

ROLE OF MEDIATION COMMITTEE AS A MEAN OF DISPUTE RESOLUTION FOR LOCAL COMMUNITY IN PERCUT SEI TUAN DISTRICT IN DELI SERDANG COUNTY

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ABSTRACT

Human is a social individual who will always live in groups, and in such groups, dependency to each other is very high. However, it is inevitable that life in group might trigger conflict, which in the end will result in dispute. This is also what often happens to local community in Percut Sei Tuan District in Deli Serdang County. This is then to be the basis for the emergence of problems such as how to settle existing dispute, which parties take part as mediators, and what techniques used by a mediator to settle existing dispute in the local community. To formulate the answers towards this problem, this study is conducted with empirical judicial approach method, with analytical descriptive research characteristic, where data collected are then analyzed qualitatively. The conclusion from this study is that disputes often occurring in Sampali Village, Cinta Damai Village, Cinta Rakyat Village, Saentis Village and Percut Village in the district of Percut Sei Tuan in the county of Deli Serdang are land disputes as disputes dominating households, thefts, fracas and demon (*begu ganjang*). To resolve conflicts and disputes in this community, parties usually involved are Head of Sub-Village, Secretary of Village and finally Head of Village, using mediation technique by calling and confronting both parties disputing in front of village apparatuses and afterwards settling peace agreement into an official report and a simple peace arrangement that is well documented. Therefore, suggestion brought about in this study is the increasing role of Head of Village by forming an initial regulation from Provincial Government will strengthen the position of Head of Village as a mediator, will improve and enhance latest information and education about the importance of dispute resolution out of the court more extensively for village apparatuses and the people, and will bring the possibility of incentive payment for village apparatuses which only normally paid once in three months.

Key words: Dispute Resolution, Mediation, Local Community.

Introduction

In social phenomena, dispute or conflict will always be encountered in human life especially in social life. In their interactions, humans possibly bring in positive impacts like the fact that they work together, however, on the other hand, negative impacts such as tensions or frictions may emerge, which will eventually breed conflict or dispute between parties. As a social symptom, conflict/dispute is a social process in which an individual or a group of people try to meet their purpose by opposing the rivals with threats and/or violence.¹

Conventionally, to settle a dispute, it usually takes a process of litigation in which by going through formal court. The court is a hope for every justice seeker in finding satisfactory justice in a problem by generating unbiased decision.² The court has a place and position considered as a pressure valve over all forms of lawlessness and hoped to have a role as 'the last resort' which is the last place to seek the truth and justice for the people.³ However, lately, there has been many criticisms towards judicial system such as tardiness of dispute resolution, costliness of lawsuit, unresponsive judicial action, non-resolving-problem judicial decision, and ordinary capacity of judges.

ADR is a term which firstly appeared in the US; this concept appeared as an answer to people's distrust towards judicial system in the US. In Indonesia, the existence of alternative entities of dispute resolution has been long used in resolving cultural disputes through traditional institution which is judge of village conciliation, for examples: Minangkabau's cultural meeting known as *Kerapatan Adat Nagari (KAN)*⁴, Java's *rembug desa*, Lombok's *Begundem*, and Karo's *Runggun*.⁵ Process of dispute resolution outside court results in an agreement that is a win-win solution, which safely guarantees identities of parties involved, quick dispute settlement, comprehensive togetherness and good relationship.⁶

As the application of Law No. 5 of 1979 which was subsequently changed into Law No. 32 of 2004 on Village Government, it is specified that all forms of indigenous people's legal fellowships are changed into village. Later, Law No. 8 of 2005, on

¹ Soerjono Soekanto, *Sosiologi Suatu Pengantar*, 1982, Jakarta : Rajawali, hal. 94.

² Abdulrahman dan Riduan Syahrani, *Hukum dan Peradilan*, 1987, Bandung : Alumni, hal. 63.

³ Yahya Harahap, *Beberapa Tinjauan Megenai Sistem Peradilan dan Penyelesaian Sengketa*, 1997, Bandung : Citra Aditya Bakti, hal. 237.

⁴ Amrizal, *Kedudukan, Fungsi serta Tugas Kerapatan Adat Nagari (KAN) dalam Penyelesaian Sengketa Setelah Berlakunya UU No. 5 Tahun 1979 Tentang Pemerintahan Desa (Studi Kasus Kabupaten Agam)*, Tesis, 1998, Medan : Sekolah Pascasarjana Program Ilmu Hukum Fakultas Hukum Universitas Sumatera Utara.

