Implementation of Penal Mediation "Tepung Tawar" as Criminal Case Settlement in Palembang, South Sumatra

Junaidi
Faculty of Law, Sjakhyakirti University Palembang – Indonesia, junaidi@unisti.ac.id

ABSTRACT

Legal pluralism in Indonesia makes it a dynamic legal dynamic. Conflict resolution in social relations, whether it is a civil or criminal matter in Indonesian customary society prefers to be resolved by family or deliberation. In the settlement of criminal cases in Palembang, there is a customary tradition known as "tepung Tawar". This dispute resolution ends with "berangkan-angkanan" (binding brotherhood) which indicates that both parties have reached a consensus/agreement. In writing this Community Service article I will discuss the implementation of the customary tradition of "tepung tawar" in Palembang, South Sumatra Province, this activity aims to provide understanding to the community about restorative justice by means of "tepung tawar" as a medium for conflict resolution.

INTRODUCTION

Legal pluralism in Indonesia is a major factor that makes Indonesia rich in legal dynamics that grow and develop. The development of law in Indonesia is influenced by customary law which indirectly gets the influence of Islamic law. Therefore, the law in Indonesia becomes its own harmonisation in its development. In Indonesia, customary traditions are still quite strongly adhered to in several districts and provinces. Especially in resolving conflicts among its residents.

Dispute resolution in Indonesian society basically refers to customs to reach an agreement through deliberation or consultation, which is a common principle in Indonesian society. In Indonesia, there are various ethnic groups that have peaceful traditions in resolving conflicts. For example, the people of Java, Lampung, Bali, South Sumatra, Lombok, Papua, West Sulawesi, and the people of South Sulawesi have a tradition of peaceful conflict resolution (Ahmadi Hasan, 2007). Apart from that, the Dayak Kanayat and Dayak Sanggau tribes in
Pontianak, West Kalimantan, have a strong bond of values, morals, culture and local pearls of wisdom in resolving problems that occur in society (Nur Rochaeti, et.al, 2023).

In Palembang Malay custom, problems can be solved with an approach that involves all family members. One example is the resolution of disputes known to the people of South Sumatra as "tepung tawar". Tepung tawar is a harmonious or kinship method of resolving problems in the community. Tepung Tawar is a step to create peace in resolving criminal offences. Tepung Tawar refers to flour which represents foodstuffs or daily needs in the family, and the word "tawar" means a gift to erase mistakes. So "tepung tawar" is a reconciliation measure or a way to defuse the anger of the victim's family, so that there will be no more violence or bloody conflicts. With the intention of becoming one family, both parties forgive each other, after performing the offering. This technique can be used for a variety of problems, ranging from minor to major (Erdianto Effendi, 2018).

"Tepung Tawar" as a customary tradition is believed to be one of the considerations for resolving criminal cases by following the principles of restorative justice. The application of "tepung Tawar" to resolve criminal offences in a customary manner that prioritises the application of restorative justice, focusing on the needs of victims, families and communities. The concept of restorative justice that exists in a number of applicable laws in Indonesia, this is what motivates the PkM Team of the Faculty of Law, Sjakhya Kirti University Palembang to carry out these community service activities. In addition, most people today still do not entirely have knowledge about the concept of restorative justice as one of the options for resolving cases in criminal law, especially in customary law. This is a motivation for our PkM Team to find solutions to this problem. The idea of restorative justice is a change in concrete law, especially in criminal law in Indonesia. Meanwhile, the principle of restorative justice in the customary law system has existed since the royal period in the Indonesian archipelago.

**METHOD**

The implementation of community service activities in providing an understanding of the application of restorative justice using "bargaining flour". Can be done with several methods, including:

1. **Legal counselling**: providing understanding to the community about restorative justice in criminal case settlement. Alternative dispute resolution that can be done by the community include:
   a. **Mediation**: introduces one of the alternative dispute resolutions to the community that provides convenience and comfort, besides that this media is also often carried out by the community;
   b. **Arbitration**: the community, when faced with a conflict, always resolves it with community leaders, the head of the neighbourhood or the village head;
   c. The traditional tradition of "tepung Tawar", which is a customary tradition in South Sumatra, has been eroded by the times.

2. **Discussion**: conducting a question and answer process with community leaders, village officials and local government officials. This is to provide synchronisation in achieving the goal of conflict resolution;

3. **Simulation**: organising participants into small groups for consensus in dispute resolution. There are members who play the role of litigants, community leaders, and leaders (chairperson) in the implementation of "tepung tawar" mediation;
4. Assistance; directly assisting community leaders, village or government officials and the community in resolving disputes that occur in their area.

It is hoped that these various methods can be implemented properly by the community, so that dispute resolution will run as expected. The harmony of community life that is safe, calm, published and prosperous will run well. This community service activity involving all stakeholders can help and preserve the traditional tradition of "tepung tawar" as an alternative restorative justice in Indonesia.

![Figure 1. Implementation of Community Service by Sjakhyakirti University Faculty of Law Team](image)

RESULT AND DISCUSSION

1. Implementation of Restorative Justice under the Customary Law of "Tepung Tawar"

In Indonesia, the principle of restorative justice has been widely developed in community life, such as in Papua, Bali, Toraja, Minangkabau, Kalimantan, Central Java, Lampung, South Sumatra, and other indigenous communities that have maintained their cultural traditions. In practice, problem solving is conducted through meetings or deliberations attended by community leaders, the perpetrator, the victim (if willing), and the parents of the perpetrator in order to reach an agreement to repair the wrong that occurred (Septa Chandra, 2014).

