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*Mobilizing Society for Peace: Enhancing Access to Justice of Tribal
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Secção I

Investigação Científica*

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Mobilizing Society for Peace: Enhancing Access to Justice of Tribal Dispute Resolution in Baduy and Sasak Tribes, Indonesia

Mobilizando a Sociedade Para a Paz: Melhorando o Acesso À Justiça de Resolução de Disputas Tribais Nas Tribos Baduy e Sasak, Indonésia

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ABSTRACT: In the last few decades, social, cultural, economic, and political conflicts have been on the rise. People need the existence of an institution to get access to justice and reconciliation for peace. However, judicial systems in Indonesia for some fail to accommodate the justice parallel to people's expectation. This research is aimed at delineating the uniqueness of *adat* (tribal) dispute resolutions, particularly in Baduy and Sasak tribes in comparison to district courts in responding to issues and accelerating peace. This research employed a socio-legal method, FGD, and in-depth interviews. The research results reveal that dispute resolutions through an *adat* institution are deemed effective in settling conflicts because the law was made on the basis of the nature of *adat* communities and conflicts are settled by a tribal leader who treats people humanely. With stages of deliberation and the wisdom demonstrated by the tribal leader that adheres to ancestral values, reconciliation, and peace can take place holistically and fast, without rejection and prejudice. However, dispute resolutions with the help of *adat* institutions need improving, entailing institutional strengthening, regular coordination between the *adat* dispute resolution institutions and law enforcers, meaningful participation, and evaluations.

KEYWORDS: Access to Justice; Tribal Dispute Resolution; Peace; Baduy Tribe; Sasak Tribe.

RESUMO: Nas últimas décadas, os conflitos sociais, culturais, económicos e políticos têm aumentado. As pessoas precisam da existência de uma instituição para terem acesso à justiça e à reconciliação para a paz. No entanto, para alguns, os sistemas judiciais na Indonésia não conseguem acomodar a justiça paralela às expectativas das pessoas. Esta investigação visa delinear a singularidade das resoluções de litígios *adat* (tribais), particularmente nas tribos Baduy e Sasak, em comparação com os tribunais distritais, na resposta a questões e na aceleração da paz. Esta pesquisa utilizou um método sócio-jurídico, FGD e entrevistas em profundidade. Os resultados da investigação revelam que a resolução de litígios através de uma instituição *adat* é

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considerada eficaz na resolução de conflitos porque a lei foi feita com base na natureza das comunidades adat e os conflitos são resolvidos por um líder tribal que trata as pessoas com humanidade. Com etapas de deliberação e a sabedoria demonstrada pelo líder tribal que adere aos valores ancestrais, a reconciliação e a paz podem ocorrer de forma holística e rápida, sem rejeição e preconceito. No entanto, a resolução de litígios com a ajuda das instituições adat precisa de ser melhorada, o que implica o reforço institucional, a coordenação regular entre as instituições de resolução de litígios adat e os responsáveis pela aplicação da lei, participação significativa e avaliações.

PALAVRAS-CHAVE: Acesso à Justiça; Resolução de Disputas Tribais; Paz; Tribo Baduy; Tribo Sasak.

1. Introduction

Adat peoples have their own methods of settling disputes in their communities. Principles and values set out in *adat* laws passed from their ancestors regulate how *adat* laws have been intertwined since a long time ago⁶. Unlike the static term “customary law”, in which old traditions and rules are accepted by the peoples as something binding⁷, *adat* law, according to Soepomo, is a living law genuinely reflecting the perception of the peoples. Like its nature, *adat* keeps developing as life does⁸. Butt and Lindsey define *adat* law within a scope broader than customary law, considering that it refers to the law, rule, precept, morality, usage, custom, agreements, conventions, principles, and the act of conforming to the usages of society, decent behavior, ceremony, and the practices of magic, sorcery or ritual.⁹

The unique characteristics of *adat* law have been known and recognized to date since the time of the Government of Dutch East Indies. Generally, this government did not do much with intervention in the judicial system of *adat* communities. Instead, they just took part in the monitoring of local practices.¹⁰

⁶ FADLI, Moh. Constitutional Recognition and Legal Protection for Local Religion in Indonesia: A Discourse on Local Religion of the Tengger and Baduy People. *Pertanika Journal of Social Sciences & Humanities*. 2017, Vol. 25, n° 2, p. 601-614; MOEIS, Isnarmi, FEBRIANI, Rika, SANDRA, Ika, et al. Intercultural values in local wisdom: A global treasure of Minangkabau ethnic in Indonesia. *Cogent Arts & Humanities* [online]. December 2022, Vol. 9, n° 1, p. 1-12. DOI 10.1080/23311983.2022.2116841.

⁷ Federal Juridical Center, “Customary Law,” in *Judiciaries Worldwide* (USA: Federal Juridical Center), accessed April 16, 2024, <https://judiciariesworldwide.fjc.gov/customary-law>.

⁸ Soepomo, *Bab-Bab Tentang Hukum Adat*, 4th ed. (Jakarta: Penerbitan Universitas, 1966).

⁹ BUTT, Simon; LINDSEY, Timothy. *Indonesian Law* (Oxford: Oxford university press, 2018).

¹⁰ Tody Sasmitha Jiwa Utama, “Between Adat Law and Living Law: An Illusion of Customary Law Incorporation into Indonesia Penal System,” *The Journal of Legal Pluralism and Unofficial Law* 53, no. 2 (May 4, 2021): 269–89, <https://doi.org/10.1080/07329113.2021.1945222>.

After the independence of Indonesia, the Indonesian Government gave stronger recognition for the existence and the rights of *adat* peoples¹¹ through Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia (henceforth referred to as the “1945 Constitution”)¹² and Law Number 6 of 2014 concerning Village (henceforth referred to as “Law 6/2014”)¹³. Dispute resolutions in *adat* institutions are governed by Law Number 7 of 2012 concerning Social Conflict Resolutions (henceforth referred to as “Law 7/2012”)¹⁴.

The data from the Supreme Court reported that there were about 28,024 cases in 2022, representing a 46.33% increase compared to the cases registered in 2021¹⁵. Each Supreme Judge will need to handle approximately 1805 files of cases every year due to a huge number of cases registered¹⁶, causing adversity among Supreme Judges in handling the case since these cases are among other cases that the judges have to deal with¹⁷.

