



Case Settlement Model in Kubu Rokan Hilir District

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ARTICLE INFO

Keywords:

Mediation Model;
Violation of Law;
According to Custom

ABSTRACT

Kubu Regency is one of the areas in Riau Province that still applies the settlement of legal cases using customary law, which involves the role of Ninik Mamak and traditional leaders, especially as mediators. This study aimed to know the position of Ninik Mamak and conventional leaders in every sub-district or village in Kubu District, Rokan Hilir Regency. Problem-solving involves local indigenous community leaders. The results of this study are expected to provide a solution for law enforcement officers in overcoming the many cases that cannot be resolved by the judiciary and the problem of overcapacity of correctional institutions throughout Indonesia.

1. Introduction

Legal that is not made intentionally but appears in the middle society is one of the factors in the ordinary life of a nation, customs, morals, and state administration. Therefore, the law is supra-individual or a symptom that grows in society.¹ Where all deviant behavior will cause problems in society, in this situation, community groups certainly want social order guarantees to maintain their existence—resolution of social issues inherent in society through the social function of community control.² Customary law is a law that grows in Indonesian culture. Its legal form rules arise and grow within and are caused by the association of human life. Efforts to explore customary law in Indonesia did not stop in the days of post-independence legal experts but continued to be carried out continuously in the context of reforming criminal law. Today the idea arises to re-impose the settlement of criminal cases commonly applied among the community groups concerned. That is called local wisdom or, often also, local knowledge.³

In all regions in Indonesia, various forms of local cultural traditions are known as the local wisdom of the local community in solving problems faced without involving the

¹ Boedi Abdullah, *Filsafat Hukum* (Bandung: PT. Pustaka Setia Bandung, 2012), 220.

² Ali Zainuddin, *Sosiologi Hukum* (Jakarta: Sinar Grafika Jakarta, 2008), 23.

³ Marcus J. Pattinama, "Pengentasan Kemiskinan dengan Kearifan Lokal," *Makara, Sosial Humaniora* 13, No. 1 (2009): 3-4.

authorities who prioritize harmony in the community rather than the aspect of revenge. The existence of this customary law is increasingly getting recognition by the State which can be seen in Article 18 B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, namely the State recognizes and respects customary law community units and their traditional rights as long as they are still alive and following with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated by law. Article 28 I paragraph (3) of the 1945 Constitution of the Republic of Indonesia reads that the cultural identity and rights of traditional communities are respected in line with the development of the times and civilization. Article 32 paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that the State shall promote Indonesian national culture in world civilization by guaranteeing the people's freedom to maintain and develop their cultural values.

The three legal bases emphasize that the constitution mentions customary law as a community right, guaranteeing its existence. The constitution allows customary law to bring order to its indigenous peoples. The legal basis puts the position of customary law into a very central position when solving problems among indigenous peoples. In principle, indigenous peoples must resolve cases in society by resolving issues through traditional courts.

One model of penal mediation in Melayu society in resolving criminal cases is a model of conflict resolution by deliberation to as soon as possible hold peace, conflict is directed at harmonization or harmony in the community. It does not exacerbate the situation by maintaining an atmosphere of calm as much as possible.⁴

Conflict resolution through deliberation to settle with perpetrators and victims of criminal acts, most of the people in Indonesia who are generally Muslim, get much influence from Islamic law. Many community leaders ask for their resolution to conflicts in society, and generally in areas where the impact of Islamic law is vital, such as Aceh, West Sumatra, and Java, the community or customary leaders in it include religious leaders. Conflict resolution by Islamic religious figures is generally carried out with a deliberation approach.⁵

The culture of deliberation, as a value system that the Indonesian people live, is the spirit for each party negotiating in the consideration to resolve conflicts, for example, will try to reduce their stance so that a mutually beneficial agreement can be reached for all parties, which leads to consensus. A deliberation requires a respected figure to show the

⁴ Sudargo Gautama, "Penyelesaian Sengketa Secara Alternatif (ADR)," in *Prospek Pelaksanaan Arbitrase di Indonesia: Mengenang Alm. Prof. Dr. Komar Kantaatmadja, S.H., LL.M.*, ed. Priyatna Abdurrasyid et al., 1 ed. (Bandung: Citra Aditya Bakti, 2001), 124.

