

# Dispute Resolution Based on Law of Malay Customary by Adat Functionaries in Riau Province

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**Abstract**—Alternative Dispute Resolution (ADR) is an effort to resolve disputes outside the court. Cases handled by the Indonesian Supreme Court in the period 2008 to 2018 there were 11,465 cases. Of these cases, criminal cases consisted of 4,7548 cases, civil cases had 6,864 cases, military had 572 cases, religion had 962 cases, state administration had 2,965 cases. Of the several cases, there are actually those that can be resolved outside the court, such as criminal and civil cases through adat institutions. For indigenous peoples, disputes have long been settled through adat institutions. The existence of customary law also has an influence on the existence of Settlement of disputes in the community based on customary law, the value of which is based on the view of life adopted by the community itself. In Riau Province there are indigenous peoples who still maintain the use of customary law, especially in relation to dispute resolution, such as Kampar, Siak, Bengkalis areas. This research is a sociological legal research, which is an empirical study to find theories about the process of occurrence and about the legal work process in society based on applicable law. From the results of the research it can be seen that disputes are resolved through customs, such as land boundary issues, customary marital problems, fighting problems. The authority of adat holders is as an intermediary in the resolution of disputes. In resolving these disputes, the pattern used by the community is a combination of mediation and arbitration.

**Keywords:** *dispute resolution, customary institutional functionary, Riau*

## I. INTRODUCTION

An alternative dispute resolution effort pursued by parties outside the court is the reality of changing human tendencies in society that must be accepted. If so far the dispute resolution mechanism is prepared through the district court, but through a simple mechanism it is hoped that there will be no distortion in law enforcement so that the results can fulfill the sense of public justice. The use of the modern justice system as a means to distribute justice has proven to be many obstacles. The reason is that Indonesian justice is loaded with strict formalities, procedures, bureaucracy and methodology.

The development of society is inseparable from the development of law, and vice versa. Modern society today with all the complexity of problems, not infrequently arise disputes. [1]. At present the method of resolving disputes through the judiciary is highly criticized, both from practitioners and from

legal theory. Judicial functions and functions are considered overloaded, slow and wasted, expensive and less responsive to the public interest, or considered too formalistic and too technical. However, most cases that occur in the community continue to flow to the court to be interrupted and examined and terminated to get a fair settlement.

As the community advances, the ratio of the number of cases that must be resolved by the court increasingly exceeds the capacity and capacity of the court to receive, examine and try the cases that enter. Cases handled by the Indonesian Supreme Court in the period 2008 to 2018 there were 11,465 cases. Of these cases, criminal cases consisted of 4,7548 cases, civil cases had 6,864 cases, military had 572 cases, religion had 962 cases, state administration had 2,965 cases. Of the several cases, there are actually those that can be resolved outside the court, such as criminal and civil cases through *adat* institutions [2].

In Indonesia, in addition to the District Court as a formal dispute resolution agency whose existence is regulated in Law No.48 of 2009 concerning Judicial Power, there are also other dispute resolution institutions that refer to customary law. This is based on the existence of legal pluralism that applies in Indonesia, not only the law originating from the government or the State but also customary law and law originating from religious teachings (laws). In indigenous communities, disputes have been resolved through consultation through *adat* institutions. Indonesian traditional law is the embodiment of Indonesian culture. The tradition of resolving disputes in indigenous and tribal communities tends to use "*adat* patterns" or in other terms it is often called "familial" patterns. This pattern applies not only to civil disputes but also to criminals. Settlement of disputes in *adat* patterns does not mean that there is no compensation or punishment for violators of customary law.

Several studies discussing dispute resolution based on customary law have shown the importance of adat law in dispute resolution. Some writings related to this are the authority of the Customary Institution in resolving disputes in the customary law community of Central Maluku [3], reinforcement customary institutions as an alternative to dispute resolution outside the court [4], Settlement of disputes through the adat approach [5], Customary Judicial Position in the National Legal System [6]. Judicial dispute resolution

mechanisms have the existence of formal justice for the community of settlements is still considered difficult to reach, not only because of access to justice that is far from the village community, but also because of the high costs that must be spent as well as the complexity of the administration of justice that must be met by the community [7].

