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**THE ROLE OF VILLAGE MEDIATION INSTITUTIONS IN RESOLVING
THE COMMUNITY DISPUTES IN THE SPECIAL REGION OF
YOGYAKARTA, INDONESIA**

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THE ROLE OF VILLAGE MEDIATION INSTITUTIONS IN RESOLVING THE COMMUNITY DISPUTES IN THE SPECIAL REGION OF YOGYAKARTA, INDONESIA

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Abstract

The number of cases that were handled by judicial institutions was increased from 14,630 cases in 2016 to 15,181 cases in 2017. As for as many cases, there were 2,357 cases in 2016 that were burdened. Thus, the total cases handled by the Supreme Court in 2017 reached 17,538 cases. The one factor causing the high number of cases is the lack of mechanism in settling cases through mediation. Indonesian people mostly consider the settlement of the cases through the judicial institutions. Therefore, the effort fostering the people to resolve the cases without the court must be encouraged. There is one village in Indonesia, which already has a mediation institution that resolves the disputes in the community. The researchers are eager to unfold the role of the mediation institution in the village in resolving the disputes and the obstacles faced. The type of research is sociological legal research. The data are collected in the form of primary and secondary data. The method of collecting data is conducted through both literature and field studies. The aim of this research is to find out whether the village mediation institution can carry out its role effectively in resolving the disputes in the community, so that the community does not have to come to the court to resolve the problem. The village mediation institution is able to be a new model in resolving disputes in the community.

Keywords: role, mediation, village, disputes

A. Introduction

1. Background of the Study

In social life, various problems often occur, whether interpersonal conflict, between several group (horizontal conflict) or communities toward policy makers (structural conflict). Conflicts or disputes can arise as a result of different views on a certain problem or different conflicting interests such as cases of land disputes, inheritance, agricultural land, village head elections and others. Various kinds of conflicts/disputes that occur in the community can sometimes be resolved through a mechanism of deliberation but frequently the conflict is finally resolved through the Court.

Anthropologically, conflict is a social phenomenon that is inherent to human life, especially for a multicultural society. It cannot be avoided or ignored in such a life. For that, what must be done is how to manage, control, accommodate, and resolve the disputes peacefully and wisely in order to avoid the social disintegration in the society¹.

Mediation is one way to resolve the disputes between groups in the community. In addition to mediation, there are several models for resolving the disputes such as negotiation and arbitration². Mediation is the resolution of the dispute by mediating. The mediator is the person who mediates³. Thus, it can be interpreted as a dispute resolution mechanism between groups by having a person as mediator who serves to bring an agreement between two different groups with their own interests then to find win-win solution for resolving the disputes. In this mechanism, no group loses or wins so that they have not been harmed by the decision.

Mediation can be an alternative way for justice seekers (*justisiabelen*) to resolve their cases without the court. It can reduce the high number of cases that are burdened in the Judicial Institution. The Supreme Court (MA) noted that the number of cases handled increased from 14,630 cases in 2016 to 15,181 cases in 2017 (up approximately 37%). Besides, the Supreme Court still had to handle the 2,357 cases burdened in 2016. Thus, according to the Chairman of the Supreme Court, the total cases handled by the Supreme Court in 2017 reached 17,538 cases⁴.

From these data, it can be observed that the number of cases handled by the Supreme Court annually is absolutely high. It made the Supreme Court got difficulty to settle these cases at the end of the year and there are always remaining cases that cannot be resolved. According to the Chairman of the Supreme Court, the Supreme Court had decided about 15,967 cases of 17,538 cases in 2017. The cases remained around 1,571 cases⁵.

One of the factors triggering the number of the cases is that the mechanism of the settlement through mediation is not commonly used by the society. Most people in the society are still considering the judiciary to resolve the problems. Therefore, it needs an effort to encourage people to settle their cases or disputes through mediation out of the court or referred to as an *Alternative Dispute Resolution* (ADR), especially for rural communities.

Looking at the history of Indonesia - from the era of the empire to colonialism - the position of the village has an important meaning in social control. The concept of “*Desa mawa cara, kota mawa tata*” can really work.

¹ Rachmad Syafa'at (ed.), 2015, *Relasi Negara dan Masyarakat Adat, Perebutan Kuasa atas Hak Pengelolaan Sumberdaya alam*, Malang, Surya Pena Gemilang, p. 48

² Suhadibroto, 1993, *Musyawaharah dan “menang Tanpo Ngasorake”*, Jakarta, Kompas

³ Rachmad Syafa'at, 2016, *Advokasi dan Alternatif Penyelesaian Sengketa*, Malang, Surya Pena Gemilang, p. 49

⁴ <https://tirto.id/mahkamah-agung-masih-menunggak-1571-perkara-di-2017-cCqW>, retrieved at 23 October 2018, 4:40

⁵ *Ibid*

The village can be independent both in terms of economy and law enforcement in its area. Both the village justice system and the customary justice system developed and went well as a form of social control, so the law was truly institutionalized⁶. No wonder, Soepomo made the concept of the Republic of Indonesia inspired from the form of the republic of village as the basis for Indonesian state administration⁷.