⁵ Trisno Raharjo, "Mediasi Pidana dalam Ketentuan Hukum Pidana Adat," *Jurnal Hukum Ius Quia Iustum* 17, No. 3 (2010): 493.

consideration to reach that consensus. What was decided about resolving the conflict developed into customary law gradually?⁶

In-Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, alternative dispute resolution efforts (Alternative Dispute Resolution) are recognized in civil law methods and identified and developed in criminal law methods. One type of ADR set in criminal law is mediation, known as "penal mediation."⁷ Mediation is one of the alternative dispute resolution mechanisms outside the court that has long been used in various business cases, the environment, labor, land, and housing, which embodies community demands for fast, effective, and efficient dispute resolution.⁸

The Supreme Court has issued Supreme Court Regulation Number 2 of 2012 concerning Limits for Minor Crimes (Tipiring) and the Number of Fines in the Criminal Code. In essence, this PERMA is intended to complete the interpretation of the value of money on typing in the Criminal Code. PERMA No. 2 of 2012 provides relief to the Supreme Court justices in their work and makes theft under 2.5 million cannot be arrested.

Problems in people's lives continue to occur in various forms and methods of settlement, but these problems continue to be legal problems, one of which is the existence of legal issues in the field of dispute resolution. *Alternative Dispute Resolution* as a peaceful dispute resolution solution⁹, Legal issues thin society include as in the case of family law cases in the civil sector, it can be resolved through dispute resolution outside the court, as well as criminal issues that arise in the community, efforts have been made to resolve peacefully for minor criminal cases. However, because there are so many legal problems in the community, it is hoped that the community can fix it through parties who can assist in the settlement, such as a mediator.¹⁰ Therefore, it is expected that there will not only be a winning or losing party, but more efforts can be made to create an agreement between the disputing parties with a consensus that is felt to be able to fulfill the wishes of the parties (*win-win solution*), without having to take legal action.

Disputes that arise in the community can be resolved by the family as the smallest group in society, with the intermediary of an elderly person, such as "*Ninik Mamak*" in the Minang Kabau community, then to the head of the parties, if it cannot be resolved, it can be continued. To the *adat* hall, then to the Nagari Adat Density, and finally to the local sub-district head.¹¹ Likewise, in Riau Province, the Malay traditional hall is also known as the Malay Customary Institution.

⁶ Adi Sulistiyo, *Mengembangkan Paradigma Non-Litigasi di Indonesia* (Surakarta: University Press, 2006), 367.

⁷ Barda Nawawi, *Mediasi Penal Penyelesaian Perkara Pidana di Luar Pengadilan* (Semarang: Pustaka Magister, 2012), 2.

⁸ Bambang Sutyoso, *Hukum Arbitrase dan Alternatif Penyelesaian Sengketa* (Yogyakarta: Gama Media, 2008), 56.

⁹ Takdir Rahmadi, *Mediasi Penyelesaian Sengketa Melalui Pendekatan Mufakat* (Jakarta: PT. RajaGrasindo Persada, 2011), 10.

¹⁰ Rahmadi Usman, *Mediasi di Pengadilan dalam Teori dan Praktik* (Jakarta Timur: Sinar Grafika, 2012), 10.

¹¹ *Ibid.*, 162–163.

Follow-up of disputes that arise in society, there are efforts to be resolved through a forum determined by the traditional community itself, starting from the smallest group in society (such as families) to state institutions equipped with a set of legal rules guidelines in its implementation. For example, village peace judges have long been formed within the customary law community, which usually resolves ordinary disputes through these traditional institutions. In the village courts, the heads of the people, some are even traditional and religious leaders. Concerning the duties of the director as a judge of peace, Soepomo stated.¹²

The head of the people is in charge of maintaining the legal life in the alliance so that the law can run properly. The daily activities of the head of the people cover all fields of society. He and his assistants carry out all matters directly related to the administration of the partnership body, not only to maintain the household needs of the alliance, such as the affairs of village roads, village gate, irrigation, village granaries, land affairs controlled by lordship rights. Villages gave birth to the people's heads who also solved marriage problems, inheritance matters, caring for orphans. In short, there is no 1 (one) field of social life in a closed alliance body for the people's head to intervene when necessary to maintain peace, peace, outer and inner balance to enforce the law.

Dispute resolution is faced with a process carried out by the parties without being assisted by other parties who have no interest in continuing the existing dispute. According to the theory of *Cochrane*, the one who controls social relations is the community itself, meaning that basically, the community itself is active in finding, choosing, and determining its laws.¹³ However, sometimes it is resolved by other parties outside the dispute amicably. If it is not resolved through a process outside the court, then this dispute is carried out through a litigation process in court, or this dispute is brought to a "green table." As for the settlement of arguments that are resolved through cooperation (cooperative) outside the court is also known as alternative resolution *dispute (ADR)*. This solution is, known as out-of-court dispute resolution, first emerged with the term resolution *alternative dispute (ADR)* in the United States. This method arises because the people of the United States feel that dispute resolution through the litigation process (judicial body) cannot fulfill a sense of justice and *dissatisfaction with the judicial*. As to the forms, *alternative Dispute Resolution (ADR)* is famous and popular in the United States.¹⁴

1. The arbitration;
2. Compulsory arbitration system;
3. Mediation (Mediation);
4. Conciliation (conciliation);
5. Summary jury trial;

¹² Riska Fitriani, "Penyelesaian Sengketa Lahan Hutan Melalui Proses Mediasi," *Jurnal Ilmu Hukum Riau* 3, No. 01 (2012): 2.

