ta'ala's pleasure, even though he is able to repay other people's mistakes (Soponyono, 2023). However, a person's apology does not mean he will be free from sanctions (Soponyono, 2023).

If it is related to the custom of *tepung tawar*, then the above is appropriate. The custom of *tepung tawar* contains the value of forgiveness, namely the victim forgives the perpetrator without even being asked by the perpetrator. The perpetrator without any pride apologized to the victim. In the *tepung tawar* tradition, forgiveness does not mean the perpetrator is free from sanctions. The perpetrator continues to carry out his sanctions, namely taking full responsibility for the victim. For example, if the victim suffers serious injuries that require treatment in hospital, the perpetrator will bear all costs incurred in the treatment.

Customary law in a particular area can be different from customary law in other areas. One of the causes is religion (Pide, 2019). Thus, it can be assumed that Islamic values also influence the custom of *tepung tawar* in Ibul Village, as it is known that all the people of Ibul Village are Muslim.

The strong influence of Islamic law on the customary law system is not in a negative sense but in a positive sense. Therefore, Islamic law does not necessarily override customary law, let alone abolish customary law, but rather complements one another. Customary law and Islamic law have accumulated into a legal system for indigenous children, the majority of whom adhere to the Muslim religion (Sudirman et al., 2021)

With regard to the study of 'urf in the custom of *tepung tawar*, the author will study it in detail, starting from the aspect of dividing 'urf based on its reach, meaning, validity, and the position of 'urf as a shariah proposition'. In fact, 'urf has existed since the time of the Prophet. In the history of the development of Islamic law, it can be seen that there were legal decisions regarding problems that had just emerged (Nazilah), not absolutely based on texts from the Qur'an or hadith, but based on these conditions, ijihad not only occurred after the time of the Prophet Muhammad, but even occurred during the time of The Prophet himself, one of the legal instruments of istinbath in ijihad is 'urf (Harun & Fauziah, 2014).

'Urf seen from its range is divided into *al-'urf al-'amm* and *al-'urf al-khashsh*. *Al-'urf al-'amm* or what is known as *general 'urf* is a custom that applies to many people and in various wide areas. Meanwhile, *al-'urf al-khashsh* is a custom that applies specifically to certain communities. In this case, the custom of *tepung tawar* is included in the *al-'urf al-khashsh* category, because this custom of plain flour only applies to the people of Ibul village. Even though the custom of *tepung tawar* is also carried out by other village communities (the Belida community in villages other than Ibul), this custom of *tepung tawar* is still categorized as *al-'urf al-khashsh*. This is because the custom of *tepung tawar* in Ibul Village is a custom belonging to

the village of Ibul itself, meaning that if the custom of *tepung tawar* in other villages changes, then these changes do not affect the custom of *tepung tawar* in Ibul Village.

Next, the division of 'urf in terms of object material is *al-'urf lafzhi/qauli* and *al-'urf 'amali/fi'li*. *Al-'urf lafzhi/qauli* is a community's habit of using the pronunciation/expression of something, so that the meaning of the expression is what the community understands. *Al-'urf 'amali/fi'li* is a community habit related to ordinary actions or civil muamalah. The meaning of ordinary actions is actions related to their personal life. And the meaning of civil muamalah is the community's habit of carrying out contracts/transactions in a certain way.

In terms of dividing 'Urf in terms of the material object, the custom of *tepung tawar* is included in *al-'urf 'amali/fi'li*, namely 'urf deeds. This is because the custom of *tepung tawar* is an act of giving something to another person as a sign of apology and accountability for the actions he or she has committed or committed by his or her family.

The division of 'urf based on its validity is *al-'urf ash-shahihah* ('urf that is valid) and *al-'urf al-fasidah* ('urf that is damaged/wrong). *Al-'urf ash-shahihah*, namely community customs that are in accordance with and do not conflict with the rules of Islamic law. In other words, 'urf does not change haram provisions to halal or vice versa changes halal provisions to haram. *Al-'urf al-fasidah* is a community custom that is contrary to the provisions and postulates of Sharia'. It can be said that *al-'urf al-fasidah* is the opposite of *al-'urf ash-shahihah*.

Thus, the custom of *tepung tawar* is categorized as *al-'urf ash-shahihah*. This is because the custom of *tepung tawar* contains values that are in accordance with Islamic law, such as peace, kinship, deliberation, education and so on. As seen from the practice, there is nothing negative, in the sense that it must be carried out in certain rituals which are contrary to Islamic law. There is nothing that is haram.