Why is the republic of the village, according to Soepomo, a model of the state and an authentic Indonesian government? It is since the basic idea of the formation of the Republic of Indonesia is the same as the idea of the establishment of the republic of the village, which is "adapted to the *sociale structuur* of the Indonesian society that is real in the present and must be adapted to the modern vocation⁸.

After being legalized, the Village Law No. 6, 2014 concerning about Villages asks and encourages the village heads to solve the problems in the Village. At least in the Law there are two Articles that accommodate the position of village heads as a problem solver in the village community. They are Article number 26 paragraph (2) letters f and g which essentially states that the village head is authorized to foster the life of the village community and foster the peace and orderline in the village community. The second one is Article 26 paragraph (4) letters c and k which essentially states that the village head is obliged to maintain peace and orderline in the village community and resolve community disputes in the village.

Referring to the Act, the village head actually has the obligation and authority to resolve the problems of the community. The village head should function as an Authoritative Mediator⁹ to help resolve the problems in the village. However, many village heads do not understand their functions comprehensively, especially the knowledge of how to act like a mediator with specific techniques in dealing with conflict during mediation. Thus, an institution that functions to help the village heads is needed to resolve the disputes in the community.

Therefore, the authors are interested in conducting research on village mediation institutions in resolving community disputes found in Pangunharjo Village, Sewon District, Bantul Regency, the Special Region of Yogyakarta.

2. Formulation of the Problem

- a. How is the role of the Village Mediation Institution in resolving community disputes in Pangunharjo Village?

⁶ In terms of Sociology Law, the term "law institutionalized" means that the law is truly well understood and people know the legal consequences. In general, it means that law is not only in a procedural sense, but has become part of the substantial awareness of the people.

⁷ A. Hamid S. Attamimi. *Peranan Keputusan Presiden Republik Indonesia dalam Penyelenggaraan Pemerintahan Negara*. Dissertation. Jakarta: Universitas Indonesia, 1990, p. 102.

⁸ Ni'matul Huda, 2015, *Hukum Pemerintahan Desa*, Malang, Setara Press, p. 2

⁹ An authoritative mediator is someone who is a mediator because s/he has a certain position or position in the community

- b. What are the obstacles faced by the Village Mediation Institution in resolving community disputes in Panggungharjo Village?

3. Research purposes

- a. To explain how the role of the Village Mediation Institution in resolving community disputes in Desa Panggungharjo is, and
- b. To describe the obstacles faced by the Village Mediation Institution in resolving community disputes in Panggungharjo Village.

B. Research Methods

1. Type of Research

This type of research is sociological or empirical law research. According to Bambang Sunggono, sociological law research can be referred to as non-doctrinal law research. The steps of this research emphasize more on empirical-quantitative observation and analysis¹⁰. In this research, the authors will conduct an in-depth study towards the implementation of the concept of “Daulat Desa” (Village Sovereignty) which is returning the village as the center of problem solving in the community through Village Mediation Institution.

2. Data Sources and Legal Materials

Data collected in this research are primary data and secondary data. The primary data were obtained directly from respondents, while the secondary data in law research was called legal materials¹¹. These legal materials consist of:

a. Primary Legal Materials, are binding materials, such as

- 1) The Republic of Indonesia State Constitution 1945
- 2) Law Number 6, 2014 concerning on Villages
- 3) Government Regulation Number 43, 2014 concerning on the Village Law Implementation Regulation.
- 4) Supreme Court Regulation No. 1, 2016 concerning on Procedure for Mediation in Courts

b. Secondary Legal Materials, are legal materials explaining the primary legal materials, such as books, journals, research reports, magazines, articles, documents

c. Tertiary Legal Materials, are legal materials that complete the primary and secondary legal materials, such as legal dictionary, Indonesian dictionary, English dictionary and encyclopedia

3. Data Collection Methods

a. Library Studies

The data collection was done library research by inventoring and examining the legal materials and written documents, either in the form of legislation relating to the Mediation and Village, books,

¹⁰ Bambang Sunggono, 2007, *Metodologi Penelitian Hukum*, PT Raja Grafindo Persada, Jakarta, p. 102

¹¹ Soerjono Soekanto, 1986, *Pengantar Penelitian Hukum*, Jakarta, Universitas Indonesia Press, p. 52

scientific journals, article, newspapers and other written documents relating to the object of the research.