¹³ Ade Saptomo, *Penyelesaian Sengketa di Luar Pengadilan Sebuah Kajian Alternative Dispute Resolution*, 1 ed. (Padang: Fakultas Hukum Universitas Andalas, 2001), 5.

¹⁴ Fitriani, "Penyelesaian Sengketa Lahan Hutan Melalui Proses Mediasi," 4.

6. Settlement conference.

Difference dispute resolution outside the court This alternative can be chosen to resolve disputes that arise due to the development of existing conflicts. Even this method continues to develop in various countries worldwide that finally arrived in Indonesia, proliferating with technological developments that continue to spread in people's lives. The convenience and benefits of disputing parties will undoubtedly interest justice seekers. In Article 1 number (10) of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, "alternative dispute resolution is an institution for resolving disputes or differences of opinion through procedures agreed upon by the parties, namely settlement out of court employing consultation, negotiation, mediation, conciliation, or expert judgment." In general, alternative dispute resolution institutions can be classified into:¹⁵

1. Mediation
2. Conciliation
3. Arbitration

Dispute settlement which is commonly used for the disputing parties one way is done through mediation which is a way of solving problems to reach an agreement the disputing parties are following what is expected without any aggrieved party, through an intermediary who is also an advisor to the parties, which is usually referred to as a mediator and is carried out of court (non-litigation).

This mediation is, of course, expected so that dispute resolution can be resolved in a relatively short time without having to be resolved through a judicial institution which will take a long time with procedures that must be passed through various stages and cost a relatively large amount of money. In contrast, the results of the dispute resolution are not necessarily appropriate. The disputing parties expect that it is not uncommon for the consequences of court decisions to be far from the sense of justice desired by the parties. However, along with the development of human civilization and rapid changes in science and technology, the needs of the community are increasing with all the problems that continue to emerge during society with various ways of resolving disputes, as well as this mediation process is not only carried out outside the court but also against cases. That has entered the court can be resolved through the mediation process. It begins with the increasing number of greetings to the judiciary as an institution that is protracted in handling a proposed case and through convoluted procedures.

This research will be conducted in Rokan Hilir Regency. Rokan Hilir was formed from three countries, namely the Kubu, Bangko, and Tanah Putih countries. These countries are led by a Head of State responsible to the Sultan of the Siak Kingdom. The Dutch established the first district in Tanah Putih when they occupied this area in 1980. After Bagansiapiapi, which was opened by Chinese settlers, grew rapidly, the Dutch moved their Controller

¹⁵ Gunawan Widjaja, *Alternatif Penyelesaian Sengketa*, 1 ed. (Jakarta: Rajawali Pers, 2002), 2-4.

Government to Bagansiapiapi City in 1901. Bagansiapiapi grew after the Dutch built a modern port and the most complete in the city of Bagansiapiapi to balance other ports in the Malacca Strait until the First World War was over. After Indonesian independence, Rokan Hilir was merged into Bengkalis Regency, Riau Province.

The former Bagansiapiapi administrative area consisting of Tanah Putih, Kubu, and Bangko sub-districts and the addition of divisional sub-districts, namely Rimba Melintang District and Bagan Sinembah District, then on October 4, 1999, was determined by the Government of the Republic of Indonesia as a New Regency in Riau Province following Law Number 53 1999. Furthermore, by Law Number 34 of 2008, Bagansiapiapi was established as the capital of Rokan Hilir Regency.

The Government Center is located in the Batu Six Bagansiapiapi Office Complex, which has a beautiful panorama because it is on the edge of the Rokan River's estuary directly facing the Melaka Straits. The area of Rokan Hilir Regency is also located on the east coast of Sumatra Island between 1014'-2030' North Latitude and 100016'-101021' East Longitude. The total area of Rokan Hilir Regency is 8,881.59 km², Rokan Hilir Regency has 18 sub-districts, the largest sub-district is Tanah Putih District with an area of 1,915.23 KM², and the smallest sub-district is Tanah Putih Tanjung Melawan District with an area of 198.39 km².