Furthermore, Indonesia is high in corruption and political interference¹⁸. World Justice Project - Rule of Law Index reported that in 2023, Indonesia was ranked 66th out of 142 for the highest corruption cases worldwide. In detail, the judicial branch scored 0.33 and was ranked 128th out of 142 countries for their corruption-free courts. Regarding legal proceedings and the fulfilment of the

¹¹ LEV, Daniel Saul. “Colonial Law and the Genesis of the Indonesian State,” in *Law and Society in East Asia*, ed. Christoph Antons and Roman Tomasic (London: Routledge, 2016).

¹² The 1945 Constitution of the Republic of Indonesia [online]. [S. d.] [accessed 2 February 2024]. Available from: <https://www.wipo.int/wipolex/en/text/200129>.

¹³ Law of the Republic Indonesia No. 6 of 2014 concerning Villages [online]. [S. d.] [accessed 10 February 2024]. Available from: <https://faolex.fao.org/docs/pdf/ins161827.pdf>.

¹⁴ Law of the Republic Indonesia Number 7 of 2012 concerning Social Conflict Resolutions [online]. [S. d.] [accessed 10 February 2024]. Available from: [https://www.komnasham.go.id/files/1565071914uu-no-7-tahun-2012-\\$YGGQ.pdf](https://www.komnasham.go.id/files/1565071914uu-no-7-tahun-2012-$YGGQ.pdf).

¹⁵ SUPREME COURT OF REPUBLIC OF INDONESIA. Laporan Kinerja Mahkamah Agung Tahun 2022 [online]. Jakarta : Supreme Court of Republic of Indonesia, 2022. Available from: <https://www.mahkamahagung.go.id/media/11369>; SUPREME COURT OF REPUBLIC OF INDONESIA. Sepanjang 2022 Mahkamah Agung Berhasil Memutus Perkara Sebanyak 28.024 Perkara [online]. 23 February 2023. Available from: <https://www.mahkamahagung.go.id/id/berita/5667/sepanjang-2022-mahkamah-agung-berhasil-memutus-perkara-sebanyak-28024-perkara>.

¹⁶ ASEP NURSOBAH. Sepanjang Tahun 2022, Setiap Hakim Agung Rata-Rata Menerima Alokasi 1.805 Berkas. *Newsletter Kepaniteraan Mahkamah Agung* [online]. May 2023. Available from: <https://kepaniteraan.mahkamahagung.go.id/registry-news/2181-sepanjang-tahun-2022-setiap-hakim-agung-menerima-alokasi-1-805-berkas-pertahun>.

¹⁷ NELSON, Febby Mutiara et SANTOSO, Topo. Simple, Speedy, and Low-Cost Trial: A Panacea for Corruption In Indonesia?. *Indonesian Law Review* [online]. 2021, Vol. 11, n° 2, p. 117-135. DOI <https://doi.org/10.15742/ilrev.v11n2.1>.

¹⁸ ROSSER, Andrew et CURNOW, Jayne. Legal Mobilisation and Justice: Insights from the Constitutional Court Case on International Standard Schools in Indonesia. *The Asia Pacific Journal of Anthropology* [online]. August 2014, Vol. 15, n° 4, p. 302-318. DOI 10.1080/14442213.2014.916341.

rights of defendants, Indonesia scored 0.40 and was ranked 93rd out of 142 countries¹⁹. This uncontrolled corruption has weakened judicial systems.

Amidst unhealthy conditions in formal courts, dispute resolutions that adhere to the local wisdom are increasingly preferable and have become the first alternative to consider before involving a court or another measure²⁰. Local wisdom is inseparable from people's daily activities. Therefore, the involvement of local wisdom as part of local intellectual and knowledge should be a long-term experience of dispute settlement²¹. This is congruous with the strategy of conflict-handling that the Government has developed by constructing regulatory frameworks intended to (1) avert conflict of policy regulation and development strategy prone to conflict and the measures of conflict prevention; (2) deal with conflict when it happens, involving measures like ending violence and preventing casualties both human and properties; (3) perform post-conflict handling regarding the provisions related to the tasks of dispute/legal process resolutions, as well as recovery, reintegration, and rehabilitation.²²

Wisdom represents the attitude, perspective, and ability of a community to manage a spiritual and physical environment that contributes endurance and power to the community to keep growing in the environment²³. That is, local wisdom serves as a creative response to geography, history, and local conditions and has transformed into explicit knowledge that arises as human civilization evolves. This long evolution is rooted deeper in the community, rendering local wisdom potential energy that not only functions as the guide of people's behavior

¹⁹ World Justice Project, "Indonesia," 2023, <https://worldjusticeproject.org/rule-of-law-index/country/2023/Indonesia/>.

²⁰ MINISTRY OF ENVIRONMENT AND FORESTRY. Indigenous Peoples Planning Framework (IPPF) Document [online]. East Kalimantan Province, Republic of Indonesia: Ministry of Environment and Forestry, August 2019. Available from: https://ewsdata.rightsindevelopment.org/files/documents/44/WB-P166244_MQLKZ63.pdf.

²¹ KIPURI, Noami, "Culture," in *State of the World's Indigenous Peoples*, ed. Secretariat of the Permanent Forum on Indigenous Issues, Economic and Social Affairs, ST/ESA/328 (New York: United Nations, 2009), 52–81.

²² "Elucidation of Law of the Republic of Indonesia Number 7 of 2012 Concerning Social Conflict Resolutions," accessed April 19, 2024, <https://peraturan.bpk.go.id/Download/28428/UU%20Nomor%207%20Tahun%202012.pdf>.

²³ JESSEN, Tyler D, BAN, Natalie C, CLAXTON, Nicholas Xemtoltw, et al. Contributions of Indigenous Knowledge to ecological and evolutionary understanding. *Frontiers in Ecology and the Environment* [online]. Mars 2022, Vol. 20, n° 2, p. 93-101. DOI 10.1002/fee.2435.

but also harmonizes the evolving life of the people. This stimulates people to settle conflicts with a local wisdom approach²⁴.

Adat-based dispute resolutions are deemed to be more effective and efficient because they cost less and take less time to gain peace. Moreover, reconciliation in this local wisdom is preferred by the majority in conflict because this way offers the best solution in almost no time²⁵.