b. Fieldwork Research

The authors also conducted the fieldwork with interview methods to add data that had been obtained from literature studies. The interview technique was guided-free interview, which uses a list of questions compiled by the authors in the form of main idea that can be developed during the interview. The respondents were the Mediators of the Mediation Institution at Panggunharjo Village, Sewon, Bantul.

c. Data analysis

After the data were collected in accordance with the objectives of the study, data processing was carried out by selecting and classifying existing data in a systematic, logical order through the juridical-sociological approach. Data analysis was carried out by descriptive qualitative method, that is by comparing the laws as the desired law (*das sollen*) with the actual legal conditions (*das sein*). Empirical data obtained from the fieldwork were used to assess whether an existing legal norm had been carried out in accordance with its objectives. Thus, a picture of a real problem could be obtained. It could be a guidance to find a solution to the problem in this research. Based on the results of the analysis, a drafted conclusion and any recommendations or suggestions may be referenced in fixing the problems studied.

C. Literature Review

1. Dispute Settlement Through Mediation

a. Definition of Conflict

Conflict comes from the terminology of the English word *conflict*, which means disagreement, difference of opinion, contravention or ambivalence. Conflict or dispute about something happens between two or more parties. Conflicts or disputes are almost not separated from human life and society, making it difficult to imagine if society is without conflict¹².

Conflict or dispute is a vocabulary that often appears in the phenomena of community life, whether regional or even national. Conflicts or disputes are no longer ideological but have shifted towards multicultural conflicts based on differences, shifts, and even changes towards cultural understandings in the society. The shift in understanding conflict or dispute in turn has an impact on the emergence of various alternative concepts for resolving conflicts or disputes¹³.

b. Mediation as a Conflict Resolution Model

There are many different models of conflict resolution, both through litigation (the court) and non-litigation (outside the court). One mechanism for conflict resolution through non-litigation channels is mediation. Moore said that mediation can be interpreted as an intervention against a dispute

¹² Rachmad Syafa'at, *op.cit.*, p. 47

¹³ *Ibid.*

or negotiation by an acceptable, impartial and neutral third party that does not have the authority to make decisions in helping the disputing parties in an effort to reach a voluntary agreement in resolving disputed issues¹⁴.

c. Mediation Objectives

The purpose of mediation is to (1) produce a plan (agreement) in the future that can be accepted and carried out by the disputing parties, (2) prepare the disputing parties to accept the consequences of the decisions they make, and (3) reduce anxiety and other negative impacts of a conflict by helping the disputing parties to reach resolution through consensus¹⁵.

d. Types of Mediators

In resolving conflicts through mediation institutions, there are several types of mediators, namely social-relation mediators, authoritative mediator, and independent mediator¹⁶.

The social-relation mediators are often found in rural communities. For example, they can be traditional leaders, community leaders, faith leaders or community figures. These people, in general, have the authority or charisma and are respected by the local people¹⁷.

The authoritative mediators are mediators who work in government agencies. Such mediators are often encountered in land cases, labour, and environmental pollution involving the community on the one hand and entrepreneurs on the other hand¹⁸.

The independent mediators are mediators who are considered the best or professional mediators compared to the other mediators. The independent mediators do not have direct relations with the disputing parties. Generally, the independent mediators are professional¹⁹.

e. Mediation Steps

Mediation steps have several versions, such as Moore, Forberg and Taylor version, Jacqueline, M. Nolan-Haley version, and Steven B. Goldberg, et al version. From the various versions, the core steps in mediation can be taken into four stages as follows²⁰:

1) First Step: Creating Forum

Before the meeting begins between the mediator and the disputing parties, the mediator creates or a forum.

2) Second Step: Collecting and Sharing Information

The mediator requests a statement or preliminary explanation from each party in dispute.

3) Third Step: Bargaining the Solution

In this third stage, the mediator will use the *caucus* (small cubicle), which is to hold a private meeting with each party separately.

¹⁴ *Ibid.* p. 49-50

¹⁵ *Ibid.* p. 50

¹⁶ *Ibid.* p. 51

¹⁷ *Ibid.* p. 51-52

¹⁸ *Ibid.* p. 52

¹⁹ *Ibid.*

²⁰ *Ibid.* p. 52-53

4) Fourth Step: Making Decisions

At this step, the disputing parties work together with the help of mediators to evaluate the options to solve the dispute, offer packages to minimize differences, and seek a fair basis for joint allocation.

In addition, Irsyad Thamrin proposed more details of mediation step as follows: (a) drawing up a plan of mediation, (b) initiating mediation hearings, (c) formulating problems, (d) developing options regarding to dispute resolution; (e) bargaining the solutions; (f) achieving a formal settlement²¹.