One area that uses traditional dispute resolution is Kampar District. In this case the traditional institutions have a very large role in the resolution of disputes in the community. However, to date there are no specific patterns known to be used in resolving disputes by adat institutions.

Riau Province is one of the areas where the existence of indigenous peoples is still recognized. One of these indigenous peoples is located in Kampar, Siak and Bengkalis Regencies. The area in the state of *Andiko Nan 44* (now better known as Kampar), is divided according to three areas of customary law, namely: *Talago Undang* (Muara Takus), *Undang Jati Area* (Kampar Kanan / *Limo Koto Kampar*) and *Undang area* (Kampar Kiri) [8]. Bengkalis Regency due to the existence of the Sakai and Akit tribes who lived in Bengkulu and Siak Regencies. There are eight villages in Siak that have been designated as *Adat Village*, namely: *Adat Lubuk jering Village*, *Adat Village*, *Adat Village*, *Kuala Gasib*, *Adat Village*, *Akit Penyengat*, *Adat Village*, *Sakai Minas*, *Adat Village*, *Sakai Mandi Angin*, *Adat Village*, *Sakai Bekalar* and *Sakai Libo Jaya Traditional Village*.

Kampar Regency is one of the regions in Riau Province where the existence of indigenous peoples is recognized, this is related to the existence of traditional institutions. One of the roles of these adat institutions is their authority in resolving disputes. Kampar Regency has a kinship system similar to the Minangkabau region that uses the Matrilineal Kinship System. Riau Province generally adopts a patrilineal and bilateral system. Based on the description above, it is necessary to research a model or pattern of dispute resolution used by indigenous communities in Kampar Regency, Riau Province, in contrast to the Siak and Bengkalis areas that adhere to the Patrilineal system.

#### A. Identification and Formulation of Problems

Based on the description above, the researcher formulates the problem to be:

- What are the types of disputes resolved by customary functionaries in Riau Province?
- What extent is the authority of customary functionaries in dispute settlement in, Riau Province?
- How is the dispute resolution model used by customary functionaries in dispute resolution in Riau Province?

## II. RESULTS AND DISCUSSION

### A. Types of Design by Functionary Adat in Riau

In *Andiko Nan 44* Governance System, the composition and level of indigenous peoples starts from *ninik mamak* to *anak kemenakan*, which consists of [9]:

- Penghulu Pucuok Adat
- Monti and Employee
- Malin or Religious
- Dubalang
- Siompu (tribal mother)
- Koghong Kampuung
- Anak Kemanakan

The customary structure of Kampar Regency starts from *Pucuk andiko*, *Pembantu Pucuok*, *Andiko Tiap Negeri*, *Penghulu Tiap Suku*, *Pucuok Kampung*. The prince of *pucuok Andiko* has the subordinates under him as a maid in each region and besides that all the prince also has a servant in his tribe *Pucuok Kampung*, *Dubalang*, *Pegawai / Monti*, *Malin* and *Employee (Koghong Kampung)* commonly called *Ompek Jinih*. The *Jinih Ombuds* have their duties and dignity respectively. The *Ompek Jinih s* have their duties and dignity respectively. Each *niniok mamak* is responsible for each tribe in *Andiko 44* custom which there are four tribes in outline that is *Domo*, *Piliang*, *Melayu*, *Pitopang*. For the affairs of womanhood and to be the mother of the tribe and elders of all women in the tribe is called *Si Ompu* or *Bundo Kandung*. All of these positions are called *niniok mamak Bosau Godang Batuah* who is in charge of running and socializing law in the middle of indigenous people, especially in his tribe in accordance with his dignity.