The boundaries of the Rokan Hilir Regency are as follows:

1. In the north, it is bordered by the Province of North Sumatra and the Melaka Strait;
2. In the south by Bengkalis Regency and Rokan Hilir Regency;
3. In the east by Dumai City;
4. the west by the Province of North Sumatra.

Rokan Hilir Regency has a tropical climate with air temperatures ranging from 22 degrees Celsius to 35 degrees Celsius. The dry season in this area generally occurs from February to August, while the rainy season occurs from September to January, with an average of 149 rainy days in 2017. The role of traditional leaders is expected to reduce the number of law violations. The implementation of the law in people's daily lives has significant meaning because the purpose of the law is to create justice certainty and provide benefits to the community. The law must be implemented and obeyed by everyone, and all people must be treated equally before the law (*equality before the law*). If the law is not enforced, it will have no meaning in people's lives. Such the rule of law will die by itself.¹⁶

Based on the facts above, we can outline that what distinguishes this article from the other is that this study will focus on the customary dispute resolution process, which is often faster than the judicial process, so this becomes an interesting topic for us researchers. It encourages us to be interested in researching with the title "*Traditional Settlement Model in Kubu Rokan Hilir District.*"

¹⁶ Lili Rasjidi dan Ira Thania Rasjidi, *Pengantar Filsafat Hukum* (Bandung: Mandar Maju, 2007), 63.

2. Method

The research location was conducted in Rokan Hilir Regency, while the research time was 8 (Eight) months. The samples in this study were the traditional leaders in Rokan Hilir Regency and the community, government, and the Melayu Traditional Institute of Rokan Hilir Regency and parties related to this research. The type of research used is sociological, legal research, namely empirical studies, to find theories regarding society's occurrence and working law.

3. Types of Law Violations Like What are Resolved Through Traditional Law Mechanisms in the Community in Kubu Rohil District

As a country consisting of islands, Indonesia is one of the high natural potentials, especially the biological wealth along the coast of this country. The Republic of Indonesia, abbreviated as RI or Indonesia, is a country in Southeast Asia, crossed by the equator and located between the continents of Asia and Australia and between the Pacific Ocean and the Indian Ocean.

Indonesia has 241 million people. At the end of 2011 and in 2012 of approximately 245 million people.¹⁷ Indonesia is the fourth most populous country globally and the most populous Muslim country globally, although officially, it is not an Islamic country. Indonesia's form of government is a republic, with the House of Representatives, the Regional Representatives Council, and the President who are directly elected. The capital city of the country is Jakarta. Indonesia is bordered by Malaysia on the island of Borneo, with Papua New Guinea on the island of Papua and with Timor Leste on the island of Timor. Other neighboring countries are Singapore, the Philippines, Australia, and India's union territory of the Andaman and Nicobar Islands.

Of course, the variety of problems that cause conflict cannot always be resolved in the shortest possible time with the results of trial solving that are acceptable for the disputing parties and often lead to disputes. However, as God's perfect creatures, humans, of course, always try the best ways to achieve the desired solution to create balance and harmony in human life. Therefore, it is hoped that there will be a winning or losing party, but more efforts are made to create an agreement between the disputing parties with a consensus that is felt to fulfill the wishes of the parties (win-win solution).

The implementation of the law in people's daily lives has essential meaning because the purpose of the law is to create justice certainty and provide benefits to the community. These three are not mere jargon and must be realized and implemented in implementing the law. Justice in society can only be realized if the law is implemented. The law must be implemented and obeyed by everyone, and all people must be treated equally before the

¹⁷ "2011, Jumlah Penduduk Indonesia Capai 241 Juta Jiwa," *Riauterkini.com* (Pekanbaru, 2012), last modified 2012, diakses November 12, 2021, <https://web.archive.org/web/20210502114812/https://www.riauterkini.com/sosial.php?arr=44150>.

law (equality before the law). If the law is not enforced, it will have no meaning in people's lives. Such legal regulations will automatically die.¹⁸

Disputes that arise in the community can be resolved by the family as the smallest group in society, with the intermediary of an elderly person, such as "*Ninik Mamak*" in the Minang Kabau community, then to the head of the parties, if it cannot be resolved, it can be continued. To the *adat* hall, then to the Nagari Adat Density, and finally to the local sub-district head.¹⁹ Likewise, in the Rokan Hilir area, the settlement was carried out by *Ninik Mamak*.

The following are the types of law violations that occurred in Kubu District, Rohil Regency:

Table 1. Types of Violation of Law in Kubu District, Rohil Regency.