2. Village and Authority of the Village Head

According to Mashuri Mashab, the term “village” can be interpreted into three (3) kinds of references namely sociological perspectives, economical perspectives, and political perspectives. Politically, village can be interpreted as a power organization that has certain authority because it is part of the state government²². Village or other names referring to it that are very diverse in Indonesia, is originally local community organization that has territorial boundaries, is inhabited by a number of residents, and has customs to manage themselves. This is what is called the *self-governing community*. The call of village as a legal community unit is only known in the Dutch Colonial period²³.

The words "village", "hamlet", or "*desi*" -smaller and more remote than hamlet- (remember the words of *swadesi*), as well as the words "*negara*", "*negeri*", "*nigari*", "*negory*" (from *nagaron* words), according to Soetardjo Kartohadikoesomo, are originally from Sanskrit, which mean the homeland, the land of origin, the land of birth²⁴. According to Selo Soemarjan, there are at least two patterns of social processes in forming a village. The first pattern occurs where the formation of a village begins with forest clearing, by the forerunner or *cikal bakal* (Javanese), that is the first person and his family to open the forest which is then used as a permanent housing forever²⁵.

From the perspective of the national government, village government is seen as the lowest government unit that occupies a small part of the country's territory. In this context, national government is a knot between village government systems and other government structures on it²⁶.

According to Ni'matul Huda, as the country's position grows stronger, it places the village as the smallest sub-system and the lowest part in the

²¹ M. Irsyad Thamrin dan M. Farid, *Panduan Bantuan Hukum Bagi Paralegal*, Yogyakarta, LBH Yogyakarta, p. 643-644

²² Mashuri Mashab, *Politik Pemerintahan Desa di Indonesia*, Cetakan I, PolGov Fisipol UGM, Yogyakarta, 2013, p. 1-2

²³ Sutoro Eko, “Masa Lalu, Masa Kini, dan Masa Depan Otonomi Desa” dalam Soetandyo Wignobroto dkk (Tim Penulis), *Pasang Surut Otonomi Daerah*, Skestsa Perjalanan 100 tahun, Institute for Local Development dan Yayasan Tifa, Jakarta, 2005, p. 44

²⁴ Soetardjo Kartohadikoesomo, *Desa*, Balai Pustaka, Jakarta, 1984, p. 15

²⁵ R. Yando Zakaria, 2000, *Abih Tandeh, Masyarakat Desa di Bawah Regim Orde Baru*, Jakarta, Elsam, p. 39

²⁶ Ni'matul Huda, *Op.cit.*, p. 36

structure of the state government. That is why the neglect of rights and even village values becomes more frequent²⁷. The villagers depend on the dominance of feudal power, while on the contrary, the life of feudal society depends on the agricultural production carried out by the village²⁸.

After being passed the Village Law No. 6, 2014 concerning Villages, the village heads were encouraged to solve problems in the Village. At least in the Law there are two Articles that accommodate the position of village head as a problem solver in the village community. Those are the Article number 26 paragraph (2) letters f and g which essentially states that the village head is authorized to foster the life of the village community and foster peace and orderline in the village community and the Article number 26 paragraph (4) letters c and k which essentially states that the village head is obliged to maintain peace and orderline in the village community and resolve community disputes in the village.

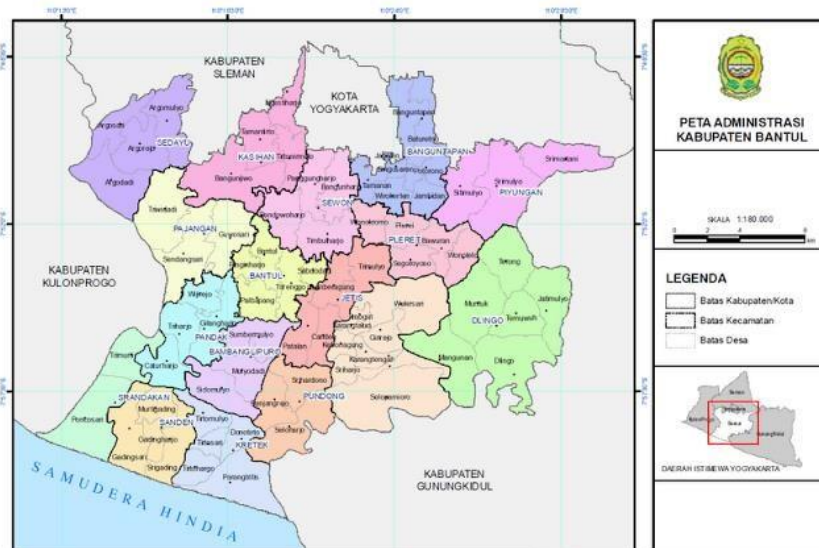
3. Discussions

a. Profile of Panggunharjo Village, Sewon, Bantul

Geographically, Panggunharjo Village is one of the villages in Bantul which directly borders on the Yogyakarta Municipality which is the capital of the Special Region of Yogyakarta. The boundaries of Panggunharjo village in detail are as follows:

Picture 1.

