

## **ABSTRACT**

### **ANALYSIS OF BASIC CONSIDERATION OF JUDGES IN IMPOSING CRIMINAL LAW THAT TAKES INTO ACCOUNT THE DECISION OF CRIMINAL JUSTICE BALINESE AGAINST GAMBLING CRIMINAL CASES (Case Study No. 26/Pid.B/2015/PN.GNS)**

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Formal criminal law enforcement efforts can not be separated from the set of norms and rules of locally applicable laws or customary criminal law. One of the traditional criminal law which is still firmly held by indigenous peoples today is the customary criminal law Bali. The problem in this research are: How is the basic consideration of judges in imposing criminal law that takes into account the decision of the criminal justice Balinese against gambling criminal cases? Is the decisions of judges convict with regard Balinese traditional criminal law in accordance with the public sense of justice?

This research uses normative and empirical approach. Informants consist of District Court Judge Gunung Sugih, Attorney at the State Attorney of Gunung Sugih and Indigenous People of Bali. Data collected by library research and field studies, the data was analyzed qualitatively.

The results showed: Basic considerations of criminal law judges in imposing criminal law Balinese regard to the criminal case gambling is the defendant I Ketut Suwendra proven legally and convincingly committed the crime of gambling types of dice koprok. The judge also has the basis that the accused had been sentenced to customary form of exile for one year after the accused serving a sentence in Penitentiary. The traditional criminal congregation imposed by the District Alit white as Many Central Lampung reGENCY I Ketut Suwendra against the accused for committing the crime of gambling. The judges based on these considerations convict the Defendant I Ketut Suwendra by imprisonment for five months in prison. Decisions of judges convict with regard Balinese traditional criminal law in accordance with the public sense of justice, namely judges to consider the existence of customary criminal law Bali The defendant has imposed criminal punishment in the form of gambling with the congregation Alit exile by the District Central Lampung reGENCY white as Many as the basis for strengthening the judge in the sentencing of the defendant.

Suggestions in this research were: The judge in the convict against the perpetrators of criminal acts should pay attention to and consider the criminal law applicable customs and firmly held by the public. The imposition of punishment by the judge against the perpetrators of criminal acts that have been sanctioned customs should consider the type and shape of the traditional sanctions.

**Keywords:** Basic Considerations, Custom Criminal Law, Gambling Crime