The territory of the adat rule is divided into:

- Talago Undang Act
- The area is Muara Takus
- The territory of the Act which includes the Rokan, Tapung, Kampar Kiri
- This region adheres to the principle of Justice
- The Legal area of Teak includes the Kampar Kanan area
- This area adheres to the principles of Justice and Legal Certainty

There are 4 (four) basic laws in Minangkabau nature that is, *Adat*, *Soko*, *Adat Pisoko* and *Adat Limbago*. These four bases are then combined with the religious law to give birth to a law or other customary law such as customary law 120, one body law, 10 abstinence *nagoghi*, 10 rules of married limbago journey. In relation to the settlement of Disputes conducted by customary institutions in Kampar, it is necessary to know about the tribes that exist in the Kampar community. Because the

settlement of the dispute is the *niniok mamak* of the existing tribes.

In his *andiko's 44 pucuok* are:

- *Datuok Rajo* dibalai based in Muaro Takus
- *Datuk Bandaro* domiciled at Tanjung, as the representative Datuk dibalai
- *Datuok Sati* who is based on Gunung Malelo as the representative Datuk Dubalai

According to *Datuk Bandaro Hitam, Ninik mamak* in Air Tiris Kampar, any kind of dispute that can be resolved by customary functionaries in Kampar region, are all types of disputes, such as adat disputes and disputes in general such as land boundary problems, marriage customs issues fight. For disputes resolved through *ninik mamak* are almost all types of disputes, including in this case serious criminal offenses, such as murder, theft, rape [10]. The most dominant types of disputes resolved were disputes related to fights between young people who were usually caused by misunderstandings, as well as land boundary disputes, disputes related to marriage [10].

Light sanctions such as debt repayment, compensation. For a mild sanction the adage is *Dandang Pamboli Nyao, Pompe pamboli Joyio*, which means the most high value can be used as a payer of debt. The concept of compensation used here is *kalau indak ponuoh ka ateh, ponuo ka bawah* [11]. Examples of sanctions against customary offenses are if marriage tribe, expelled from the country and when returning kampong should not be the same. Another example is coconut men and women shaved side by side and paraded by society around village if proven to adultery [3].

The dispute resolution process also looks at the weight or the fault of a mistake:

1) *Wrong weight: The categories are Berzina, Killing, Stealing and Corruption, Procedure with jawuoh bajopuik, dokek baimbau its* meaning (far picked up, near forested). Meaning: ughang who carry out iolek will hold a shuttle to the close relatives who are considered far away enough to be encouraged by visiting one by one the relatives.

2) The settleent involves the whole family on both sides

3) *Mild error: Examples of unpaid debts. The ceremony involves the immediate family*

The procedure of dispute settlement is done in step by step down [3]:

- *(By mamak soko, in rumah soko*
- If not get the settlement at the first level, followed by the second level called *tuo kampong* located at home soko *tuo kampong* attended by both disputing parties and *mamak soko*.
- If the second level is not comfortable, then the case proceeds to the level of *mamak* tribe called *pucuok*

tribe which is housed in custom ceremonies attended by all components 1 and 2.

Place of dispute resolution:

- Village yard is for the settlement of Inter-Tribal A and Suku B, by witnessed by 4 tribes, from different tribes. The place used is at home *Siompu*
- Density of *Naghori* (State) for the settlement attended by all Tribes, the place used is usually *Balai Adat*. This is usually for big violations. There is a rule in Kampar indigenous peoples, that a dispute is expected to be completed in *Kerapatan*.
- Density of village. Village usually consists of 5 Koto, baisanya associated with severe crime, and Place settlement in *Balai Adat*.

#### B. *Authority of Custom Functionaris in Display Settlement in Riau*

Sociologically, adat institutions are recognized by the community and are a priority in regulating and resolving all issues in society. Settlement through customary institutions is more effective, because an *adat* institution grows on the basic of a value that lives in the community and has been recognized and adopted from generation to generation. It's just to keep ensuring legal certainty, then the arrangement as the recognition of society through legislation still needed, especially concerning matters relating to the neutral field of life such as the field of administration, education and others.