A tribal leader also plays an essential role in dispute settlement. People believe that tribal leaders hold high wisdom and are capable of interpreting the values passed down by ancestors to settle conflicts in communities. In other words, people's obedience to the peace is higher²⁶.

As a multicultural and multiethnic country, Indonesia is home to diverse *adat* communities. The Alliance of Adat Peoples of Nusantara (henceforth referred to as "AMAN") recorded 2,449 *adat* communities in 2022 with 20 million people²⁷, but not all the communities are still living and growing. Asshiddiqie²⁸ categorizes *adat* peoples into three:

- 1) Completely inactive *adat* communities;
- 2) *Adat* communities with inactive customary practices with the potential for revival; and
- 3) Living *adat* communities.

The authority of *adat* institutions to settle disputes is restricted only to a certain extent. This authority can be different among *adat* institutions. The scope of this research only focuses on the living *adat* communities with their institutionalized *adat* courts taken as samples from two locations of Sasak *adat*

²⁴ DIAB, Ashadi L, PABBAJAH, Mustaqim, NURINA WIDYANTI, Ratri, et al. Accommodation of Local Wisdom in Conflict Resolution of Indonesia's Urban Society. *Cogent Social Sciences* [online]. December 2022, Vol. 8, n° 1, p. 1-14. DOI 10.1080/23311886.2022.2153413.

²⁵ *Ibid.*; MCQUOID-MASON, David. Could traditional dispute resolution mechanisms be the solution in post-colonial developing countries – particularly in Africa?. *Oñati Socio-Legal Series* [online]. April 2021, Vol. 11, n° 2, p. 589-604. DOI 10.35295/osls.iisl/0000-0000-0000-1145.

²⁶ WARDHANI, Lita Tyesta Addy Listya, NOHO, Muhammad Dzikirullah H et NATALIS, Aga. The adoption of various legal systems in Indonesia: an effort to initiate the prismatic Mixed Legal Systems. *Cogent Social Sciences* [online]. December 2022, Vol. 8, n° 1, p. 2104710. DOI 10.1080/23311886.2022.2104710.

²⁷ SAMOSIR, Alboin. Memahami Pentingnya Menjaga Keberadaan Masyarakat Adat. Dans: *Analisis Masyarakat Adat Nusantara* [online]. 16 August 2022 [accessed 27 August 2023]. Available from: <https://www.aman.or.id/news/read/memahami-pentingnya-menjaga-keberadaan-masyarakat-adat>.

²⁸ ASSHIDDIQIE, Jimly. "Hak Konstitusional Masyarakat Hukum Adat." In *Menuju Negara Hukum Yang Demokratis*. Jakarta: Sekretariat Jenderal & Kepaniteraan Mahkamah Konstitusi, 2008.

community and Baduy community (henceforth referred to as “**Sasak community**” and “**Baduy community**”). This research will also discuss types of conflicts settled by *adat* dispute resolution institutions and formulate strategies to strengthen and grow the existence of *adat* institutions to provide facilities and create the mainstream in the alternatives to dispute resolutions in the communities.

2. Literature Review

2.1. *Adat* Community

Article 18B paragraph (2) of the 1945 Constitution declares that "The State recognises and respects traditional communities along with their traditional customary rights as long as these remain in existence and are in accordance with the societal development and the principles of the Unitary State of the Republic of Indonesia and shall be regulated by law". That is, the unity of the *adat* peoples represents social units of *adat* communities as the legal subjects whose existence is recognized under the 1945 Constitution²⁹. However, not every custom can represent *adat* law, as *adat* law has its nature; namely a) it is not codified, b) it is not systematically structured, c) it is not outlined in the legislation, d) it is not structured, e) the decree does not involve considering part, f) its articles do not have systematic elucidations, and (g) the non-**existence** of separation between civil and criminal cases in its Adat Institutions for Dispute Resolutions³⁰.

The presence of *adat* law serves as a social controller. The concept of social control provides a foundation for communities that underlies the control over the attitude of the community members. With this role, behavior can be evaluated according to existing principles recognized by the *adat* people within or outside a community³¹.

²⁹ ASSHIDDIQIE, Jimly. Konstitusi Masyarakat Desa (Piagam Tanggungjawab dan Hak Asasi Warga Desa) [online]. [S. d.] [accessed 5 August 2023]. Available from: http://www.jimly.com/makalah/namafile/176/KONSTITUSI_MASYARAKAT_DESA.pdf; BOAG, Carly. A Comparative Study of the Legal Frameworks Facilitating Indigenous Land Management in Postcolonial Societies: Indigenous Australia and Indonesian Adat Law. *Brawijaya Law Journal* [online]. November 2016, Vol. 3, n° 2, p. 125-150. DOI 10.21776/ub.blj.2016.003.02.03; FADLI, Moh, HADIYANTINA, Shinta, CAHYANDARI, Dewi, et al. Inquiring into the sustainable tourism village development through the social complexity of adat peoples in digital era. *Legality : Jurnal Ilmiah Hukum* [online]. August 2023, Vol. 31, n° 2, p. 181-201. DOI 10.22219/ljih.v31i2.26438.

³⁰ BOAG, "A Comparative Study of the Legal Frameworks Facilitating Indigenous Land Management in Postcolonial Societies: Indigenous Australia and Indonesian Adat Law."

³¹ Catharina Dewi Wulansari, *Hukum Adat Indonesia: Suatu Pengantar* (Bandung: PT. Refika Aditama, 2018).

2.2. Adat Institutions

Adat institutions refer to traditional legal systems existing in adat communities nationwide. These institutions adhere to traditional values, *adat* rules, and faith passed throughout generations with which the aspect of the life of the community is ruled. In most cases, adat institutions play vital roles in settling disputes, managing natural resources, and maintaining social harmony in communities. The national government has recognized such institutions as part of the legal system, and their voice is respected and upheld³².

The existence of *adat* communities lies in the kinship shaped by territorial and genealogical nature which allows conventional institutions to live and function effectively. These conventional institutions fail to work unless the law born from the same territories and/or genealogies is maintained, alive, and growing within, and supported by the communities. In terms of legal status, ordinary institutions should bear all the elements that build ordinary but firm communities within the theoretical framework as above. All these elements entail formal and systematic leaders, shared assets, active and structured cultural systems, territorial areas within which *adat* and authentic cultures are established, and communities that adhere to the general law³³.