No.	Types of Violation of Law
1	Persecution
2	Fighting/Battling
3	Vandalism
4	Domestic Violence
5	Traffic accident
6	Theft
7	Affair
8	Selling Communal Land
9	Marriage cancelation
10	And other things that have happened in the community of Bandar Petalangan district (Sell adopted child)

Source: Interview with Atuk Hasan, Mamak Adat Bebas, Kubu Rokan Hilir District, May 20th 2021

The more problems and conflicts that occur, the greater the costs incurred. Even this is not profitable for indigenous peoples and communities. Several things, such as: caused the disputes that occurred in the stronghold sub-district of Rokan Hilir Regency

1. The problem of unclear boundaries between the parties;
2. Violation of customs by tribes or communities;
3. The lack of positive contribution of customary land management to the lives of indigenous peoples, both in matters of family law, marriage law, society, tribal, and personal land issues;
4. There are problems between the company and the community but do not involve indigenous peoples or the surrounding community, so it is indispensable to intervene by *Ninik Mamak*;

¹⁸ Rasjidi dan Rasjidi, *Pengantar Filsafat Hukum*, 63.

¹⁹ Usman, *Mediasi di Pengadilan dalam Teori dan Praktik*, 10.

5. The need for the implementation of peace for the community in the event of a conflict becomes the role of *Ninik Mamak* to resolve it;
6. It is necessary to carry out deliberation for the community if there is a dispute so that the part of *Ninik Mamak* is vital in carrying out this deliberation.

There are several cases of customary violations committed by communities who have disputes with continued violations, for example:

1. Destroying traditional buildings as places of worship;
2. Hostility between citizens;
3. Hostility between tribes;
4. Customary forest clearing;
5. Exploitation of wood where the wood by indigenous peoples is sacred or forbidden to be cut down.

Various cases were settled both amicably and legally, but there are still many cases of violation of this customary law. The emergence of conflicts regarding customary abuses is not only in the civil field but also in the criminal field. Weak law enforcement in resolving various problems between communities will result in new conflicts arising. This problem is often used as a third party as parties take advantage of the conflict for their interests.

The complexity of the factors causing the conflict, the weak professionalism of law enforcement officers, and the high costs that the community must bear to resolve the dispute if it cannot be resolved by deliberation alone and the most common is the complexity of the judicial bureaucracy for conflict cases that start with environmental problems. These things will cause the conflict to last long or even be resolved. One alternative solution to the problem is to bring together three stakeholders, namely local governments, forest communities, and companies, to retrace the sources of the conflict. The three stakeholders must be balanced as three mutually beneficial components. If the harmony between the three components and justice is maintained, new rows will not occur.

The meeting needs to be held to agree before a new conflict occurs or there has been a conflict, negotiation, consultation, conciliation, and discussing compensation for the parties who are victims between the three stakeholders.

Based on the study results, there was interest in a peaceful settlement in the community in the stronghold sub-district, Rokan Hilir Regency, and there is progress at this time of concern. When one or some of them do something consciously, they will be legally processed.

4. The Process of Settlement of Violations of Law Violations Through Traditional Law Mechanism in the Community of Kubu Rohil District

Several main principles that need to be considered in the selection/use of case resolution through alternative dispute resolution mechanisms, namely:²⁰

1. Voluntary nature of the process
2. Fast procedure.
3. Non-judicial decisions.
4. Control by the manager who knows best about the organization's needs.
5. Confidential Procedure
6. Great flexibility in designing problem-solving conditions.
7. Save time.
8. Save cost.
9. Protection and maintenance of employment relations.
10. Most likely to implement the agreement.
11. Higher level of control and more straightforward estimation of results.
12. An agreement is better than a compromise or a win/lose settlement.
13. Decisions that last all the time.

Conflict resolution through deliberation to settle with perpetrators and victims of criminal acts, most of the people in Indonesia who are generally Muslim, get much influence from Islamic law. Many community leaders ask for their resolution to conflicts in society, and generally in areas where the impact of Islamic law is vital, such as Aceh, West Sumatra, and Java, the community or customary leaders in it include religious leaders. Conflict resolution by Islamic religious figures is generally carried out with a deliberation approach.²¹

As a value system that the Indonesian people live in, the culture of deliberation is the spirit for each party negotiating to resolve conflicts and seek solutions that are beneficial to all parties leading to consensus. A reflection requires a respected figure to lead the deliberation to reach that consensus. In consultation, what was decided to resolve the conflict gradually developed into customary law.²²

In Act No. 30 of 1999 on Arbitration and Alternative Dispute Resolution, alternative dispute resolution efforts are known in civil law rules and began to be known and developed in the legal norms of criminal. One kind of ADR developed in criminal law is mediation, known as "mediation penal" (*penal conciliation*).²³ As an alternative dispute

²⁰ Marwah M. Diah, "Principles and Alternative Forms of Out of Court Dispute Settlement," *Journal of Law and Community Dynamics* 5, No. 2 (2008): 113.