Settlement through customary institutions has a flexible character. Structures and norms are loose to adapt to social change. Dispute resolution through customary institutions relies on local authority and legitimacy. Settlement of disputes through customary institutions is one of the alternative solutions to disputes outside the litigation route (outside the judiciary). So if this alternative does not work, then it can be done with other alternatives, such as consultation, good services, arbitration, and if all those alternatives are unsuccessful then it can be done by court as the last alternative. Settlement through customary institutions may include several legal areas, namely private (civil), criminal and state law. For settlement through arbitration and mediation mechanism, the decision of customary institution is final.

Customary institutions function together with the government to plan, direct, synergize development programs to conform to the customs and customs values developed in the community for the realization of safety, harmony, harmony, balance, justice and the welfare of the people. In addition, customary institutions serve as a means of control of security, peace, harmony, and public order, both preventive and repressive, among others:

- Resolving social issues
- Mediator (Peace Judge) reconciles the disputes that arise in the community.

Customary institutions also have other functions, namely:

- Assist the government in the smoothness and implementation of development in all fields, especially in the field of religion, culture and society.
- Implementing customary law and custom in their adat village.
- Giving customary legal status to matters relating to the interests of density and religious social relations.
- Fostering and developing customary values in order to enrich, preserve and develop national culture in general and customary culture in particular.
- Maintain, maintain and utilize the wealth of traditional villages for the welfare of indigenous villagers

*Niniok mamak* in indigenous peoples and life in Kampar is the leader who organizes, nurtures the child's nephew in accordance with customary rules and religion adopted. *Niniok mamak* who is *kayu tompek batoduoh, kayu godang tompek balindung*. *A niniok mamak in his personality has been attached to 4 (four) leadership functions, namely:*

- As the father in his own family
- As a leader (*mamak*) in his community

As *urang sumando* his wife As *niniok mamak in tribe and country* [10]:

In its presence in the midst of society many, the *niniok mamak* consisting of *penghulu, monti / employees, Malin, dubalang* should be able to give examples of role models, both in speaking, walking and behaving. Because *niniok mamak* is a reflection of the rules and laws that must be undertaken by society.

*Niniok mamak* is in the structure of government society is the government or the rules of society, which determines the policy in the implementation of community life in their *persukuan*, *niniok mamak* also the holder of power over tribal owned by the tribe and the country.

*Penghulu* as *pucuk adat* is a respected figure, the leader of the whole society. This *pucuk* is *Kayu Godang tompuok balinduong*, the place to solve the problem of child nephew. So whatever the actions and words of the prince has always been a role model for nephews. .

So also with *monti* is the device *niniok mamak* who serve the business to serve the community, so that whatever the needs of *anak kemenakan* can be implemented, while *dubalang* provide a sense of security as a protector. While *Simalin and Siompu* are *niniok mamak* devices dealing with religious matters, providing answers to community issues based on religious rules, while the mother *siompu* for all the children of nephews are in the tribe, giving gentle advice, providing protection when the child is thirsty nephew, hungry and exhausted.

All the roles of *niniok mamak* are important characters that must be implemented with sincerity and of course *niniok mamak* will be required to implement them in accordance with

the rules of custom and religion. If *niniok mamak* does not carry out his duties properly then it means he has his way of dropping his own dignity in the eyes of his nephew. For that a *niniok mamak* should know with dignity.

The dignity of *niniok mamak* is:

- Always give advice or guidance
- Sure and serious
- Save
- Gracious
- Knowledgeable
- Can take care of yourself.

Related to the settlement of dispute by *Niniok Mamak* there are some special rules that must be known *niniok mamak*. The rules relating to customary law here are the rules that are common and should be recognized and obeyed by indigenous peoples because it is the rule that guides indigenous peoples not to commit disgraceful acts. This rule is not only for the general public but there is a special rule for *niniok mamak* in conducting the judiciary of adat law. The rules in question are *Pantang Adat, Syara and Pemerintah*.

