

Village Local Elite Policy in Solving Minor Crime Cases Case Study in Yogyakarta Special Province

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ABSTRACT: This article aims to explain how village elite policies resolve various minor crime cases in their villages. In principle, many cases in villages can be resolved in simple ways and have a broad impact on the community. Village elites as power holders at the village level provide a reference that can be accepted by residents in solving crime cases. The data used as the basis for the analysis of this article were obtained through observation, interviews, questionnaires, and document study. This article emphasizes that the mechanism for resolving minor criminal cases in the village can be resolved by promoting deliberation. In addition to having relevance to the culture of Indonesian society, deliberation itself is also very under Islamic guidance. This article recommends the need for various ways to resolve minor criminal cases so as not to involve other parties so that the settlement can be carried out quickly, easily, and does not harm many parties.

KEYWORDS: local elite, light crime, deliberation, policy, law.

I. INTRODUCTION

Peace is a universal message of all religions to mankind (Halim, 2014; Panggabean & Fauzi, 2019; Safithri, 2011). In the teachings of Islam, for example, many verses advocate peace or *ishlah* (QS an-Nisâ 114 and 128, QS al-Anfâl: 1, and QS al-Hujurât: 9-10.) Which strongly emphasize that humans always make peace in his life. This is based on the argument that peace will bring happiness to life and become the path to prosperity and progress. As a concept of the legal settlement, peace (*sulh*) has many more favorable aspects, because it prioritizes the application of the principle of deliberation and win-win solutions. In the context of national life, Indonesia has prioritized "*musyawarah*" (Abdullah, 2014; Hanafi, 2016; Rifa'i, 2015) as a legal method developed from traditional values and institutions that are more in line with the personality of the Indonesian nation (Romana, 2015). All ethnic groups in Indonesia are familiar with the meaning of this term, even though the pronunciation is different, but they have the same philosophy. The Constitution of the Republic of Indonesia also explicitly chooses to side with the character of "kinship" rather than "individual".

In the history of legal settlement procedures or disputes in Indonesia, deliberation-kinship has long been used as a mechanism for resolving legal cases. The settlement of legal cases through deliberation-kinship or peace mechanisms has long been institutionalized into what is known as the Village Court (Mulyadi, 2012; Prasetyo, 2019; Sudantra, 2014; Sudantra et al., 2017). There is almost the entire archipelago (*Dorpsjustitie*), only in Bengkalis there is no such institution. In Tapanuli, Minangkabau, South Sumatra, Southeast Kalimantan, Bali, and Sulawesi, for example, the Village Peace Court is flourishing. In Java, especially in Yogyakarta, the Village Peace Court looked fertile after the reorganization of the land system in this area in 1912. Daniel S. Lev (1971) in his research on legal culture in Indonesia shows how the notion of law, legal procedures in Java is defeated by the pattern of harmony, keeping feelings, and so on. Conflict resolution styles may be carried out within these limits. Lev concluded that deliberation (conciliation) is a permanent characteristic of Indonesian legal culture. Benedict Anderson (2001) states that the Javanese are described as people who tend to shy away from conflict so that in dealing with disputes the way of compromise is emphasized. In such a context, Donald Black (1980) argues that law is not only a rule or a system of legislation (rule) but also human behavior (behavior). A legal case/event will become a case or not, it is determined by "legal mobilization", in which the apparatus or community members are willing to act or not.

In other words, an event/case will become a legal case or not, apart from being "enforced", the law is also "being used" (the use of the law). "Law enforcement" is not the same as "Use of the law" which implies a strong element of choice. Even if an incident/case law is regulated in positive law, it still depends "on the person", whether the rule of law will be used or not. This article specifically discusses how criminal cases are resolved at the village

level and are not resolved at the court level as in general cases. There are minor crimes that are only resolved through a deliberation process or by agreeing with the parties. Crime resolution does not involve law enforcement officials, so the process runs quickly and does not cause new conflicts in the community. In this case, what is the strategy for resolving minor criminal cases at the village level that can provide a sense of peace to the community?

II. METHODS

The data used as material for analysis in this article were obtained through observation, interviews, questionnaires, and document study. Observations were made on the settlement process for minor males that occurred in several villages in Yogyakarta. Interviews were conducted with village officials who were directly involved in the case resolution process. Interviews were also conducted with people who were related to the existing crimes. Meanwhile, the questionnaire was given to the village elite to find out what mechanism was chosen in solving legal cases that occurred in their regions. Meanwhile, document studies were carried out by tracing existing documents at the village level regarding criminal cases that had occurred. Data analysis was carried out using a constructivist perspective which sees that minor crimes in principle can be resolved using agreements (deliberation) so that cases in the community can be resolved easily and quickly.