The latest study conducted by Panggabean shows the problematic existence of *adat* institutions from which the dualism of village government arose, bearing official government and *adat* government. However, the village government tends to run its tasks on the basis of the official government without the support of the *adat* government. Therefore, the existence of *adat* institutions needs strengthening to allow for cultural conflict resolutions based on the exercise of *adat* law.

2.3. Dispute Resolution Alternatives

In the system of Indonesian law, dispute resolutions can take place in two forms through courts and forums outside the courts. The resolutions outside the courts refer to six mechanisms as in Law Number 30 of 1999 concerning Arbitration and Alternatives to Dispute Resolutions (henceforth referred to as

³² SIMANJUNTAK, Nikolas. Penguatan Lembaga Adat Sebagai Alternatif Penyelesaian Sengketa. *Negara Hukum: Membangun Hukum untuk Keadilan dan Kesejahteraan* [online]. 2013, Vol. 4, n° 1, p. 35-66. DOI 10.22212/jnh.v4i1.195.

³³ Simanjuntak.

“Law 30/1999”)³⁴, including consultation, negotiation, mediation, conciliation, experts’ evaluations, or arbitration.

Every alternative to the resolution recognized by Law 30/1999 runs on the typical mechanism with its strengths and shortcomings. However, dispute resolutions via *adat* institutions may offer a unique mechanism different from that offered by the alternatives in Law 30/1999 by covering the existing shortcomings.

Table 1. Characteristics, strengths, and shortcomings of Dispute Resolution Alternatives³⁵

Alternative	Characteristic	Strength	Shortcoming
Consultation	Suggestions given by the consultants regarding facts, strengths, shortcomings of disputes, and help provided for parties in identifying the scope of agreements, and focus on the issues to settle	<ul style="list-style-type: none"> ▪ Highly flexible ▪ Time-efficient ▪ affordable 	<ul style="list-style-type: none"> ▪ non-legally binding ▪ non-dominant consulting role ▪ informal
Negotiation	All informal parties come to discuss their problems to come to an agreement or to build peace	<ul style="list-style-type: none"> ▪ highly flexible ▪ settled by the parties involved ▪ affordable ▪ simple preparation ▪ parties maintain control over the outcomes 	<ul style="list-style-type: none"> ▪ Success is contingent upon the excellence of negotiators in delving into disputes ▪ Informal ▪ Potential to fail when one party is dominant
Mediation	The third party is neutral and facilitates the session for parties in dispute either individually or jointly to settle the disputes. The procedures of mediation are often regulated in an agreement that parties have agreed upon	<ul style="list-style-type: none"> ▪ Helping parties figure out the position of the case ▪ Finding and formulating solutions accepted by the two parties involved ▪ Time availability to consider solutions offered by the mediator 	<ul style="list-style-type: none"> ▪ The degree of success is contingent upon the skill of the mediator ▪ Failure of mediation can be costly

³⁴ Law of the Republic of Indonesia Number 30 of 1999 Arbitration and Alternative Dispute Resolutions [online]. [S. d.] [accessed 10 February 2024]. Available from: <https://bphn.go.id/data/documents/arbitrationindonesia.pdf>.

³⁵ GILL, Chris, WILLIAMS, Jane, BRENNAN, Carol, et al. Models of Alternative Dispute Resolution (ADR) [online]. Skotlandia : Queen Margaret University, 31 October 2014 [accessed 9 September 2023]. (A Report for the Legal Ombudsman). Available from: <https://www.legalombudsman.org.uk/media/he4bmjpx/models-alternative-dispute-resolution-report-141031.pdf>.

Conciliation	The neutral third party is actively involved in contributing suggestions to resolve a dispute	<ul style="list-style-type: none"> ▪ Similar to mediation ▪ Affordable ▪ Experienced conciliator recommends a flexible solution ▪ Informal ▪ Brief ▪ The agreement is binding if all parties accept the recommendations 	<ul style="list-style-type: none"> ▪ Parties are required to delineate the position of disputes in writing ▪ Evidence is not provided by parties because the conciliator is not neutral
Experts' Assessment	Parties get independent experts involved in: Coming to a binding agreement; Contributing ideas to judges in delivering a verdict over a dispute; Requiring experts to make a report to be submitted to the judges	<ul style="list-style-type: none"> ▪ Cost-saving ▪ Time-efficient ▪ Serving as witnesses in courts ▪ Offering flexibility, considering that testimonies from experts can be agreed upon first 	<ul style="list-style-type: none"> ▪ More costly than mediation or negotiation ▪ Reports from experts are often binding notwithstanding the potential of errors.
Arbitration	Involving independent arbitrators to resolve disputes with prior agreement of the two parties. In most cases, the decision made by arbitrators is legally binding for two parties	<ul style="list-style-type: none"> ▪ Parties can pick arbitrators with relevant experience and expertise ▪ The process is closed ▪ The aspect of the process can refer to the dispute concerned ▪ The process is structured and formal 	<ul style="list-style-type: none"> ▪ costly ▪ Parties do not have any control over outcomes ▪ The decision made by arbitrators is overlooked if one party no longer trusts it

3. Research and Results

3.1. The Paradigm of Dispute Resolutions in Courts Versus Adat Institutions

Dispute resolutions are generally intended to establish justice and build peace³⁶, parallel to Sustainable Development Goals that build peace, justice, and strong institutions. Conflicts, human rights violations, and structural injustice hamper peace-building and the inclusive development of society. In other words, measures to bring back people's trust by strengthening the capacity of

³⁶ SCHWARZROCK, Kelsey. The Process of Peace: Using Community Dispute Resolution to Improve the Relationship Between Police and Community in Minnesota. *Mitchell Hamline Law Journal of Public Policy and Practice*. 2018, Vol. 39, n° 1, p. 87-123 ; RULE, Colin. Questioning Dispute Resolution. *Peace Review* [online]. December 1993, Vol. 5, n° 4, p. 407-412. DOI 10.1080/10402659308425751.

institutions, guaranteeing justice for all, and facilitating the secure transition to sustainable development are required³⁷.