In relation to what the errors are set, it will be described the names of errors that can be imposed by law are [11]:

- False
- Wrong word
- Wrong view
- False view
- Wrong feeling
- False
- Incorrect ride
- Wrong seating
- Wrong bed
- Wrong behavior and behavior
- False to beings
- Wrong to Allah swt

The rules relating to customary law are: The rule of *4 kato* that is sufficient witness, the *dakwah* of riding is that the evil can be identified, whether there are enough witnesses, the *dakwah* that is uploaded and the firm answer so that the jury can get the explanations lead to truth and can be trusted the last punishment should know with a firm answer, in order to punish the suspect. For this matter it is necessary to understand the conditions of the person can be made the defendant, namely:

- *Majbul* is a person who is not known to people who are questioned. by the punishment answer also the unknown.

- *Makruf* namely the person is known though the victim, that the perpetrator to harm him.
- *Tanakur* the different information with reality.
- Understanding that people who do is a clever person so easy to give information without any doubts
- *Anfal* that is made-up or unclear information.

There are three rules in Kampar:

1) *Rule of Invite Si-Jalo Ghapek*: This rule relates to the Court on making a decision in a case and identifying the suspect and the victim. This law is a stand-alone law and is used to strengthen the existence of the judiciary in adat.

2) *The rules revealed by Allah SWT*: Is a rule that comes from Allah swt is spelled out in 3 parts namely custom manioc 4 Article, Customs Terms 4 Article, Customs Dhoib 4 Article.

3) *Customary Law 120*: Law 120 is a law that regulates all human behavior, so the law is divided into two parts, namely 20 land laws and 100 water laws. Law 120 is the principal law used for indigenous peoples both on land and in water. The twenty divisions are divided into 2, namely:

- the eight laws which declare a crime that regulates the criteria of crime such as stabbing kill, *upas poison, Samun-Sakar, Siar-Bakar, Maling-Steal, Rebut-Rampas, Dago-Dagi, Salah Sambung*.
- Law 12 states the evidence and traits of people making mistakes that are terlo-chased, unchecked-hacked, crushed-hit, broken. Based on this law 12 can be known someone guilty or not.

It is thus understandable that the customary law and the 44 have a definite law and the existence of prosecution of the case on the basis that remains the objective of customary law in the expression of *batungue basilampok, basuyio pasin-pasin*. The effort required to strengthen the position and role of customary institutions in dispute resolution is to clarify the position and role of customary institutions. The decision of customary institutions is usually carried out voluntarily by each party and does not demand the execution process as in the court decision. No objection is made to the decision of customary institution, because usually the decision is made based on the agreement of the parties, if there are still parties who have not agreed then the decision will not be taken. Sanctions imposed by customary institutions are more of a social sanction, such as disputes that occur to be "fruit of the lips" of society, so the parties feel shame and this is one of the deterrent effect that can be caused by social sanctions. In general, the implementation or execution of the termination of customary institutions is openly publicized to its citizens orally through the characters involved in resolving the case / dispute. and other indigenous leaders who have Klen relations or their respective citizens) [4].

The spearhead in resolving disputes in Bengkalis Regency is the Village Head. Because the village head is the customary leader. A customary leader must be able to give advice and teach instructions to its citizens. Therefore related to the

function and role of the sub-district LAM-Riau in the Bengkalis Regent's Regulation Number 72 Year 2016 regarding the election to the Village, it is reminded that the LAM-Riau provides recommendations to the Village Head candidates regarding the obligation to understand the customs of Malay Riau Number 72 of 2016.

Based on the results of interviews with M.Yatim, in the Sakai tribe, almost all disputes can be resolved through adat. Examples of the settlement of cases regulated in adat such as theft of thief, Rebut Rampas, Upas Toxin to Tikam kill [12].

Related to the Role of Adat Institutions in the resolution of customary disputes by Adat Institutions in Bengkalis, the Role of Adat institutions as institutions that resolve disputes is carried out by customary stakeholders. Customary holders in this case have the authority to settle disputes.