III. FINDINGS AND DISCUSSION

Minor Crime Cases: The variants of legal cases that occur in the village are quite diverse. Based on respondents, the cases that often occur are as follows: Criminal cases 15.11%, Civil Cases 40.69%, 33.72% violation cases, and 10.46 others. Regarding this, it can be seen in full in Table 1 below.

Table 1.
Legal Cases in the Village

Cases	Number	Percentage
Criminal	15 people	15,11%
Civil	35 people	40,69%
Offense	29 people	33,72%
Others	9 people	10,46%

Source: Processed from research data, 2020.

Meanwhile, the distribution of types of criminal cases, which often occurred was: theft, which was the highest 45, 34%, then adultery 17.44%, violence 10.46%, maltreatment 9.3%. Then for civil cases that often occur in the village are disputes over boundaries of yardland 30.23%, inheritance disputes 27.90%. Husband and wife checks in the household 16.27%, accounts payable 10.46%, others 1.16%. As for the criminal cases as mentioned above, then the types of cases in the village that often have the potential to end up being police or brought to court are as illustrated in Table 2 below.

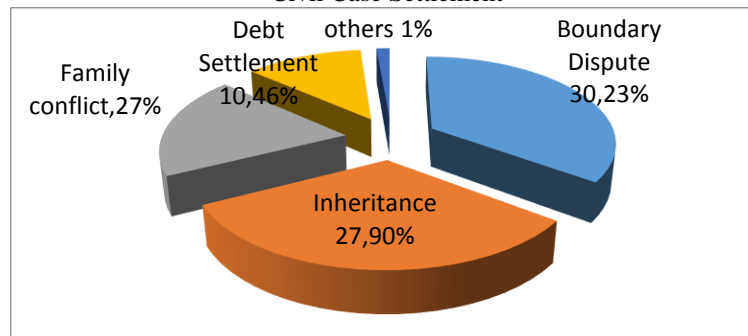
Table 2.
Potential Civil Dispute Cases to Court

Civil Cases	Number	Percentage
Yard Boundary Dispute	26	30,23
Inheritance Disputes	24	27,90
Family conflict	14	16,27
Debt Settlement - accounts receivable	9	10,46
Others	1	1,16

Source: Processed from research data, 2020.

The level of completion of several (civil) crime cases is shown in Table 2, as a percentage can be seen in Figure 1 below.

Figure 1.
Civil Case Settlement



Source: Processed from research data, 2020

Figure 1 explains that the resolution of criminal cases at the village level is not only diverse but also has varying levels of difficulty. The dominant civil case disputes regarding territorial boundaries such as boundaries of yards, gardens, rice fields, and others. Also, many civil cases are disputes within the household such as inheritance and disputes between husband-and-wife couples.

Dispute Resolution Supporters: Case resolution as described above is supported by several supporting facilities. *First*, the availability of "space" for access to peaceful case resolution. The 2014 Village Law, Article 16 regulates the duties and obligations of the Village Head. The regulation states that "one of the main duties and obligations of the Village Head is to foster the life of the village community". Likewise, it is stated that the village head must "maintain order and order in the village community". In line with these main tasks and functions, several villages have specifically provided "space" for access to the settlement of minor or simple legal cases that befall their residents in a peaceful/amicable manner. Tanjungsari Village, Panggunharjo Village, Srimulyo Village, and several other villages which are not less than 33.72% of villages in Yogyakarta have specifically provided "space" or institutions for the resolution of minor legal cases. As many as 52.32% of villages provide "space" to resolve minor legal cases, although they are not / have not been formally institutionalized. There are only 6.97% of villages that do not / have not institutionalized either formally or informally, meaning that it is conditional depending on circumstances and demands.

Second, there is concern from the village elite. The existence of supporting space for a peaceful settlement is also followed by a high commitment from the village elite. Village elites who have other than structural persons also have a strong influence on the community in their village. They are not only examples but also become references for handling minor crimes cases. In dealing with legal cases that occur in the community, there are several variants of the attitude of the village local elite which can be shown as follows: as many as 65.11%, respondents from the village local elite are pro-active, meaning that when a minor criminal case occurs, then with the ethics of care, the local elite will immediately summon/present the parties involved in the legal/dispute case, while trying to resolve them peacefully. Then as many as 19.76% of the other local elites tended to position themselves to wait, which only acted when there was a report/complaint, and the parties involved in the case/dispute asked for help in settling peacefully. Meanwhile, 4.65% of the other local elites are passive in the sense that they are disputed to the parties involved in legal cases/disputes, to resolve peacefully-family or directly through legal channels (litigation). Only 2.23% of the local elites tended to allow them to be handed over to the authorities in solving their cases.