⁵ Rehngena Purba, *Runggun dan Fungsinya Menyelesaikan Masalah di Tanah Karo*, Tesis, 1992, Medan : Sekolah Pascasarjana Program Ilmu Hukum Fakultas Hukum Universitas Sumatera Utara.

⁶ Rachmadi Usman, *Pilihan Penyelesaian Sengketa di Luar Pengadilan*, 2003, Bandung : Citra Aditya Bakti, hal. 3.

Amendment to Law No. 32 of 2004 on Village Government, confirms the existence of autonomy owned by the Village and Head of Village, granting power or delegation of authority from the government or local government in conducting particular governmental affairs. As for villages other than genealogical villages, which are villages that have administrative characteristics such as villages due to village expansion or transmigration or other reasons related to pluralism or heterogeneity, village autonomy is positively encouraged following villages' own development, in relation to rights, entitlement, and duties in regulating and self-managing the affairs of government administration and people's interests based on local original rights and values of social culture. Therefore, the governmental affairs which are under village authority include governmental affairs existing based on rights over villages' origins and governmental affairs of under authority of County/Municipality that are handed over to village.

In doing its administrative affairs, every village is equipped with village government which means that the performance of governmental affairs are done by village government and Village Discussion Committee in regulating and managing local people's interests based on local origins and customs, which is acknowledged and respected in governmental system of The Unitary State of the Republic of Indonesia.

Village government refers to Head of Village and Village Apparatus as elements of village governmental organizers and Village Discussion Committee / Badan Permusyawaratan Desa (hereafter referred to as BPD), which is a board or committee that constitutes the manifestation of democracy in conducting village governmental affairs in empowering the people.

In national development, generally speaking, and village development, specifically speaking, the role of Head of Village is one of essential factors in achieving success in controlling the wheels of government. To examine implementation of role of Head of Village in doing its function as the mediator in village area, this study is performed by examining implementation of mediation competence for Head of Village that takes place in village area in Percut District, Deli Serdang County, North Sumatera. By this study, a finding is sought whether Head of Village performs his role as a mediator based on regulations or there are other parties performing their function as mediators in the village community in Percut District, Deli Serdang County, North Sumatera.

DISCUSSION

1. Dispute Inventorying Process of Village Community in Percut Sei Tuan District

Through studies performed towards the society in five following villages: Percut Village, Sampali Village, Cinta Damai Village, Cinta Rakyat Village and Saentis Village; geographically, Percut Village is located near beach area, Cinta Rakyat Village and Cinta Damai Village are in agricultural areas, Saentis Village is in plantation environment, and Sampali Village is in industrial area.

Tabel 1: Villages in Percut Sei Tuan District

No.	Name of Village	Majority of Community	Extent of Agricultural Land	Majority of Livelihood
1.	Saentis (20 sub-villages)	Javanese (12,497 people)	-	- Plantation workers(1,589 people) - Merchants (373 people) - Farm workers (221 people)
2.	Cinta Damai (5 sub-villages)	Bataknes	- Land (3,5 Ha) - Irrigation (1116 Ha)	Farmers
3.	Sampali	Javanese	-	- Factory workers - Merchants
4.	Percut	Malay	-	- Farmers - Fishermen
5.	Saentis	Javanese	-	- Farmers

By demographics, four of the villages are inhabited by majority of Islam devotees, except for Cinta Damai Village which has a majority of Christians. The majority of the people's livelihood goes differently in each village due to its geographic conditions, as specified in the table above.

To inventory types of disputes that often occur in a society, majority of livelihood, majority of ethnicity and geographical location of village are vital factors. According to interviews with respondents, data about frequent disputes in the five villages are as follows.

a. Land dispute

This includes things related to boundaries of land, land ownership (because there are many lands coming from inheritance shared with biased system), double land deed (land deed from two or three different Heads of Village for one object of land, or relating to plantation lands that often become an object of entitlement by village community), and disputes relating to vandalism to farm land done by relatives or other people.

b. Family or household

Family or household disputes also relatively dominate, based on majority of livelihood. Generally, this type of dispute includes domestic violence, child problem, husband-wife conflict and inheritance-distribution dispute.

- c. Fracas
Fracas or fights a lot happen among school-aged teenagers during shows or stage performance in the village, or other forms of ordinary fracas among teenagers.
- d. Theft
Theft disputes a lot happen in Sampali Village because it is in industrial area, so thefts often happen in factories or households, however, dispute resolution does not involve police because it can be solved by village apparatuses helped by Village Police.
- e. Demon (*Begu Ganjang*)
Disputes relating to *begu ganjang* issue frequently happen in Cinta Damai Village which is by majority inhabited by Batakese people. These disputes are usually indicated from *begu ganjang* appearance to issue of *begu ganjang* preservation.