The dispute resolution process is carried out in stages:

- The adat authority will summon the parties to the dispute to find out how to deal with the problem. The aim is to find out about the subject matter.
- The adat leader will hold a consultation with the parties to the dispute to find a way out of this problem. How the settlement will depend on the agreement of the parties. Customary Stakeholders only facilitate dispute resolution by both Parties. If there are sanctions to be given, these sanctions must follow what has been established by adat and agreed by both Parties. For these sanctions it usually cannot be distorted because it is the result of agreement from all indigenous peoples, even this has been hereditary. So this sanction must be obeyed according to the level of error.
- Implementation of Kenduri conducted by the guilty party, attended by the parties to the dispute, adat holders, and the community. By holding this feast event, the problem is considered to have been resolved.

In the Akit tribe community in Pancur Jaya Village, the stages of dispute resolution are as follows:

- The family comes to the traditional leader asking to be resolved.
- Customary leaders summon the parties to the dispute.
- Then the meeting is held until finding the results.
- For the place of negotiation adjusted to the agreement of both parties. And usually the residence of the traditional leader.

In the *Sakai* community, the government system is known as the Perbatinan Selapan (eight). The inner groove in the sakai community comes from the mother of four. In the beginning, the four mothers and all three siblings lived in a village known as sebangar origin. The inner mind consists of the inner Jelelo, the inner philosopher, the inner peasant and the inner sebangar. Then the child's inner mind is arranged, that is, the seminal mind, the mind of samsan, the mind of Minas and the mind of Makendung. In carrying out its duties the mind

is assisted by the limbs, tails, tails, monti. In the Sakai community, tungkek can be analogous to a modern government administration structure that has the same position as the minister of the interior. Antan-antan help the mind in determining the fine / funishment for people who violate the provisions of customs and traditions that have been agreed upon. While monti served as a legislative body. The monti function determines the rules, traditional lines and ensures that there are no deviations in the implementation of *adat* and preserving *adat*.

In the *Sakai* tribe community, the settlement of a case or dispute is carried out by summoning the accused and the accused. Neither of these two parties is considered completely right. The meaning is considered by both parties to make mistakes. Because usually people do an action there must be a reason. In resolving this dispute there is a saying: If the foot is pushed, the foot is solid, if the mouth is pushed gold is solid. Every offense for sanctions is counted in gold. The size of the error determines the size of the sanction. Although the payment can be replaced with animals or other material. In the *Sakai* community, dispute resolution is settled in stages starting from the facade to the inner side. In the process of resolving this dispute, the magnitude of the error will be considered first. One type of violation is if a wound occurs. This wound is divided into 3 (three), namely the wound in the face, in the middle and below. Examples of wounds on the face are the head, body, if below is the foot. Each type of injury has a different sanction in the settlement. Another case is that if there will be a divorce, the first thing to do is to give advice, from the mind to the neck. If it turns out that divorce is caused by this person then he will be sanctioned with a cloth waist, then after this divorce will not be able to get anything except only the fabric.

For *sakai* people who violate the rules on customary forests, for example, if there are Sakai people who are found cutting down trees on customary land, they will be punished with the penalty of replanting trees. Perpetrators of cutting trees are also fined money equivalent to gold jewelry with a certain weight. Sometimes they use a betel box made of wood the size of a tissue box to measure the gold to be paid. The older the tree is felled, the greater the size of the wood automatically, the gold fines to be paid even more. The final determinant of the amount of the fine is the *adat* meeting. Then the gold will be poured, weighed, and cashed. If converted, the sanction of cutting down old wood can reach tens to hundreds of millions of rupiah. Looking at the dispute resolution process in the Sakai community, we can see here that there is a third party's role in dispute resolution, namely the role of customary stakeholders as an intermediary between the disputing parties. as a facilitator, bring the views of the parties involved in order to reach agreement. The mediation function carried out by the traditional elders will more or less be able to avoid the formal justice process and replace it with a community-oriented institutional system. Not a few cases (disputes) that are non-criminal, such as boundary disputes with neighbors, inheritance, family sangketas and so on can be resolved properly, marked by the agreement reached through consensus agreement so that there is no conflict in the community.