Regional Map of Bantul Regency



North : Yogyakarta Municipality
East : Bangunharjo Village, Sewon District
South side : Timbulharjo Village, Sewon District

²⁷ *Ibid.*

²⁸ Satjipto Raharjo, 2009, *Hukum dan Perubahan Sosial, Suatu Tinjauan Teoritis serta Pengalaman-Pengalaman di Indonesia*, Yogyakarta, Genta Publishing, p. 79

West Side : Pendowoharjo Village Sewon District and Tirtonirmolo Village, Kasihan District

As an area directly adjacent to the urban area of the Special Region of Yogyakarta, **Panggunharjo Village is its urban agglomeration area implying to an economic strategic area**. This condition is depicted through the development of land use. In the past five years, the land use pattern in the Panggunharjo village has changed significantly, especially in form of paddy field areas. They have changed their functions into residents and business center at a rate of around 2% per year. In terms of agricultural aspects, the high rate of change from paddy fields to dry land needs to be controlled. It is since the remaining agricultural land areas are still able to meet the needs and availability of food for the community²⁹.

Panggunharjo Village consists of three villages, namely Cabeyan Village, Prancak Village, and Krapyak Village. The existence of Panggunharjo Village cannot be separated from the being of "*Panggung Krapyak*" (Krapyak Stage) or "*Kandang Menjangan*" as what people call it. It is located in the Krapyak Kulon hamlet of Panggunharjo village³⁰.

As people know that the *Panggung Krapyak* is one of the elements of the 'imaginary axis' that divides the Special Region of Yogyakarta. The imaginary axis consists of the lines of Mount Merapi - *Tugu Pal Putih* (*Pal Putih* Pillar) - *Kraton Ngayogyakarta Hadiningrat* (Yogyakarta Palace) - *Panggung Krapyak* (Krapyak Stage) - and *Parangkusumo* which is on the south coast³¹.

Administratively, Panggunharjo Village consists of 14 hamlets divided into 118 *Rukun Tetangga* (blocks) that inhabit an area of 560,966.5 Ha. The village was officially formed based on the Decree of the Yogyakarta Government Council No. 148/D.Pem.D/OP dated on 23rd September 1947. the decree also stated that Hadjo Sumarto was declared as the first village head of Panggunharjo Village³².

Table 1.
Areas of Hamlets in Panggunharjo Village, Sewon, Bantul

No.	HAMLETS NAME	AMOUNT OF RT	AREA (Ha)	PERCENTAGE (%)
1	Krapyak Wetan	12	26,045.0	4.93
2	Krapyak Kulon	12	35,960.0	6.81
3	Dongkelan	10	28,681.5	5.43
4	Glugo	12	41,155.0	7.79

²⁹ www.panggunharjo.desa.id, retrieved at 25 October 2018

³⁰ *Ibid.*

³¹ *Ibid.*

³² *Ibid.*

5	Kweni	8	38,431.5	7.28
6	Pelemsewu	10	47,685.0	9.03
7	Palm oil	5	50,340.5	9.53
8	Pandes	6	30,206.0	5.72
9	Glondong	8	58,767.5	11.13
10	Jaranan	6	32,955.0	6.24
11	Geneng	7	35,801.0	6.78
12	Ngireng – ireng	7	29.050.0	5,50
13	Cabeyan	8	37.061.0	7,02
14	Garon	7	35.967.5	6,81
	TOTAL	118	560,966.5	100.0

o.desa.id, retrieved at 17th December 2018)

Based on **historical facts and evidence**, the cultural roots in the Panggungharjo Village grow and evolve closely related and influenced by the community and cultural interventions developing at that time. They are³³:

- 1) **In the 9th-10th century, Panggungharjo Village** was an agrarian area. This was evidenced by the Yoni Karang Gede site in Ngireng-Ireng. This agrarian culture emerged the growth of *Gejok Lesung*, *Thek-thek/Kothek-an*, *Merti Dusun* Ceremony, *Wiwitan* Ceremony, *Tingkep Tandur*, and other cultures which were referred to respect for the nature that had given the people food in which it is beneficial for the sustainability life of mankind.
- 2) **In the 16th century, the Krapyak Kulon and Glugo** were a hunting tourism area (*Pangeran sedo Krapyak* - 1910). Whereas in the 17th Century, this area was a sport center of archery for deer and as a place of defense (Sultan HB I - Panggung Krapyak, 1760). The culture brought from the intervention of the Kraton Mataram (Mataram Palace) as a cultural center fostered a noble culture in those areas such as: *Panembromo*, *Karawitan*, *Mocopat*, *Wayang* (Shadow Puppet), *Ketoprak*, *Sungging Tatah* Crafts, *Blangkon* Handicrafts, *Lurik* Weaving Crafts, *Batik*, *Gamelan* Industry, Classical Dance, and others.
- 3) **In 1911, the Al Munawir Islamic Boarding School was established in Krapyak Kulon.** This development brought other different cultures such as: *Sholawatan*, *Dzibaan*, *Qosidah*, *Hadroh*, *Rodad*, *Marawis*. Besides, cultures that were inherent in worship/prayer activities such

³³ *Ibid.*

as: *Syuran* (commemoration of 1 Muharram), *Mauludan* (commemoration of the Birthday of the Prophet Muhammad), *Rejeban* (commemoration of *Isro 'Mi'roj*), *Ruwahan/Nyadran* (sending prayers to ancestors by the month of Ramadhan), *Selikuran* (*Nuzulul Qur'an*), and others.

- 4) **Around 1900-1930, a culture** grew and developed because of the need for socialization in the community. At that period, various kinds of games played by children developed such as: *Egrang*, *Gobak Sodor*, *Benthik*, *Neker-an*, *Umbul*, *Ulur/layangan*, *Wil-wo*, and others. Even, in the Pandes Village, a community of "Kampung Dolanan" was developed. The village produced children's old games such as: *Othok-Othok*, *Kitiran*, *Angkrek*, *Keseran*, *Wayang Kertas*, and others.
- 5) **In 1980, in Panggungharjo Village which was a sub-urban area, urban modern culture** began to develop. The culture influenced mostly on the Youth through the form of band cultures such as Drumband, *Takbiran* Carnival, Modern Dance, *Campur Sari*, Outbound, Playstation/Rental Game, and others.

The Vision and Mission of Panggungharjo Village are as follows:

Panggungharjo Village Vision: Organizing a clean, transparent and responsible government to create Panggungharjo Village as a democratic, independent and prosperous community with having environmental consciousness.

The missions of Panggungharjo Village are as follows:

- 1) Improving and expanding cooperation networks with Government and Non-Government organizations
- 2) Realizing professional service through improving responsive and transparent village governance
- 3) Realizing a dynamic and peaceful socio-cultural life
- 4) Increasing the potential and capacity of the supporting environment to create business opportunities
- 5) Improving community welfare through participatory green development³⁴.

Panggungharjo Village is an Exemplary Village. It won the 1st place at the National Level in the 2014 National Village Competition³⁵.

b. The Role of the Mediation Institution in Panggungharjo Village, Sewon, Bantul in Resolving Disputes

1) The History of the Establishment of Village Mediation Institution

Based on the results of the researchers' interview with 2 mediators of the Village Mediation Institution, Mr. Muhammad Ali Yahya, S.H. and Ilham Yuli Isdiyanto, S.H., M.H.³⁶, the description the roles of the Mediation Institution in Panggungharjo Village can be explained thoroughly in the following paragraph.

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ Interview at 24 October 2018

The establishment of the Village Mediation Institution, Panggungharjo Village, Sewon, Bantul was motivated by many cases of land and inheritance disputes in the village. The village government took an initiative to form a team to handle the cases. At first, the team formed by the village government was in collaboration with the "Bumi Adil", a Legal Aid Institution in 2014. However, the team ran ineffectively. The village government established the Village Mediation Institution (LMD) involving the government and the community. The Village Mediation Institution has 2 certified mediators from the Supreme Court.

There are many cases that have been handled by the LMD, including land disputes, inheritance disputes, and defamation cases. The land dispute cases are the most frequent cases. According to Rafael, land and resources are very important for the survival, identity, and cultural integrity of indigenous peoples³⁷. The process of resolving these cases has been carried out through a deliberation approach.

2) Stages of Settling Disputes Through Village Mediation Institutions (LMD)

The steps taken in completing each case are done simply:

- a) The party that feels disadvantaged (the complainant) makes a formal letter to the village head along with a description/chronology of the case.
- b) The LMD will call the complainant for asking the description in detail.
- c) After obtaining information from the complainant, the LMD will call the other party (those who are complained) to have other perspective of the case.
- d) After obtaining information from both parties, then LMD calls both parties to be mediated.
- e) Mediation is led by a mediator to reach an agreement received by both parties.
- f) After an agreement is reached, the agreement is stated in the Peace Deed.