If examined from the perspective of the position of 'urf as a shariah proposition', the custom of *tepung tawar* can be used as a legal basis. Because, the proof of 'urf as a sharia proposition' is based on the following words of Allah in surah al-A'raf verse 199:

خُذِ الْعَفْوَ وَأْمُرْ بِالْعُرْفِ وَأَعْرِضْ عَنِ الْجَاهِلِينَ ﴿١٩٩﴾

This surah explains that Allah commands Muslims to do what is ma'ruf. Meanwhile, what is called ma'ruf itself is something that is considered good by Muslims, is done repeatedly and does not conflict with correct human character and is guided by the general principles of Islamic teachings (Dahlan, 2018).

The custom of *tepung tawar* is something that is ma'ruf because it is considered good by the people of Ibul Village. The custom of *tepung tawar* is also carried out repeatedly from generation to generation. The habit of *tepung tawar* does not conflict with healthy human nature. Apart from that, the custom of *tepung tawar* also upholds Islamic values.

The blasphemy of 'urf as a shariah proposition' is also based on the following words of one of the Prophet's companions, namely Abdullah bin Mas'ud: "*something which is considered good by Muslims is good in the sight of Allah and something which they judge as bad is bad in the sight of Allah*". This expression, both in terms of editorial and its meaning, shows that the good habits that apply in Muslim society which are in line with the general guidance of Islamic law are also something that is good in the sight of Allah. On the other hand, things that are contrary to habits that are considered good by society will give rise to difficulties and narrowness in everyday life.

Allah explains in surah al-maidah verse 6 as follows:

مَا يُرِيدُ اللَّهُ لِيَجْعَلَ عَلَيْكُمْ مِنْ حَرَجٍ وَلَٰكِنْ يُرِيدُ لِيُطَهِّرَكُمْ وَلِيُنِزِلَ عَلَيْكُمْ لَعْنَةً
تَشْكُرُونَ ﴿٦﴾

Examining culture based on fiqh rules can be done through rules regarding the function of Islamic teachings in the *an-naqid al-mahazzib* category. This rule teaches that Islamic teachings correct and clean up the substances of community practices that are not in accordance with Islamic teachings, even though the basic concepts are still maintained. At the same time, Islamic teachings accommodate things that are beneficial or beneficial for the development of society in a peaceful manner and for the benefit of all parties. Through this approach, Islam's attitude towards culture is a *tasamuh* attitude, a tolerant attitude towards it. Culture is welcome to be practiced and developed to meet the needs of people's lives. However, if it conflicts with sharia principles, improvements and changes should be made by giving it values that do not conflict with Islamic teachings. In other words, various traditions that emerge and are practiced in society can be accepted or maintained and developed as long as they do not conflict with the basics of sharia, whether they are accepted in their entirety or revised in parts that are not in accordance with the basics of sharia (Ibrahim, 2012).

Conclusion

The Ibul Village custom of *tepung tawar* is intended for someone who makes a mistake that can harm other people, such as causing harm or injury. Traditionally, *tepung tawar* is widely used in activities in the light category. However, it does not rule out the possibility of being used for acts in the serious criminal category. This matter is left to the parties concerned. The custom of *tepung tawar* applies to all the people of Ibul Village, both children and adults, both men and women.

The *tepung tawar* custom contains the meaning that the people of Ibul Village must live side by side peacefully without any hostility. The purpose of the custom of *tepung tawar* is: so that someone who has done something wrong to another person immediately apologizes for their actions and takes responsibility for everything that results from that action; so that the victim or the victim's family forgives the perpetrator's mistakes; so that there is no feeling of resentment between the parties; so that people can remind each

other if someone makes a mistake; so that all people are always careful in what they do, so as not to harm other people. This has been taught since childhood; so that whenever there are problems between communities, they can be resolved peacefully. Traditionally, plain flour has an element of forgiveness. This element of forgiveness is known in Islamic criminal law, namely in the crimes of murder and abuse. Thus, based on the 'urf study, this custom can be accepted. The custom of *tepung tawar* is included in the *al-'urf ash-shahihah* category because nothing in this custom contradicts the rules contained in Islamic law, both the al-Qur'an and the Hadith.

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