²¹ Raharjo, "Mediasi Pidana dalam Ketentuan Hukum Pidana Adat," 493., 493

²² Sulistiyo, *Mengembangkan Paradigma Non-Litigasi di Indonesia*, 367.

²³ Nawawi, *Mediasi Penal Penyelesaian Perkara Pidana di Luar Pengadilan*, 2.

resolution mechanism outside the court, mediation has long been used in various business cases, the environment, labor, land, and housing, effective and efficient.²⁴

Follow-up from Disputes that arise in society, of course, there are efforts to be resolved through a forum determined by the customs community itself, starting from the smallest group in society (such as the family) to state institutions equipped with a set of legal rules as guidelines in their implementation in everyday life. -day. For example, village peace judges have long been formed within the customary law community, which usually resolves customary disputes through these traditional institutions. In the village courts, the heads of the people, some are even traditional and religious leaders.

Sometimes it is resolved by other parties outside the dispute peacefully. If it is not resolved through a process outside the court, then this dispute is carried out through a litigation process in court, or this dispute is brought to a "green table." As for the settlement of arguments that are resolved through cooperation (cooperative) outside the court is also known as alternative resolution *dispute (ADR)*. These methods are out-of-court dispute resolution first emerged with the term resolution *alternative dispute (ADR)* in the United States. This ADR arises because the people of the United States feel that dispute resolution through the litigation process (judicial body) cannot fulfill a sense of justice.

Likewise, in the Rokan Hilir district, many problems occur in the community. It is hoped that the conflict will not reach the stage of legal settlement through the courts. The number of conflict problems that arise in the community is a land conflict, indigenous peoples' land, village communities, and private land. The other disputes that commonly happen in Rokan Hulu District include problems in family law such as inheritance. There are other things such as marital problems and problems in criminal law such as accidents, theft, and others.

This problem occurs between the community and the community, or community groups, and the company. So is the case with conflicts that arise in the community in Rokan Hilir, Kubu Regency. Of course, various efforts have been made to resolve disputes between the community and the company in multiple ways and taken with the help of parties who can facilitate an agreement with the disputing parties. Likewise, conflicts between communities are carried out through negotiation efforts, namely by negotiating or bargaining on problems that arise in the community in the sub-district of Rokan Hilir Regency named Kubu, community leaders represented by the Village Head or representatives from the government. If the outcome of this negotiation does not affect the agreement the parties want, then this dispute will continue even to the point of conflict.

²⁴ Sutiyoso, *Hukum Arbitrase dan Alternatif Penyelesaian Sengketa*, 56.

The next stage is the dispute resolution process through mediation, with the help of a mediator, namely the mediation technique carried out by containing the following elements²⁵

- a. The dispute resolution process is based on negotiations between the parties through mediation with this traditional figure mediator or *Ninik Mamak*;
- b. A neutral third party as a mediator is involved and accepted by both parties. This study was carried out by traditional leaders or *Ninik Mamak* in the village or sub-district;
- c. The mediator is in charge of assisting the disputing parties to solve the disputed issues. In the presence of the family and village officials and community leaders, traditional leaders or *Ninik Mamak* try to visit the homes of residents experiencing the conflict;
- d. The mediator does not have the authority to make decisions during the peace process but is trying very hard to approach the community to prefer the out-of-court settlement route without proceeding to the legal process through the court with a long process;
- e. This process aims so that disputes that arise in the community, especially in Kubu Regency between the community and between the community itself, are immediately resolved. Although with several stages of meeting with the parties to the dispute, the role of the mediator is, among others;
- f. The mediator is a catalyst to create a peaceful atmosphere and provide understanding and solutions to existing problems;
- g. As an educator or by understanding the wishes of each party and conveying these wishes in a reasonable manner; and
- h. The mediator also implied and expressed proposals as an interpreter of both sides.

The stages took in resolving disputes that occur in the community in Kubu Regency with this community include:

- a. The existence of efforts to establish relationships with the disputing parties;
- b. Selecting strategies to guide the mediation process;
- c. Collecting and analyzing background information on disputes;
- d. Prepare mediation plans;
- e. Building trust and cooperation between the parties;
- f. Initiating a mediation session;
- g. Formulating problems and setting an agenda;
- h. Revealing the hidden interests of the parties;
- i. Generating dispute resolution options;
- j. Final bargaining process; and
- k. Gaining a formal agreement will be outlined later in a peace deed.

²⁵ Dasrol Dasrol, "Interview with Mr. Zulhaifi, Secretary of the Indigenous Meeting of the Four Tribes, Kubu District, Rokan Hilir Regency" (Riau, 2021).