One of the main aspects of restorative justice is the willingness and involvement of victims, perpetrators, and the community in efforts to repair the crimes that have occurred. This is also a characteristic of the customary legal system (Yusi Amdani, 2016). There are various customary rules in Indonesia that can be a form of restorative justice, but the government does not recognise or codify them into national law. Customary law is able to overcome problems that arise in society and provide satisfaction to the parties involved. The emergence of the idea of restorative justice is a criticism of the use of the criminal law system with prison sentences which are considered ineffective in solving social problems (Hanafi Arief and Ningrum Ambarsari, 2018).

As part of the identity of a nation, the existence of customary law must have qualities and characteristics that are in accordance with the philosophical and cultural values of the nation. According to Sudarto, he stated that it is not a problem to a certain extent to say that a country's criminal law can show the country's culture (Reimon Supusesa, 2012). Currently, the criminal laws in force across the country dictate that in situations where determining the existence of an offence is prohibited the use of comparisons. The regulation confirms the principle of legality, which is the main principle in the national criminal law that is positively applicable today (Sayidin Abdullah, 2015).

Customary law in resolving disputes prioritises the principle of deliberation. "Tepung tawar" is an initiative to recreate a peaceful atmosphere in the event of a criminal offence in the community. The meaning of the term "tepung tawar" is a type of flour that symbolises foodstuffs...
or daily items, and tawar means an antidote. Therefore, it reflects an attempt at peace or an antidote that aims to reduce the resentment of the victim's family, so that violence does not recur.

The settlement of legal disputes among the Malay community, especially in Palembang, South Sumatra, is known as "tepung tawar". The method of implementation is as follows:

a. In the event of a crime, such as violence, murder or similar incidents, it is common for the perpetrator, accompanied by his family, to go to a traditional or community leader, usually an ustadz, neighbourhood leader or village head, and tell the chronology of events;

b. The perpetrator, the perpetrator's family and community leaders (respected people in the village) visit the victim's residence or the victim's family;

c. Traditional or community leaders tell the chronology of the events of the case, this is also supported by gathering information from witnesses who saw the incident firsthand;

d. Victimised families are given the opportunity to reflect and consider the wishes of the perpetrator and his/her family;

e. After some time has passed, the victimised family finally expresses their wishes and views to the traditional leader. After this, the traditional leader channelled the victim's family's request to the perpetrator and/or those associated with him;

f. After reaching an agreement on the payment of customary fines between the offender and the victim's family, a time is set to implement the agreement;

g. To demonstrate peace between the perpetrator, the victim, and/or the victim's family, a traditional ceremony in the form of a kenduri is held. In this event, the costs for the kenduri (safety prayers) are borne by the perpetrator;

h. At the salvation prayer, both parties then "berangkan-langkanan" (lift up brothers) each other to show that the "tepung tawar" process has been completed.

To be able to provide understanding to the community in implementing the customary tradition of "tepung Tawar" for dispute resolution. The participants were formed into 4 (four) small groups consisting of victims, perpetrators, families and community leaders. Each of them practised directly an event that occurred. The example taken in the implementation of this community service activity is a fight between children.
2. The Benefits of "Tepung Tawar" in the Settlement of Criminal Offences in the Community

The community service carried out by the PkM Team of the Faculty of Law, Sjakhyakirti University in 32 Ilir Village, Ilir Barat II District, Palembang City provided significant benefits felt by the community, including:

a) Settle disputes between individuals or groups;

b) Prevent conflict between groups or individuals;

c) Bring two groups or individuals together;

d) Defuse ongoing conflicts between individuals or groups;

e) Resolve the problem with the best solution for both parties.

The nature of the community often conducts this consensus deliberation (mediation) in their daily lives including:

a) A dispute between two students in the classroom, this dispute is related to the selection of classmates. the two students both want to get the same seat. This problem is then reported to the teacher. The teacher acts as a third party who helps the students to solve this problem. The teacher conveys information to both students so as to open the students' point of view. Through this action, the most appropriate solution can be obtained for both parties;

b) Disputes between people in the social environment. This dispute was caused by an accident, but neither party was willing to give in, so the neighbourhood coordinator took the initiative to involve the RW head to express his views on the incident. The RW leader acted as a mediator for this problem. The RW coordinator presented several alternative options that could be used as solutions to the conflict at hand. then both parties determined the most appropriate deliberation.

This community service is a form of concern for the world of education to preserve community customs in supporting the development and renewal of law in Indonesia. "Tepung tawar" is a tradition of the Malay community, especially in Palembang city which applies Pancasila, prioritising consensus in resolving conflicts that occur. With the "tepung tawar" alternative dispute resolution can use this restorative justice model.

CONCLUSION

The role of education in educating the nation's life is very large. The Faculty of Law, Sjakhyakirti University Palembang takes part in this, especially in providing legal awareness to the community. A law-aware society will create a calm, peaceful and orderly life. A law-aware society will lead to a level of compliance and obedience to existing laws in Indonesia. This is in line with the tri dharma of higher education, so the Faculty of Law, Sjakhyakirti University is obliged in this regard. The lecturers and legal practitioners at the Faculty of Law can provide all knowledge and experience to be able to provide legal awareness to the community.

The presence of the Faculty of Law, Sjakhyakirti University Palembang has an important role in creating legal awareness in society. With the existence of a law-aware society, it directly contributes to supporting government programmes. This can be seen with the existence of safe and conducive conditions. With this condition, the worries in doing business for the community are gone. Economic growth is created, welfare and prosperity can be felt directly by the community.
REFERENCES