2. Methods of Dispute Resolution for Village People in Percut Sei Tuan District

According to interviews conducted with village apparatuses from the five villages, generally, village people want to settle conflict or dispute with the help from village apparatuses. This is what the people want because they have already known their Head of Village, Village Secretary and each Head of Sub-village, thus, generally, village community barely proceeds the disputes to the police.

The Head of Village, as leader of the village, usually improves the function and role of head of sub-village to help observe security in each area.

Mechanisms in dispute resolution in society usually done in the village include these following stages:

- a. Stage of dispute resolution in the level of Head of Sub-village
When there is a dispute among the people, the first party to resolve the dispute is Head of Sub-village. Therefore, every Head of Sub-village are demanded to:
 - 1. Know his people closely;
 - 2. Be aware of his people's condition;
 - 3. Always sustain cooperation among his people;

In this stage, method of mediation is conducted by visiting the houses of the conflicting parties to find more information about the cause of the conflict or dispute, and next action or solution that will be taken to settle the conflict of dispute. Then, Head of Sub-village would ask both parties to confront each other in a neutral place.

If in this stage dispute is settled, problem is considered solved or finished. However, if the conflict cannot be resolved by Head of Sub-village, he/she will proceed the conflict to Head of Village level.

- b. Stage of dispute resolution in the level of Head of Village
Head of Village will proceed the mediation after conflict or dispute cannot be resolved by Head of Sub-village. In this stage, Head of Village will do the following procedure:
 - 1. To call all parties to Village Office
 - 2. If the conflicting parties are from different sub-villages, all parties should be accompanied by their respective Head of Sub-village, including all parties in conflict coming from one sub-village– should be accompanied by the Head of Sub-village
 - 3. The calling of the parties will be written in a simple but official Calling Report
 - 4. If a reconciliation occurs, it will be written in a peace agreement that will be signed by all parties, assigning head of sub-village as witness and head of village as authorized official.
 - 5. If reconciliation does not occur, all parties are given a chance to proceed the conflict to the police.

3. Parties that act as mediators in village people's disputes in Percut Sei Tuan District

Based on interviews conducted, parties usually acting as mediators in people's disputes are as follows:

- a. Head of Sub-village
This is the first party that comes in contact with the conflicting people. In this stage, conflict settlement will be performed just at the parties' residence.
- b. Head of Village
He/she is the authorized official to settle people's disputes when the disputes are not resolved in the level of Head of Sub-village. Head of Village will call the parties to Village Office to be treated as parties that are in dispute.
- c. Secretary of Village
Secretary of Village will take part in resolving the dispute if the Head of Village is not present. In this case, Secretary of Village can also mediate the disputes right in the residence of the disputing parties with the assistance of Head of Sub-village.

4. Mediation Techniques in Dispute Resolution for Village People in Percut Sei Tuan District

Mediation techniques conducted by heads of villages, according to interviews, are as follows:

- a. First, Head of Village will get information regarding dispute or conflict that is unsettled in sub-village level

- b. After gathering information, Head of Village will officially call the conflicting parties via official letter recorded in an official report
- c. After being called, the parties are met each other in Village Office
- d. All parties will be asked sit together and elaborate the problem from the beginning of the conflict
- e. All parties and Head of Village will together formulate the solution to the current conflict
- f. After the solution is agreed, Head of Village will direct the forum to make a peace agreement in the form of Peace Agreement Pact between the parties
- g. In the Peace Agreement Pact, contents of peace agreement are specified, including sanctions for violators
- h. If the parties do not reach an agreement, they are allowed to proceed the dispute to the police
- i. The peace agreement is signed by the parties, also by Head of Sub-village as the witness and Head of Village as the authorized official

CONCLUSION

Conclusions from this study are as follows:

1. Method of dispute resolution by mediation for village people is conducted by two stages: First, mediation via Head of Sub-village, and second, if the dispute cannot be finished, it will be continued via Head of Village.
2. Mediators in dispute resolution are Head of Sub-village and Head of Village assisted by Secretary of Village.
3. Techniques of mediation conducted by Head of Village in resolving the dispute or conflict in village community are by calling the conflicting parties and confronting them with each other in a neutral place, which is - in this case -the Village Office.

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