

Settlement of Dispute Violations of Indigenous Criminal Law in the Akit Tribe Indigenous Law Community in Bengkalis Regency

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Abstract—In a community there is a reflection that can describe the state of a particular society, because in the process of interaction between individuals in the group or community it will potentially cause a conflict because each individual has different interests. The purpose of this study is to find out the rules or customary law of the Akit Tribe community in resolving disputes over violations of customary criminal law. The research method used in this study is to use the normative method through document study using secondary data and analyzing various studies on the akit tribe. In addition to collecting secondary data, this research will also be supported by primary data through in-depth interviews with traditional leaders, the Akit Tribe community and government officials. Based on the results of the study, the process of resolving violations of customary criminal law in the customary law community of the Akit tribe in Bengkalis Regency was carried out through a consensus deliberation process involving traditional officials, the police and village officials. The process of resolving violations of customary criminal law prioritizes solutions for these criminal events, the solution here is not only sought to punish the perpetrators but also find solutions for victims of these crimes, both victims who experienced the crime itself and the families of the victims who participated and feel the consequences of a crime.

Keywords—*settlement, violation, criminal law, traditional tribe*

I. INTRODUCTION

In a community or community group there is a reflection that can describe the state of a particular society, because in the process of interaction between individuals in the group or community it will potentially cause a conflict because each individual has different interests.

Conflict cannot always be seen as an event or an adverse phenomenon, if the conflict can be managed properly then there is a possibility that good things will emerge. Good things that can arise from a conflict, one of which is a law or regulation that can be used to offer a middle way to resolve a case or even the law created from the conflict can become a

cultural heritage of a group or community that can be a reference for civilization. Which will come.

In general, the culture of resolving conflicts in Indonesian society is carried out through amicable resolution. Various ethnic groups in Indonesia that have a culture of peaceful conflict resolution include the people of Java, Lampung, Bali, South Sumatra, Lombok, Papua, West Sulawesi and various other regions. Conflict resolution through deliberation has one thing in common if it is studied further even though it comes from various different regions, what is in common is that conflict resolution is directed at harmonization or harmony in people's lives so as not to exacerbate the situation and as much as possible to maintain an atmosphere of peace.

The existence of customary law is not only valid or recognized nationally within the state of Indonesia, but its existence is also recognized internationally as stated in article 15 paragraph 2 of the International Covenant on Civil and Political Rights (ICCPR). In addition, the congress with the title "The prevention of Crime and the Treatment of Offenders" organized by the United Nations produced a recommendation which contained a statement stating that the special legal system in this case was related to the criminal law adopted and enforced. Carried out by countries originating from foreign legal adaptations during the colonial era were generally considered obsolete and considered unfair because they were outdated and not in accordance with reality.

This is because the legal system that was adapted earlier is not a legal system that is not rooted in cultural values and even there is a discrepancy with the aspirations of the community and is considered unresponsive to the needs of the community at this time which will be one of the factors that will increase crime. Therefore, it is necessary to reform the law specifically in this case focusing on criminal law originating from local customs and culture in order to accommodate the needs and social developments in the area.

The legal system in the development of society in Indonesia actually existed hundreds of years before the introduction of

the modern legal system adopted as it is today. The local legal system is spread in various ways in each political and social system. The above legal system became known as customary law or in Dutch terms known as *adat recht* which was introduced by Snouck Hurgronje in his book *De Atjehers / The Acehese*, published in 1893.

Among the various indigenous communities in Indonesia, the Akit indigenous community is one community that still survives today, in its social and cultural activities to this day the Akit community still adheres to customary law that has existed since hundreds of years ago which was passed down from generation to generation. Generation to generation. Even today, the Akit customary law is still valid and binding on the Akit customary community.

The Akit tribal community is a customary law community that lives and resides in several villages, namely Titi Akar village, Tanjung Medang village, Ayu Forest village and Suka Damai village which are located in the administrative area of North Rupat District, Bengkalis Regency, Riau Province, with communities in the form of associations.

Philosophically, the Akit people have ancestral origins from generation to generation who have occupied the area for a long time, have a unique value system and culture. Regarding the origin of their ancestors, it can be seen from the history of the existence of the Akit tribe in occupying the North Rupat District area, and it can be seen from the ancestors who lived, died and were buried in the area. The value system can be seen from the ceremony of marriage, birth and death as well as the sanctions applied in the Akit tribal community which is still adhered to today.

Like indigenous peoples in general, the Akit tribe has customary law that applies and is binding on all members of its community, including customary criminal law which is a subsystem of the customary law of the Akit community. An interesting problem is that when the customary criminal law of the Akit community was still in effect and until now, it resulted in the convergence of two legal systems, namely the Akit customary law system and the national criminal law system.

Satjipto Rahardjo said that the meeting of the two different legal systems was very dramatic, this was because not only about the different legal formats but also the meeting between two different ways of life or customs [1].

Currently the Criminal Code as one of the references in law enforcement in the field of crime has caused changes in the legal system and social values in society, this is because the Criminal Code is a reflection of western law brought by the Dutch at the time of colonialism in Indonesia and this has ruled out the existence of the law. Customs originating from the original culture of the Indonesian people.

Although the existence of customary law has experienced a shift, the demand to enforce rules that are in accordance with the value system and social conditions as well as community justice from time to time is unavoidable. This is because the existence of customary criminal law is indirectly a reflection of

the social life of the community, because the community recognizes that customary criminal sanctions have the power that comes from an agreement that has been determined by previous traditional leaders who are incorporated in a customary institution, both formal and informal.