Violation of the law can be resolved amicably. Community problems are 80% decided kinship amicably by each party's family until the *Ninik* has been determined. It means that community leaders solve cases like the Village Head, RT/RW Youth Leaders, and Community Leaders. We are also involved in solving issues, then and besides that, we are also aggressively pursuing socialization in the community. However, can they be resolved peacefully and resolved peacefully from all of these specialties and do not proceed to the legal process.

The forms of community participation in the conflict stage are:

1. Providing information, suggestions, considerations, or opinions to clarify the rights between the two and the causes of the conflict.
2. It identified various potentials and problems that will occur between residents of the surrounding community in the area.
3. Sending a Submission of objections to violations committed by residents in the event of destruction if it violates customary law and customs that apply to the local community is essential for settlement assistance by a mediator.

Implementation of mediation in Kubu Subdistrict, Rokan Hilir Regency, a problem was passed by the *Ninik Mamak*, and the solution was carried out as described below.²⁶

4.1. Fighting or persecution

Efforts to settle the traditional Melayu tribe in Kubu are to reconcile the two parties by bringing together the two parties involved in a fight or persecution by bringing slaps with compensation sanctions which can be in the form of money or costs for treatment, one goat if the victim is seriously injured from the neck up or to the head and or a chicken if the victim is seriously injured or injured from the neck, not under the feet.

4.2. Vandalism

The Efforts to resolve criminal acts like vandalism are by making peace and do compensate for damaged goods. If they cannot repay the customary holders, they will submit it to the authorities and settle the applicable law for the actions taken.

4.3. Domestic violence

Efforts to resolve the criminal act of domestic violence based on traditional Malays in the camp, namely by reconciling the two parties first, whether the two parties want to make peace or not if the parties do not want to make peace, it will be handed over to the authorities.

²⁶ Dasrol Dasrol, "Interview with Atuk Hasan, Mamak of Adat Bebas Kubu District Rokan Hilir Regency," 2021.

4.4. Traffic accidents (e.g., crashing into people)

The traditional settlement of the Malays in the camp is negotiating, bringing together the two parties involved, and making peace between the two parties. The sanction is compensation as a form of liability for accidents that occur because of the party who is the victim of the accident. The payment amount can be determined based on the consequences of the accident itself, whether fatal or until death is usually fined or handed over to the authorities. However, if the accident results in negotiable, the perpetrator who hit the victim can compensate according to the victim's agreement, whether in medical expenses to the hospital or others.

4.5. Theft

In Malay customs in the Kubu, the crime of stealing can be resolved by making peace and then making a letter of agreement on the peace agreement between the victim who was stolen and the perpetrator of the theft. With sanctions to compensate for goods that have been stolen.

4.6. Affair

In the customary law of the Malays in the Kubu, infidelity can be resolved by: if a man has an affair, the solution is to marry or marry the woman because the woman does not have a husband. If the woman has a husband, there must be an agreement. With her husband, namely making a decision to divorce or not, if not divorced, the cheating spouse pays a fine which can be in the form of money which is then used to repair or worship the village, how the contact occurred so that it is kept away from disaster. The sanction for infidelity itself is paying a fine or getting married. If both (the cheating spouse) can pay the fine with the agreed customary provisions, then both partners have paid the fine in the form of money and then will be exiled or expelled from their village and place of residence.

4.7. Selling communal land

In case of selling of communal land in Kubu district, community effort that could be solved would be submitted to the chiefs and will be settled again to the leader to pay fines sanctions.

4.8. Marriage cancelation

In Kubu society, cancellation of marriage can be solved by finding out the reasons for the marriage's annulment and making peace. And if it cannot be resolved and reconciled by custom, the sanctions for being canceled or not occurring are the following.

First, if the man cancels the marriage, the delivery or shopping money is not returned to the man by the woman. However, if a woman cancels the wedding or marriage, the woman must return the delivery or shopping money given by the man to the woman.

4.9. Murder

In the indigenous Melayu community in Kubu, if there is a crime of murder, the solution is to make peace. However, if it cannot be resolved by custom and amicably, the authorities leave the settlement. Sanctions can be in the form of fines that the rules can determine for the payment of the crime of murder.

5. Sanctions Against Various Law Violations in Indigenous Communities in Kubu Districts, Rokan Hilir Regency

Birth of customary law and having sanctions in *adat* cannot be separated from the consequences of an act which is a violation or crime which according to customary law is seen as a violation of law and can damage the sense of belonging. Comfortable, peaceful, and a sense of peace in social life, so that for the perpetrators and violators, following customary sanctions is a reply or lesson for the perpetrator of the violation of the law so as not to repeat it, even according to customary law it is not only beneficial for the perpetrator but also applies for everyone not to violate the law.