The achievement of SDGs in Indonesia shows a significant increase. A Sustainable Development Data of 2023 reported that Indonesia was ranked 75th globally, rising from 102nd in 2019. This figure is in line with the scoring index of SDGs Indonesia that kept increasing from 64.2 in 2019 to 70.2 in 2023. Another report of SDGs Implementation Outcomes also indicates that about 60 percent of the indicators have reached the point as targeted. With the additional 16% of indicators showing improvement, 76% of indicators have reached the target and shown good results.³⁸.

The commitment of the implementation of the SDGs is strengthened by Presidential Regulation Number 111 of 2022 concerning the Implementation of SDGs Outcomes requiring the Ministry of the national Development Plan to establish the National Implementing Team, National Working Group, Expert Team, and the National Implementing Team, and The National Secretary of the Implementation of SDGs 2020-2024. The finance minister, Suharso, serving as the Coordinator of the Implementation of SGD in Indonesia stated, "We keep collaborating with the Ministry of Foreign Affairs, the Ministry of Home Affairs, the Ministry of Finance, the Ministry of State-Owned Enterprises, Cabinet Secretary, the Presidential Chief, and experts to implement SDGs."

Indonesia is facilitated to settle disputes, encompassing those at the village level through the involvement of *adat* institutions and the national level in courts. However, these two scopes of settling disputes hold different paradigms and characteristics. For example, in viewing justice, *adat* peoples see justice as something intended to recover peace and build the harmony of the people through reconciliation between offenders, victims, and people in general. In Indonesian law, justice, represented by courts, exists to control conduct that violates rules that may harm people. This condition emerges to validate the rules violated and fix the spoiled nexus between humans and their social

³⁷ UNITED NATIONS. The Sustainable Development Goals Report Special edition [online]. New York: United Nations, 2023. Available from: <https://unstats.un.org/sdgs/report/2023/The-Sustainable-Development-Goals-Report-2023.pdf>.

³⁸ Ministry of National Development Planning/ National Development Planning Agency, "Bappenas Will Outline SDG Achievements at 2023 SDG Annual Conference," October 24, 2023, <https://www.bappenas.go.id/en/berita/bappenas-segera-jabarkan-capaian-tpbsdgs-di-sdgs-annual-conference-2023-yibl6>.

environment³⁹. Furthermore, this research also formulates the paradigm of justice brought by courts and the people of *adat* communities (See Table 2)

Table 2. Diverging Paradigms of Justice in Dispute Resolutions⁴⁰

Paradigm of Justice in the National Law of Indonesia	Paradigm of Justice in <i>Adat</i> Communities
Vertical-hierarchical	Holistic
Procedural communication	Fluid communication
Indonesian as the language used	Local language used
According to the legislation	According to current <i>adat</i> law
Separation of power	Law and justice as a unity
Secular	Spiritual values as the basis for dispute resolutions
Argumentative	Deliberation
Time limit	No time limit applied; patience and slow phase are taken as values
Represented by other parties (lawyers, prosecutors, etc)	Represented by the closest or oldest relatives from each party involved
Focused on individual rights	Focused on victims and communal rights
Sanctions imposed by the state	Sanctions imposed to recover the relationship between victims and offenders
Justification of people's attitude	Reparative obligations for victims and community members, and an apology

Each paradigm in viewing justice has its own strengths and drawbacks. In terms of the perspective of dispute resolutions through *adat* institutions, the strengths may involve (a) high participation of the people; (b) increased compliance and high legitimacy due to values and norms recognized for centuries; (c) more acceptable justice based on customary values; (d) faster reconciliation and maintained communal stability; (e) affordability; and (f) accessibility. The drawbacks may involve (a) less maintained rights of the offenders; (b) potential violations of individual rights to justice; and (c) limited disputes handled⁴¹. However, these drawbacks will not affect the preference for settling disputes via *adat* institutions.

As previously described above, the discourse regarding the strengths and shortcomings empirically indicates that the paradigm significantly influences the mechanism of dispute resolution processes via *adat* institutions. Decisions made

³⁹ SZPAK, Agnieszka. Indigenous Justice Systems and Harmonisation with the Ordinary Justice System [online]. [S. l.]: [s. n.], 7 April 2019. (Special Rapporteur on the Rights of Indigenous Peoples). Available from: <https://www.ohchr.org/sites/default/files/Documents/Issues/IPeoples/SR/IPAndJustice/20-A.SzpakJustice.pdf>.

⁴⁰ MELTON, Ada Pecos. Indigenous Justice Systems and Tribal Society. *Judicature*. December 1995, Vol. 79, n° 3, p. 126-133.

⁴¹ Szpak, "Indigenous Justice Systems and Harmonisation with the Ordinary Justice System."

by a figure of the adat community or a senior member are readily accepted by two disputing parties simply because they firmly adhere to the principle of belief in ethical values, local wisdom, and spirituality taught by ancestors throughout generations, thereby giving humanistic, familial, and civilised atmosphere. The decisions made in deliberation with good faith serve as a joint consensus. Some case findings on alternative dispute resolutions involving adat institutions have sometimes transcended the aspect of legal certainty in constructing positive law in a procedural setting, considering that the soul lies in the taste and compliance with the communal consensus binding in the tradition of adat peoples. Therefore, the final results agreed upon must not be broken, and they are binding and hold permanent legal force. This condition represents the essence and the resolution, as well as collective awareness of the alternative to dispute resolution, as in Baduy and Sasak.

3.2. Two Case Studies of the Tribal Dispute Resolution Process

3.2.1. Baduy Tribe

The community members of Baduy break down the problems into particular categories, such as criminal and civil cases and severe and mild cases. Dispute resolutions encompass the following three stages⁴²:

a) Family

The first measure to settle disputes starts in a family, either in the scope of a nuclear family or extended family. The oldest members of the family usually facilitate deliberation. The common issues settled in this forum often involve mild private or criminal cases, such as, inter alia, inheritance, domestic conflicts, theft, and environmental violence. The sanctions will often go no further than an oral warning.

b) Reliable Figure

If the above forum fails to accommodate the resolutions, a family may carry this case to a senior figure in the community appointed by the family concerned. The senior figure of an *adat* community serves as an authority to settle the

⁴² Ayah Mursid, *Penyelesaian Sengketa Melalui Lembaga Adat: Studi Pada Masyarakat Adat Baduy*, interview by Moh. Fadli, Mustafa Lutfi, and Miftahus Sholehudin, Focus Group Discussions, July 27, 2023, Saung Kreatif Baduy Binong Raya, Banten, Indonesia.