II. RESEARCH METHOD

The method used is the normative method through document study using secondary data and analyzing various studies on the akit tribe. In addition to secondary data collection, this research will also be supported by primary data through in-depth interviews (dept-interviews) with traditional leaders, the Akit Tribe community and government officials [2].

III. RESULTS AND DISCUSSION

In the application of criminal law enforcement in Indonesia, state criminal law is often the commander in carrying out law enforcement, especially in criminal-related events. However, it cannot be denied that customary criminal law also plays a role in resolving conflicts and finding a place in solving problems that exist in society.

Customary law is a law that has lived and developed in the life of Indonesian society for a long time, which is based on the values that live or are believed in within the community itself. Most of the customary law that applies in Indonesia is unwritten because customary law lives in the habits of the community and develops and is conveyed in everyday language according to the accent, intuition and local language where customary law lives.

Customary law has distinctive characteristics, while some of these characteristics are as follows [3].

- Religious magic, according to traditional beliefs of the people who generally live in Indonesia, people live side by side with supernatural powers that must be guarded and maintained in balance so that people can live safely, peacefully and happily.
- Communal or community, human life is considered part of the group and as a unified whole, in other words every individual human being is considered unable to live alone and requires to live in a community group.
- Democracy, every problem or phenomenon that occurs is always resolved with a sense of togetherness and common interests are considered far more important when compared to individual interests which are always resolved by deliberation and representation as a system.
- Direct, transfer of rights and obligations are always carried out simultaneously, this is useful for maintaining balance in society.
- Concretely, every act related to the law must be stated or realized in the form of tangible objects and real actions so as not to arouse suspicion

The characteristics of customary law above can also be found in customary law which is still recognized and enforced in the Akit tribal community. Sociologically, the Akit tribe is a community that lives and resides in the North Rupert sub-district with a community system in the form of an association and coexists with other tribes.

The Akit tribe is found in several administrative areas of the villages, namely Titi Akar Village, Tanjung Medang, Ayu Forest and Suka Damai Village. The Akit tribal community has ancestral origins from generation to generation that occupy the area of the North Rupert sub-district and has a unique value system and culture, one of which is the provisions of customary law which are still adhered to and enforced by the Akit tribal community.

The customary law that is still enforced and adhered to by the Akit tribe actually does not specifically distinguish its legal characteristics such as conventional law such as civil law or criminal law. However, if examined further, there are actually several provisions in the customary law of the Akit tribe which can be classified as customary criminal law.

One of them can be seen from several customary law provisions related to several events that can usually be classified into criminal law, such as:

A. *Theft*

If there is a case of theft, the perpetrator of the theft will be paraded around the village and announced to the village community that the perpetrator has committed theft with the aim that the perpetrator feels social punishment in the form of shame and it is hoped that in the future the perpetrator will not commit the act and on the other hand the community can also find out the perpetrators who have committed the crime of theft.

B. *Persecution*

In the event of a criminal act of persecution, the perpetrator of the act of persecution will be required to pay a fine, and if the victim of the persecution is unable to perform his job to earn a living due to the act of abuse, the perpetrator is obliged to bear the cost of living or living for the victim and his family who are under his care until the victim of the abuse can carry out their activities again to earn a living for the family that is included in their dependents.

C. *Murder*

If a murder crime occurs, the perpetrator of the murder crime has the obligation to provide a living for the wife of the murder victim until the victim's wife gets a partner who can provide a living and besides that the perpetrator is also obliged to pay for education and daily living expenses for the victim's child. Up to the level of education that has been approved by the traditional leaders of the Akit tribe and the village officials and law enforcement officers involved in decision making.

In the implementation process, the process of implementing customary criminal law in the Akit Tribe community is still firmly adhered to and running until now, and in the process of implementing customary criminal law in the Akit Tribe community it always involves village government officials and the Indonesian National Police.

In this case, the Indonesian National Police in charge of the Akit tribal institutional area recognizes and respects the process of implementing customary criminal law enforcement carried out in the Akit Tribe community, this can be seen from the policies issued by the local police officers by not processing national criminal law enforcement. Against a criminal offender without going through the settlement route through the customary criminal law of the Akit tribe.

This also applies to cases or incidents of criminal acts that have been resolved through the akit tribal criminal law, so the case will not be continued in the conventional criminal law process. However, the national criminal law in this case is still the reference used by both the Akit Tribe community and their customary leaders as well as village officials and the local police if no solution or settlement is found in the process of enforcing customary criminal law on the Akit Tribe.

IV. CONCLUSION

In the process of undergoing interaction between individuals in the Akit tribe community they have several unique and distinctive provisions, we can see this from several examples of the provisions used by the Akit tribe which are used in deciding a particular criminal matter.

From the several customary criminal provisions above, it is emphasized that the settlement of criminal problems is not only seen from the point of view of giving punishment to the perpetrators of the crime, but also paying attention to the interests of the victims who are disturbed due to the occurrence of the criminal event. In the context of victim protection here, the customary criminal law adopted by the Akit tribe does not only pay attention to the interests of the victim from the point of view of law enforcement but also looks at the financial interests of the victim and his family, this can be seen from the provisions of the Akit tribe's criminal law regarding incidents of persecution and murder. So that the victim's family who also suffered financial losses due to the criminal incident can also be resolved and get attention.

REFERENCES

- [1] S. Rahardjo, *Negara Hukum yang Membahagiakan Rakyatnya*. Yogyakarta: Genta Press, 2008, hal. 39.
- [2] J.W. Creswell, *Research Design Qualitative & Quantitative Approaches*. California: SagePublication, 2004, hal. 148.
- [3] H. Hadikusumah, *Hukum Pidana Adat Cetakan ke II*. Bandung: Alumni, 1984, Hal 19.K. Elissa, "Title of paper if known," unpublished.