The village elite in its commitment to resolving various cases is carried out by calling the litigants to appear before or going directly to the parties involved in the case/dispute, it can also be after receiving reports/complaints from residents or parties in litigation, then assigning Village officials who are deemed to have the authority and skills to resolve a type of case being reported/complained of: or it could be by assigning village officials whose domicile is closest to the scene of the case (TKP), to help resolve cases/disputes peacefully and amicably. In the process of handling cases that occur, it is often carried out together with other local community leaders. Another form of concern shown by the village local elite in handling minor criminal cases is to encourage or urge residents when they stumble upon a legal case so that they can prioritize the settlement in a family way. Most local village elites in Yogyakarta have ever appealed or advised parties who have tripped over the law to take a peaceful-family-

friendly settlement first (82.55%). Only 17.45% of the village local elites in Yogyakarta stated that they had never appealed/suggested to residents.

Dispute Resolution Mechanism: There are three mechanisms for resolving legal cases or disputes in the village, namely (1) through deliberation-kinship, (2) deliberation with residents, and (3) other mechanisms. Of these three mechanisms, 88% of cases were resolved through deliberation-kinship; 7.97% of cases were resolved through deliberation with residents, and only 4% used other mechanisms. Meanwhile, the reference used as a guide by the village elite in resolving cases is more dominant with the customary mechanism. Village elites who were asked for a response regarding the reference basis stated that the answers varied with the level of use of *adat* and religious law as the highest reference. The reference norms used by local village elites in Yogyakarta as a guideline for the settlement of cases/disputes were 53.48% using local customary values, 20.93% using local customary law values; as much as 10.46% of the local elites use mixed law; as much as 3.48% others; and only 1.16% use religious law.

In the settlement mechanism using *adat* has a good level of effectiveness. Javanese custom, for example, places great emphasis on how to solve problems that do not go out and spread everywhere so that they can be easily resolved. This basic principle is very close to the settlement of deliberations and consensus so that the involvement of other parties is minimal, even non-existent. One of the elites of Baturetno Village, AL said:

"Based on my experience, in this region, the settlement of minor criminal cases is still carried out in a peaceful or familial manner. However, if it is too much, then we will leave it to the authorities for legal proceedings. Settlement of minor criminal cases should be handled at the local village level first because this is indeed a minor problem. In this Baturetno Village area, we are trying to solve it in a friendly manner first. Only then if it is not resolved, we will proceed to the police" (Interview, June 2020). ST, the Secretary of the village of Bokoharjo, made the same admission. He admitted that in his village, crimes of a minor nature often occurred, such as theft of livestock and others. However, the settlement of the case emphasizes the settlement of deliberations between the perpetrator and the livestock owner. It says:

"Handling of these minor criminal cases. Not processed under the applicable (criminal) law but resolved amicably by way of deliberation. And according to him, minor cases are better resolved at the local village level as a family. the reason underlying his view is because in this village they still uphold a sense of kinship, and people still know each other" (interview, July 2020). He further said that if the perpetrator of a minor criminal case is caught or caught in the act by a citizen, the resident will report to the village apparatus or the office of the village head. The village elite then summoned the perpetrators and victims for mediation at the village head's office.

One of the village heads, SR, also admitted that the case was resolved without involving the police in his area. During his tenure, he often received complaints from residents regarding the loss of fruit in his garden, even to the point of theft of electronic equipment and the perpetrator was discovered. SR says: "Here there have been thefts of *salak*, cell phones, and others. For case handling, it is done according to experience, that is, as much as possible, it is done in a friendly manner. Indeed, the settlement of minor criminal cases should be resolved in local villages only. Because we cannot immediately fully judge that the perpetrator is guilty. They steal because there may be other factors. They may need it" (Interview, May 2020).

The statements of several informants above indicate that the resolution of minor crimes cases is more likely to be resolved at the village level. Village elites have an important contribution in the process of resolving existing cases, namely mediation. These statements also provide a broad picture of the existence of community agreements to prioritize peaceful means in solving all cases. The deliberation mechanism, in the culture of the Indonesian nation, is very inherent and has been maintained until now (Hariyanto, 2014; Herlambang, 2019; Kawamura, 2013; Lestari, 2013). In this case, the principle of deliberation becomes the practice of the nation so that it becomes an integral part of the whole society. *Musyawaharah-mufakat* is not just an agreement but also stored in binding consensus. From a religious perspective, this mechanism is also very relevant. Because, in addition to every criminal case must be resolved fairly (Q.S Al-Maidah 8), every dispute should also be resolved through deliberation (Q.S Ali Imran 159). Apart from these two basic principles, the village elite has also practiced one of the principles of fiqh as stated by Imam As-Syafi'i emphasizing that "The actions of the Imam towards his people must be linked to benefit". These three principles have indirectly been practiced at the village level in Yogyakarta when the elites solve various social problems in their community so that peace can be maintained.