dispute. In this forum, the parties involved will be summoned for deliberation and they will be heard and bring evidence to seek justice.

c) *Adat* Institution

This forum is the highest stage and the last resort for resolving disputes. *Jaros* are usually involved at this stage, and the disputes concerned are consulted with *Pu'un* to ensure that all parties are guaranteed justice. Serious criminal cases, such as murders, are settled in an *adat* institution for trial⁴³. There have been two cases of murders in Baduy. The first case happened in 2005, involving Sadim as the murderer⁴⁴, followed by another case of murder and rape in 2019⁴⁵. These two cases were deemed so serious that all *jaros* were summoned for a trial in a tribal system. For the murder committed by Sadim, both the state's law and tribal law were involved, and the murderer was exiled. The 2019 case, however, did not involve *adat* law because the offender was sentenced under the system of the law of the state⁴⁶. Dispute resolutions in some cases happening in the community of Baduy are elaborated in Diagram 1.

Diagram 1. Case Settlement Scheme in the Baduy Tribe⁴⁷

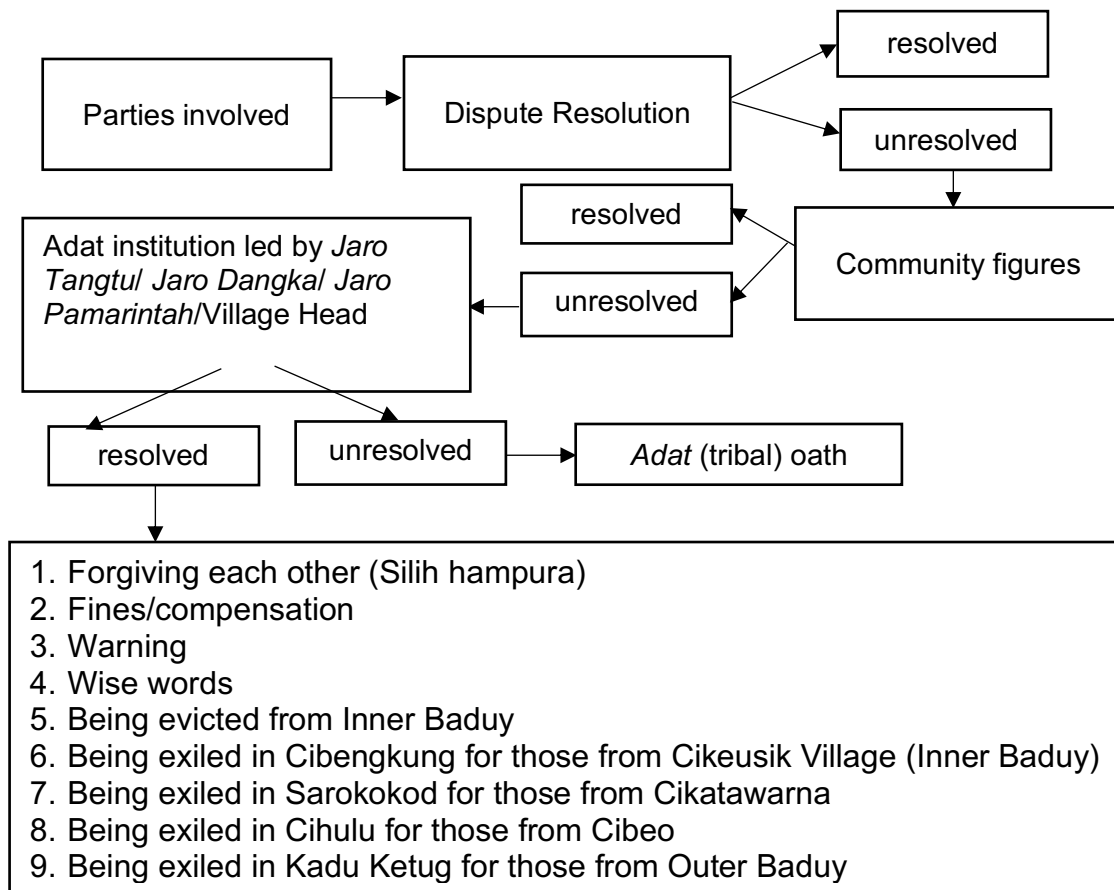
⁴³ JARO Sami, *Penyelesaian Sengketa Melalui Lembaga Adat: Studi Pada Masyarakat Adat Baduy*, interview by Moh. Fadli, Mustafa Lutfi, and Miftahus Sholehudin, Focus Group Discussions, July 27, 2023, Saung Kreatif Baduy Binong Raya, Banten, Indonesia.

⁴⁴ WISNUAJI, Erlangga et TRISNA, Arry. *Hari Kelabu di Tanah Baduy* [online]. 30 August 2005 [accessed 23 September 2023]. Available from: <https://www.liputan6.com/news/read/108189/hari-kelabu-di-tanah-baduy>.

⁴⁵ CNN INDONESIA. *Kronologi Pemerksaan dan Pembunuhan Perempuan Baduy* [online]. 5 September 2019 [accessed 12 September 2023]. Available from: <https://www.cnnindonesia.com/nasional/20190905204422-12-427968/kronologi-pemerksaan-dan-pembunuhan-perempuan-baduy>.

⁴⁶ Mursid, *Penyelesaian Sengketa Melalui Lembaga Adat: Studi Pada Masyarakat Adat Baduy*.

⁴⁷ M. Noor Fajar Al Arif Fitriana, "Penyelesaian Perkara Berdasarkan Sistem Hukum Masyarakat Adat Baduy Sebagai Kontribusi Pada Hukum Pidana Nasional," *Jurnal Selat* 10, no. 1 (2022): 46-59.



As in the above diagram, the parties in dispute are presented before a *Jaro* who plays a vital role in investigating, enquiring, judging, and mediating the disputes growing in the community of Baduy. *Jaro* is obliged to settle disputes by upholding the principle of deliberation and consultation with *Pu'un* as the highest leader of the tribe. The relative competition among *Jaros* is only restricted to the territory that marks the jurisdiction of the leadership of a *Jaro*. In this case, a *Jaro* may hold a communication with another leader of a certain area or *Jaro Tangtu* in that particular area.