The customary punishments or sanctions in the traditional law community in the stronghold sub-district of Rokan Hilir district are maintained if they do not conflict with the rules, norms, and Islamic law. This customary law is supported by the traditional law community in the stronghold sub-district of Rokan Hilir district because it still follows the rules and regulations in Islam and the principles of justice. Malay customary law in the stronghold sub-district of Rokan Hilir district is still used and applied in every dispute resolution during people's lives.

Sanctions in *adat* are one way to restore balance in society. In other words, customary sanctions attempt to neutralize the shocks due to violations of customary law. So customary sanctions function as stabilizers to restore a precarious balance in society. The form of customary sanctions varies depending on the community's values and feelings of justice. Likewise, as we know, in the stronghold sub-district of Rokan Hilir district, there are often violations of the law in indigenous peoples that cause a condition of disturbing the peace, order, and legal awareness in the community. Conflicts that occur in society must be recognized as a reality. And this issue must be accepted but must be directed to the flow so that there will be no "more significant clashes in society that cause damage to the social order as a whole.

Customary sanctions are applied/imposed on residents who violate customary law. The reactions/actions of the community are certainly not following the objectives expected by customary sanctions, namely to restore the balance of disturbed relations, but instead appear disturbances to peace, public order, and justice. Sometimes even worse, violations that lead to breaches of national law occur. Such violations of customary law need to be understood together, both by the community traditional leaders as decision-makers, regarding the existence of customary sanctions, especially in the application of these sanctions, so they will not arise and are contrary to national law.

Table 2. Violation of the Law According to the Customary Law Mechanism at Kubu Rohil Regency.

No.	Types of Violation of Law	Customary Sanctions
1	Persecution	For example, if the victim is injured from the neck up, the sanction given is only in the form of compensation money for medical expenses. But if the victim is seriously injured, the sanctions given are slap, goat's blood, yellow rice, and 1-meter white cloth from the neck up.
2	Fighting/Battling	The sanction given is to pay the medical expenses of the victim.
3	Vandalism	Sanctions are compensation for damaged goods if they are not able to be handed over to the authorities
4	Domestic Violence	Sanctions are in the form of compensation as a form of responsibility to the party who is the victim.
5	Traffic accident	If the victim dies, he usually pays a fine or is handed over to the authorities.
6	Theft	Mandatory replace with what he has stolen.
7	Affair	The sanction given is to pay a fine in the form of money, then it will be exiled or expelled.
8	Selling Communal Land	The sanction meets with the tribal chief and is fined according to what he has done.
9	Canceling a marriage	For example, canceling a marriage case in an engagement a male party reneges, then the delivery to the party female will not be returned. However, if a man cancels a woman, the man must return the delivery twice.

Source: interview with Atuk Kamalul, Kec Kubu Rokan Hilir August 29, 2021

According to Lesquillier in his dissertation "*Het Adat Delectenrecht in de magische wereldbeschouwing*," Customary sanctions suggest that these habitual reactions are actions that intend to restore the disturbed magical peace and to eliminate or neutralize an unfortunate situation caused by a violation of *adat*.

Customary sanctions have a function as a stabilizer to restore balance in society. In the community in the stronghold of Rokan Hilir district, customary sanctions have a vital role in restoring the disturbed equilibrium. According to the *adat* concept, the purpose of Sanctions is to restore cosmic balance, the balance between the external world and the unseen world, to bring about a sense of peace between fellow citizens. In addition, the punishment must be fair, meaning that the sentence must be perceived as appropriate by both the legal system and the victim or the community.

6. Conclusion

Legal violations that occurred in the sub-district of the stronghold of Rokan Hilir district were caused by several things, such as customary violations by tribes or communities, the lack of positive contributions to traditional land management on the lives of indigenous peoples, both in matters of family law, marriage law, community land issues, both tribes, and individuals have problems between the company and the community but do not involve indigenous peoples and or the surrounding community, so it is vital to intervene *Ninik Mamak*, as well as the need for the implementation of peace for the community in the

event of a conflict in the community so that the role of *Ninik Mamak* is needed in the solution. For the problems in the field of customary criminal law, Community leaders or traditional leaders as mediators need to develop a community mindset towards dispute resolution outside the court, as is the case for the stages or steps taken by *Ninik Mamak* or traditional leaders to carry out mediation in indigenous peoples when there is a violation of the law. In the community in the stronghold of Rokan Hilir district, customary sanctions have a crucial role in restoring the disturbed balance.

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