IV. CONCLUSION

Settlement of minor criminal cases through the peace-kinship mechanism in the villages provides many benefits and benefits to the community. One of the benefits obtained from a case resolution mechanism like this is that it can become self-help enforcement or first aid in upholding and resolving minor legal cases that are more just and pro-citizens. Village local elites in Yogyakarta understand that under the principle of legality, cases of minor criminal acts (lich misdriven) that occur are criminal acts that violate the law and statutory provisions so that if the perpetrator is caught or caught, it is appropriate to be prosecuted and processed legally by the authorities. have the authority, to be subject to sanctions because of his actions. They also realize that if the settlement of minor criminal cases is done iteratively, it will take a lot of time, effort, and money so that it tends to harm many parties. Therefore, the local village elite understands their ethics of care and tries to solve the cases that befell their citizens through the peace-kinship mechanism.

REFERENCES

- [1] Abdullah, D. (2014). Musyawarah dalam Al-Quran: Suatu Kajian Tafsir Tematik. *Al Daulah: Jurnal Hukum Pidana dan Ketatanegaraan*, 3 (2), 242-253.
- [2] Anderson, Benedict. (2001). *Imagined Communities: Komunitas-komunitas Terbayang*. Yogyakarta: Insist Press dan Pustaka Pelajar.
- [3] Black, Donald. (1980). *The Manners and Customs of the Police*. New York: Academics Press.
- [4] Halim, A. (2014). Budaya Perdamaian dalam Al-Qur'an. *Jurnal Studi Ilmu-Ilmu Al-Qur'an Dan Hadis*, 15 (1), 23-38.
- [5] Hanafi, M. (2016). Kedudukan Musyawarah dan Demokrasi di Indonesia. *Jurnal Cita Hukum*, 1 (2), 227-246.
- [6] Hariyanto, H. (2014). Prinsip Keadilan dan Musyawarah dalam Hukum Islam serta Implementasinya dalam Negara Hukum Indonesia. *Justicia Islamica*, 11 (1), 43-66.
- [7] Herlambang, H. (2019). Perwujudan Sila Keempat Pancasila setelah Perubahan Undang-Undang Dasar 1945. *Supremasi Hukum: Jurnal Penelitian Hukum*, 26 (2), 51-68.
- [8] Kawamura, K. (2013). Consensus and Democracy in Indonesia: Musyawarah-Mufakat Revisited. *SSRN Electronic Journal*. 1-12.
- [9] Lestari, R. (2013). Perbandingan Hukum Penyelesaian Sengketa secara Mediasi di Pengadilan dan di Luar Pengadilan di Indonesia. *Jurnal Ilmu Hukum Riau*, 3 (2), 217-237.
- [10] Mulyadi, L. (2012). Eksistensi Hukum Pidana Adat di Indonesia: Asas, Pengkajian Teori, Norma Prosedurnya. *Jurnal Hukum dan Peradilan*, 2 (2), 225-246.
- [11] Romana, Neneng. (2015). Pelanggaran dan Sanksi Adat Delik Asusila di Masyarakat Suku Bunggu (To Pakava). *Jurnal Ilmu Hukum Legal Opinion*, 3 (4), 359-368.
- [13] Panggabean, R., & Fauzi, I. A. (2019). *Merawat Kebersamaan: Polisi, Kebebasan Beragama dan Perdamaian*. Jakarta: Yayasan Wakaf Paramadina.
- [14] Prasetyo, A. B. (2019). Penyelesaian Sengketa Tanah Masyarakat Adat Karuhun Urang (AKUR) di Desa Cigugur Kuningan melalui Lembaga Peradilan. *Law, Development and Justice Review*, 2 (1), 72-84.
- [15] Rifa'i, T. (2015). Komunikasi dalam Musyawarah: Tinjauan Konsep Asyura dalam Islam. *Channel: Jurnal Komunikasi*, 3 (1), 36-45.
- [16] S. Lev, Daniel. (1971). Judicial Institution and Legal Culture in Indonesia, in *Culture and Politics in Indonesia*. Ithaca: Cornell University Press.
- [17] Safithri, R. (2011). Mediasi dan Fasilitasi Konflik dalam Membangun Perdamaian. *Jurnal Academica*, 3 (2), 674-685.
- [18] Sudantra, I. K. (2014). Pengaturan Peradilan Adat dalam Awig-Awig Desa Pakraman: Studi Pendahuluan tentang Eksistensi Peradilan Adat dalam Kesatuan Masyarakat Hukum Adat Desa Pakraman. *Jurnal Magister Hukum Udayana*, 3 (2), 310-326.
- [19] Sudantra, I. K., Putra Astiti, T. I., & Dharma Laksana, I. G. N. (2017). Sistem Peradilan Adat dalam Kesatuan-kesatuan Masyarakat Hukum Adat Desa Pakraman di Bali. *Jurnal Kajian Bali*, 7 (1), 85-104.