In the process of dispute resolution, justice is the main principle to which the tribal leader of Baduy adheres. Justice allows every party involved to be treated fairly in the process, thereby ensuring that all rules run appropriately. Furthermore, the deliberation principle to reach an agreement serves as an important aspect in finding the best solutions to conflicts. The involvement of two parties to find a way out should be the commitment to come to an agreement.

The model of dispute resolution in the community of adat people of Baduy is reflected in the violations committed. Violations may be settled by either family, *Jaro*, or adat institutions, depending on the severity of the violations. When a

decision is made and a party is declared guilty, sanctions are imposed according to the seriousness of the offense committed. Within the system of *adat* law in the Baduy community, sanctions may be given in two forms: physical and mental. The physical sanctions, physically related to the offenders, consist of the following⁴⁸:

- 1) ***Silih Hampura (Forgiving each other)***: this principle serves as the core of dispute resolutions in the Baduy community. With this approach, all parties are free from the feeling of guilt, and the balance of the social structure of the community is recovered.
- 2) ***Papatah or wise words***: this approach is to give wise words to or to warn an offender and ensure that similar conduct will not happen again.
- 3) ***Warning***: warning can come from humans or Mother Nature. Within the humane dimension, an offender is warned not to repeat violations of *adat* norms. Within the natural dimension, a warning may emerge as a negative consequence such as an ordeal or disaster, including fire, disease, or animal attack.
- 4) ***Fines or Compensation***: If compensation is needed by the victim due to the consequences that he/she suffers from, the offender in this case is required to provide compensation according to the agreement made in the deliberation process in an *adat* institution.
- 5) ***Eviction from Inner Baduy***: this measure is taken when an offender has defamed the community of Inner Baduy, which is intended to maintain the integrity of the community.
- 6) ***Exile***: an offender may be exiled for 40 days for rehabilitation of the offender. This approach is not referred to as a modern legal system, but it is rather to avert any repeat offenses from happening. During the exile, the offender is allowed to bring along his/her family members not as dependents but to serve as the head of the family and to fulfill their rights. Despite being exiled, the offender can still work to back up the economy of the family.

The sanctions aimed at the mental of the parties involved in a dispute may require a series of ceremonial *ngabokoran*. This ceremony can be a lengthy ceremonial process with demanding preparation and needs for the ceremony,

⁴⁸ Rena Yulia and Alityh Prakarsa, *Silih Hampura: Model Penyelesaian Konflik Dalam Hukum Adat Baduy* (Depok: PT Rajawali Buana Pusaka, 2021).

including *keris sapucuk*, *duit satu real*, *duit satu ringgit*, betel leaves, areca leaves, gambier leaves, *boeh* (shroud), and incense.⁴⁹ *Ngabokoran* is held in three types: cleansing, *adat* fines, and *serah pati*. In these three types, the tribal figure is eligible to decide following stages of deliberation and a tribal meeting.

Tribal oath is the highest level of dispute resolution when peace fails. Jaro Sami said that a tribal oath was needed when lies were detected, and karma might be the consequence of the untrue words. *Sumpah serah nyawa* (death oath) was once taken in the tribe, and the person under the oath was discovered dead a few days after the oath following the common allegation⁵⁰.

Sanctions in the Baduy community are unique. The difference lies in the purpose of sanction imposition. In a conventional scope, sanctions are intended to deter offenders, whilst sanctions in this tribal setting are intended to recover human values embedded in every human being.

3.2.2. Sasak Tribe

Dispute resolutions in the Sasak tribe vary. In the Regency of North Lombok, dispute resolutions have been held traditionally, adhering to *Krama Adat Kampung*, *Krama Gubuk*, or the Council of *Krama Desa*⁵¹. Dispute resolutions in institutionalized tribal organizations are considered important. The Supreme Court of the Republic of Indonesia works together with Australia Indonesia Partnership for Justice (AIPJ), and this collaboration has set Lombok as a pilot project for resolving disputes outside courts through the establishment of *Bale Mediasi* (mediation center) of West Nusa Tenggara. This mediation center is formed in every regency/city and rural area to ensure access to justice⁵².

This mediation center is to facilitate dialogue to settle disputes of private or public matters. Moreover, this mediation center is expected to increase awareness and collaboration in the community, village government, and law enforcement apparatuses (police, prosecutors, and courts) to curtail the number

⁴⁹ Fitriana, "Penyelesaian Perkara Berdasarkan Sistem Hukum Masyarakat Adat Baduy Sebagai Kontribusi Pada Hukum Pidana Nasional."

⁵⁰ JARO Sami, *Penyelesaian Sengketa Melalui Lembaga Adat: Studi Pada Masyarakat Adat Baduy*.

⁵¹ Sri Karyati, Focus Group Discussion (FGD) Tentang Penyelesaian Sengketa Melalui Lembaga Adat Sasak, September 2, 2023, Bale Mediasi Nusa Tenggara Barat.

⁵² JAYADI, Haeruman, KAHARUDDIN, Kaharuddin, SOFWAN, Sofwan, et al. Kewenangan Bale Mediasi dalam Penyelesaian Sengketa Pidana dan Perdata Berdasarkan Peraturan Daerah NTB Nomor 9 Tahun 2018 Tentang Bale Mediasi. *Journal Kompilasi Hukum* [online]. Mars 2023, Vol. 7, n° 1, p. 59-70. DOI 10.29303/jkh.v7i1.125.

of cases entering courts⁵³. Although it is formally institutionalized, the mediation center maintains and runs on tribal values passed from the ancestors of the Sasak tribe for centuries. These values are listed in the following: (a) Dispute resolutions should be built with peace without chaos; (b) An agreement cannot be spoiled; (c) Consequences of the results brought from a meeting; (d) Respecting others; (e) Deliberation to reach an agreement; (f) Good faith; (g) Simplified, affordable, and brief procedures; (h) Equality; (i) Justice; and (j) Certainty⁵⁴.

The mediation center holds its authority to settle disputes of private matters, general private matters, religious private matters, mild criminal offenses such as theft, ordinary embezzlement, fraud, domestic violence, and other offenses agreed upon in a memorandum of understanding involving the Governor, the Chief of Regional Police, High Prosecutors, the Chief of High Courts of West Nusa Tenggara. *Bale Mediasi* and law enforcers work together to settle disputes in the community. Law enforcers are also involved in the process of mediation to build peace justly for all parties.