3) Management Profile of the Village Mediation Institution, Panggungharjo Village, Sewon, Bantul

Supervisor : Wahyudi Anggoro Hadi (Village Head)
Chairman : Iham Yuli Isdiyanto, S.H., M.H.
Secretary : Ali Yahya, S.H.
Administration : Manu
Mediators :- Iham Yuli Isdiyanto, S.H., M.H.
- Ali Yahya, S.H.
- Kharisma Wulandari, S.H.

³⁷ Rafael Edy Bosko, 2006, *Hak-Hak Masyarakat Adat dalam Konteks Pengelolaan Sumber Daya Alam*. Jakarta, Elsam, p. 169

4) Position Case (Examples of Cases handled by LMD)

The followings are several cases handled by LMD Panggunharjo:

a) Case I: Inheritance Dispute Case

This case originated from a husband and wife namely Mr. Sumo and Mrs. Boinem, who have children named Suparman and Maryani. After years of household life, because there were problems that could not be resolved, they then got divorced and divided up their property. Then, Mrs. Boinem married Mr. Ngatijo by having 1 kg of gold. The gold was then sold. They bought land and then built a house and business place. They had no child until Mrs. Boinem died. Then Ngatijo married Tukinem and had a child named Maryam. Soon Ngatijo died. He left his inheritance in the form of houses and land (the proceeds of marriage with Boinem). Then Suparman and Maryani, Boinem's Children from her first marriage, asked for the inheritance in the form of land and house. They knew that the land and house were bought from their mother's inheritance in form of 1 kg of gold. Yet, Tukinem, the last wife of Ngatijo, was not willing to give the inheritance on the reason that the certificate of the land was in the name of her husband. Legally, only she and her child were entitled to the inheritance. Finally, a dispute occurred between them.

b) Case II: The Dispute of Defamation towards the Chairman of the *Takmir Masjid* (a team that has responsibility to take care of a mosque)

There was a Chairman of *Takmir Masjid* named Pak Sunar, who had been *Takmir Masjid* for so long time, almost for the rest of his life. He was about 70 years old. The Chairman of *Takmir Masjid* was very conservative. All the affairs of the mosque had to be in accordance with his wishes. The other members of the *Takmir Masjid* and the *Jamaah* were not entitled to regulate the affairs of the mosque except him. He did not transparently manage the finance of the mosque. The people were eager to replace him, but he was not willing to be replaced. Changes to develop the mosque proposed by young people in the village were always rejected.

Then their resentment was expressed in the Whatsapp Mosque group, by having memes and insinuating comments referring to the chairman. Finally, the Chairman was offended, because he was also a member of the group. He threatened to report the people who made memes and satire to the police. Through his son working as a lawyer, he reported the defamation case to the police station. Some residents were finally summoned to the police station for questioning.

5) Case Discussion

a) Case Settlement I: Inheritance Dispute Case

Suparman and Mariyani complained about the dispute to the Panggungharjo Village Mediation Institution. They asked LMD to resolve the dispute. Then, LMD called on those parties to conduct mediation. LMD also called the witnesses. They were the gold buyer and the village head. The mediation was carried out through deliberation with the principle of kinship, by meeting the two parties in dispute, namely Suparman-Maryani vs. Tukinem. After several mediations, it was finally agreed that the land and house were divided into 2 (two), for Boinem's heirs and Tukinem's heirs. The agreement was stated in the Peace Deed signed by both parties. This dispute can be solved properly. Then the land and house were immediately divided for both heirs, namely for Suparman-Maryani and Tuginem-Maryam.

Tukinem was actually not quite happy having the settlement through mediation. According to Tukinem, she actually did not agree to the settlement of this dispute by means of mediation. She was more pleased if the dispute was resolved through the court³⁸. However, because many parties, especially community leaders, suggested her to resolve the dispute through kinship approach, Tukinem followed them. As a result, the dispute can be solved through the mediation method.

b) Case Settlement II: Defamation

For the dispute of defamation, residents complained about the matter to the LMD to ask for assistance in resolving the dispute. The LMD called the parties to discuss. The meeting was harsh. Mr. Sunar was not willing to revoke his report sent to the police station. On the other side, residents did not want to apologize for the defamation. Even, the community threatened not to take care of Mr. Sunar's body if he died. The atmosphere became very noisy and uncontrolled because there were a number of people involved in the mediation. Finally, the LMD conducted a caucus (small booth) involving representatives of both parties. In the small forum, various problems related to the management of the mosque were revealed, including financial matters. Then, Mr. Sunar was willing to revoke his report as long as the people apologized to him for the defamation. Residents were willing to do as long as Mr. Sunar is willing to be replaced as Chairman of the *Takmir Masjid*. Finally, an agreement was reached, and then the agreement was stated in the Peace Deed.