Determination of Customary Villages conducted by the Government of Siak Regency is by issuing District Regulation No. 2 of 2015 concerning the Determination of Customary Villages in Siak Regency which was promulgated on January 15, 2015 which became the legal basis for the regulation of the determination of the Village Government to become Customary Village Government. The eight villages in Siak that have been designated as Indigenous Villages are: Lubuk jering Indigenous Villages, Indigenous Middle Villages, Kuala Gasib Indigenous Villages, Akit Penyengat Indigenous Villages, Sakai Minas Indigenous Villages, Sakai Mandi Angin Indigenous Villages, Sakai Bekalar Indigenous Villages, Adit Akit Penyengat Indigenous Villages, Sakai Minas Indigenous Villages, Sakai Mandi Angin Indigenous Villages, Sakai Bekalar Indigenous Villages and Adit Kampong, Adit Sakai Libo Jaya. The structure of the traditional management in Siak are gentlemen, grandparents, encik-encik. In the village there is a headman, under the headman there is a stick and the maneuver. In Seliak every district there is an adat administrator. This customary management is called adat holders. The authority of the Customary Institution is exercised by the Customary stakeholders in Siak Regency.

The Customary Stakeholder has the authority to mediate between the parties in dispute. The adat leaders summon the parties to the dispute and lead the process of dispute resolution between the parties. In the process of resolving these disputes, there are customary stakeholders who act as arbitrators who decide but sometimes act as mediators who do not have the authority to decide disputes between the parties because the decision is based on agreement from both parties.

Based on the procedure of dispute resolution carried out by customary institutions In Siak, it can be identified that a model of dispute resolution is used, some of which use arbitration but some are in the form of mediation. Determination of the dispute resolution model in the form of arbitration, the researcher identifies from the characteristics or procedures for the settlement carried out by the adat institution of Siak. Because one of the requirements must have the ability and expertise about the core disputes faced by the parties. And this also applies to the figure who resolves customary disputes. Because the conditions for people who resolve these disputes are people who understand adat. Customary leaders are people who understand adat and have the obligation to resolve disputes that occur within their indigenous communities

In the settlement of disputes conducted by customary functionaries in Kampar district, commonly referred to as *adat andiko nan 44*, is associated with *adat nan bapilin tigo, tigo tunggu sejarangan, urang nan tigo* which is a combination of custom ropes, religious ropes and ropes syara'. While *tigo tunggu sajarangan* are three elements that each has the power of law and support each other support. The working power of every legal leash is the lesson on the mufakat between the three ropes.

Based on the description in the previous discussion it can be understood that the pattern of dispute settlement by customary functionaries in Kampar District is Arbitrage and Mediation. This pattern is identified from the features of

dispute completion by customary functionaries. Determination of dispute resolution model with the form of arbitration, Researcher identification of the characteristics or procedure of settlement done by *adat* siak institution. Because one of the conditions must have the ability and expertise about the core of the dispute faced by the parties.

On the other hand, dispute settlement through customary institutions can also be identified by a mediation model. Because of the role of traditional leaders as mediators in dispute settlement. *Adat* leaders act as mediators in dispute resolution. Usually the mediator is an expert in the area discussed / disputed. Mediator is a neutral and impartial third party that serves to assist the parties in finding possible dispute resolution.

There are four mediation models to watch out for: Settlement mediation, facilitative mediation, transformative mediation, and evaluative mediation. Judging from the role of adat leaders in the dispute settlement, the mediation model by the adat leaders is a transformative mediation that also affects the mediation of therapy and reconciliation, is a mediation that emphasizes the search for the underlying causes of the emergence of problems among them through recognition and empowerment as the basis of the resolution of the dispute which exists. In this model the mediator must use therapy and professional techniques before and during the mediation process as well as issues of relationships / relationships through empowerment and recognition [13]. Customary leaders are people who are respected by indigenous peoples because of the role of these traditional leaders in indigenous peoples.

The stages in mediation are:

- The mediator establishes an initial relationship with the parties to the dispute
- Choosing a strategy to guide mediation
- Collect and analyze background information on disputes
- Prepare a mediation plan
- Building trust and cooperation among the parties
- Start a mediation session
- Formulate problems and organize the agenda
- Express the hidden interests of the parties
- Generating dispute resolution options
- Analyze dispute resolution options
- Bargaining process
- Achieving Formal Settlement

According to Takdir Rahmadi, mediation is a process of settling disputes between two or more parties through negotiation or consensus with the help of neutral parties who do not have authority to decide [14]. Thus, mediation means a negotiation between the parties to the dispute with the

assistance of one or more neutral mediators in order to reach a consensus in the settlement of the dispute, mutually beneficial to both parties. The consensus or consensus approach in the mediation process implies that everything generated in the mediation process must be the result of agreement or agreement of the parties. Mediation can be taken by the parties consisting of two disputing parties or more than two parties (multiparties) [14].

Settlement can be achieved or generated if all parties to the dispute can accept the settlement. However, there are times when due to various factors, the parties are unable to reach a settlement so that the mediation ends in a deadlock (stalemate). This situation distinguishes mediation from litigation. Based on interviews with resource persons, related to the role of *ninik mamak*, it can be identified that the dispute resolution model in kampar district followed the mediation pattern. This is because the role of *ninik mamak* in the settlement of this dispute is as a mediator.

The basic principles of dispute settlement through customary institutions:

- Taking into account the norms of custom and productive customs and culture.
- Low cost / even no cost, simple and quick finish.
- Social justice is preferred to the benefit of Deliberation Law is a common model and the main in the process of trial in customary court. This means the institution of customary justice, not present with the primary mission to become a means of coercion. The role of the mediator for the reconciliation and consolidation of the parties, through a process of finding decisions that relieves all parties, including the general public of the community not directly related to the case, is an essential feature of dispute resolution mechanisms through customary institutions [15].

The role of the Kampar customary institution in dispute resolution is to become a mediating party in the dispute settlement. In this case it sees the authority of *the ninik mamak* to settle the dispute after it has negotiated between the two parties to resolve the dispute between them. In the settlement of this dispute is also discussed about the sanctions set for the guilty party. This sanction is measured by how much mistakes are made [10].

In the Kampar community there is a principle that is held is *Sesuku* same with one family. There is an expression "*Godang Adat dek anak kemanakan, godang mamak dek kemenakan*". So the role of *ninik mamak* here is very important here to promote adat. In addition, in terms of resolving the dispute the role of *ninik mamak* is preferred because if the child is the nephew of the dispute then this becomes the task of *ninik mamak* who finish, because the nephew is the responsibility of *ninik mamak* [10]

### III. CONCLUSION

- In the Kampar, Siak and Bengkalis region, disputes that can be resolved through *ninik mamak* or *Datuk* almost all types of disputes. In Kampar as mentioned in the Nan 120 Act. Settlement through customary institutions may include several areas of law, namely private law (civil), criminal and state administration. For settlement through mediation mechanism, in this case the decision of customary institution is final. In general, the implementation or execution of the decision of customary institutions is publicly expressed to its citizens orally through the characters involved in resolving the case / dispute. and other traditional leaders who have Klen relations or their respective citizens.
- The authority of *niniok mamak* as the party resolving the dispute is also related to one of the roles of *niniok mamak* namely *Niniok mamak* is a lush wood of *tompek batoduoh*, wood *godang tompek balindung*. A *ninik mamak* in his personality has been attached to 4 leadership functions, namely:
  - As a father in his own family
  - As a leader (*mamak*) in his community
  - As *urang sumando* at home his wife
  - As *ninik mamak* in tribe and country.

The dispute resolution model used by indigenous peoples is arbitration and mediation. There are differences between the regions with the matrilineal system and those who adhere to the patrilineal kinship system, because in regions which adhere to the matrilineal system it is still very strong in using its customary law.

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