According to Mr. Sunar, he actually wanted the legal settlement process to be carried out because the case was categorized as defamation. But, because he faced a large number of

³⁸ Interview at 24 October 2018

residents, and for the sake of mutual benefit, he finally chose the mediation path³⁹.

From the two cases aforementioned above, it can be seen that LMD is an effective way in resolving the disputes in Panggunharjo Village. The settlement process conducted by the LMD is grounded on the local wisdom in resolving the disputes happened in the society. In Indonesia, the understanding of the local wisdom is diverse. Some say it is indigenous knowledge systems, custom knowledge systems, and traditional knowledge systems. According to Rachmad Syafa'at, the main feature of the local wisdom, it is not about the genuine values, emphasizes on aspects of certain localities or territories that are supported by either indigenous knowledge systems or external-adapted one⁴⁰.

According to Ade Saptomo, the essence of dispute resolution based on the local potential is a concrete effort proposed by the parties to find their own law observed. This condition implies that the effort leads to peace in resolving the disputes have been already known by the Indonesian people. Even, those efforts have been institutionalized into **village court** (*doorstepjustice*)⁴¹.

Effort to revive village justice has, at this time, found momentum, by the issuance of the Village Law Article 26 paragraph (4) letter k of Law No. 6, 2014 saying that "the Village Head is obliged to resolve community disputes in the village". Based on this Article, the village head can form a Village Mediation Institution or even a Village Court to resolve various conflicts/disputes in the village. The village head has the authority to resolve disputes that occur in the community using the mediation method. In this case, the village head can be an authoritative mediator. Such mediator is mediator who works in government agencies. S/he is often encountered in land cases, labour force, and environmental pollution involving the community on the one hand and entrepreneurs on the other hand⁴².

6) Ratification of the Peace Deed in the Court Based on Supreme Court Regulation No. 1 of 2016.

The model of settlement of cases in the community through mediation is relevant to the provision stated in Law No. 6 of 2014 and the village head has the authority to carry out his duties. The Peace Deed as an output of the mediation process can be legalized in the court. This is stipulated in Article 36 of the Supreme

³⁹ Interview at 24 October 2018

⁴⁰ Rachmad Safa'at, 2013, *Rekonstruksi Politik Hukum Pangan, Dari Ketahanan Pangan ke Kedaulatan Pangan*, Malang, UB Press, p. 3

⁴¹ Ade Saptomo, 2010, *Hukum dan Kearifan Lokal, Revitalisasi Hukum Adat Nusantara*, Jakarta, Grasindo, p. 104

⁴² *Loc.cit*

Court Regulation No. 1 of 2016 concerning on the mediation procedure in the court. It states that "The Parties with or without the assistance of a certified mediator who successfully resolve disputes without the court with a peace agreement can submit it to the court to have authority in gaining a Peace Deed by filing a lawsuit". The Peace Deed will provide strong legality for cases that have been successfully mediated by the village head. The decision is final and binding.

Therefore, the capability to run the authority relating to the resolution of disputes in the community through mediation is a must for the village head. The village head can take part in education or training of a certified mediator organized by an institution in collaboration with the Supreme Court in order to have deeper knowledge and understanding in resolving the disputes in the community. The village head can also form a village mediation institution, as an option in running the authority, that assists the village head in resolving the disputes. The village mediation institution can recruit MA-certified mediators or advocates to help the village head resolve the disputes in the community.

4. Obstacles

The obstacles faced by the village mediation institution, Panggungharjo Village are:

- a. The number of members of the village mediation institution is still limited, while the community members who request consultation and settlement services are numerous.
- b. The number of members holding certificate of mediator is small, only 2 people, while the cases handled are a lot.
- c. The institution seems have poor documentation in handling cases because there is no administrator staff who has a special duty on it.
- d. The institution has no adequate facilities and infrastructure such as office building and administrative equipment.
- e. The institution has no strong legal basis in the establishment of the institution in the form the village regulation or the decree of the village head.

D. Conclusions and Suggestions

1. Conclusions

Based on the explanation aforementioned above, it can be concluded that the village mediation institution, Panggungharjo village, Sewon, Bantul, can carry out its role effectively in resolving the disputes occurred in the community. The procedure for having the settlement through mediation has been applied properly and the verdict can be accepted and respected by the community. The village mediation institution has won the trust of the community members by handling many cases completely.

However, there are still some obstacles faced by the institution. The obstacles are the limited number of certified mediators, the absence of staff

acting as administrator to document the cases, and the absence of legal basis of the institution in form of decree from the village head.

2. Suggestions

- a. The village mediation institution should be maintained and even improved its performance with the support of institutional legality, personnel and other supporting facilities needed.
- b. The village mediation institution should be developed in all villages throughout Indonesia in order to be a channel to resolve the disputes in the community based on the local wisdom.

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