Furthermore, the mediation center often deals with serious criminal cases such as conflicts between villages or different religious groups that may take people's life, or other conflicts over land. All these conflicts are registered in *Bale Mediasi* simply because community members believe this mediation center can guarantee justice for all parties. Disputes are settled in restorative justice, peace is built for parties involved, and brotherhood is rebuilt in the Sasak community⁵⁵. That is, dispute settlement in the Sasak tribe upholds the value of humanity.

3.3. Challenges Faced in Dispute Resolutions Via Adat Institutions

The *adat* Institutions for Dispute Resolutions have faced challenges amidst their attempts to maintain their existence in this global and digitalized epoch. There are at least six challenges faced by the institutions, as garnered from two case studies in Baduy and Sasak communities:

- 1) The absence of one of the parties

⁵³ Nasri et al., *Ikhtiar Damai Dari Desa: Panduan Penyusunan Perdes Tentang Bale Mediasi* (Mataram: Bale Institute Mataram, 2022).

⁵⁴ Galang Asmara, Focus Group Discussion (FGD) Tentang Penyelesaian Sengketa Melalui Lembaga Adat Sasak, September 2, 2023, Bale Mediasi Nusa Tenggara Barat.

⁵⁵ Maminda H. L. Sajim Sastrawan, Focus Group Discussion (FGD) Tentang Penyelesaian Sengketa Melalui Lembaga Adat Sasak, September 2, 2023, Bale Mediasi Nusa Tenggara Barat.

The common problem is that the report of a case is often represented only by one party, while the other is not willing to be present in the process of mediation although an official letter is released by *Bale Mediasi* in the area. On the other hand, the Provincial Regulation of West Nusa Tenggara Number 9 of 2018 concerning *Bale Mediasi* does not have any mechanisms or binding procedural law to ensure that every party in dispute is present in the mediation process. The informal measures taken are intended to persuade parties to be present in the mediation. Such a glitch often prolongs the mediation process by up to 30 days⁵⁶. In comparison, dispute resolutions in the Baduy community are free from such issues simply because the community is more traditional and shows high respect for *Jaro* and *Pu'un*. The existing social control runs well, thereby curtailing the potential of the absence of the parties involved in a dispute.

2) Inadequate Mediators

Traditional community usually applies simplified systems. In the Baduy community, for example, *Jaro* serves as a judge, lawyer, mediator, or another law enforcer according to the need for case handling. The role of *Jaro* is vital and irreplaceable with another position, slowing down the regeneration of human resources in the system of dispute resolution. In the Sasak tribal community, the mediation center houses 8 to 10 certified mediators from the Religious Court of West Nusa Tenggara. The costly certification program for mediators seems to limit the number of professional mediators in the mediation center. So far, the mediation center has done its best to facilitate those wishing to serve as uncertified mediators.

3) Restricted scope of cases resolved

The authority of the institutions of tribal dispute resolution is restricted to resolving mild private and criminal cases. People trust the *adat* institutions to settle complex disputes such as brawls between villages, religious conflicts, land disputes, serious criminal offenses, or other cases decided under Supreme Court Decision (*inkracht*).

4) Socio-cultural conditions of the community

⁵⁶ MUHAMMAD, Muhammad. Inheritance Dispute Settlement Through Mediation with the « Bale Mediasi » of East Lombok. *Law Research Review Quarterly* [online]. November 2022, Vol. 8, n° 4, p. 427-446. DOI 10.15294/lrrq.v8i4.61691.

Adat peoples bear diverging characteristics due to acculturation brought from other areas. Not all members of the *adat* community trust tribal institutions in settling disputes. Principally, parties can choose an institution by which a case is settled. However, dispute resolutions through deliberation are inevitably more affordable and faster, while this way may affect the income received by legal professionals such as lawyers. These conditions may spark issues when people are willing to settle the case through deliberation or mediation.

5) Limited infrastructure

Adat institutions for dispute resolutions have limited infrastructure. Public services often take place in *Bale Mediasi* or the village office without the assistance of professional administrative staff or cutting-edge devices. Meetings often take place in a *joglo*, residential house, or a small meeting room.

6) Limited funds

Adat institutions for dispute resolutions do not receive any financial aid from the government. They are funded by the tribal community. Facilitators or mediators hold a central role in building peace, and they are paid with honorarium for their tasks. However, another source of funding is limited.

3.4. Reinforced Existence of Dispute Resolutions through *Adat* Institutions

The presence of *adat* institutions in this context can be one of the alternatives for people to access justice and reconciliation after conflicts. The reinforcement of the existence of such tribal institutions is recommended by the Supreme Court as a solution to increase access to justice within the system of the national courts. The appreciation of the recommendation shown aligns with the research report issued by Research and Development of the Supreme Court in 2000 on the measures taken to settle disputes in Alternative Dispute Resolution (ADR) outside courts. Such resolution has been applied in traditional conflict settlement, marking the characteristic of local wisdom in Indonesia⁵⁷. The support given by the Supreme Court is set out in Article 4 paragraph (2) of Supreme Court Regulation Number 1 of 2016 concerning the Procedure of Mediation in Courts. This support is expected to help improve access to justice as one of the

⁵⁷ Supreme Court of Republic of Indonesia, "Laporan Penelitian Alternative Dispute Resolution (Penyelesaian Sengketa Alternatif) Dan Court Connected Dispute Resolution (Penyelesaian Sengketa Yang Terkait Dengan Pengadilan)," Proyek Penelitian Dan Pengembangan Mahkamah Agung RI (Jakarta: Supreme Court of Republic of Indonesia, 2000).

alternatives to dispute resolution beneficial for both parties. To meet the implementation of more useful mediation, the Supreme Court has also issued the Decree of the Chief of the Supreme Court Number 108/KMA/SK/VI/2018 concerning Mediation Management in Courts and the Decree of the Chief of Supreme Court Number 117/KMA/SK/VI/2018 concerning the Procedures of Granting and Extending Accreditation of the Administrator of Mediator Certification for Non-Justice Mediators.⁵⁸ All the entire instruments represent the measures and support from the Supreme Court as the alternative mechanism in dispute settlement.

In history, the *adat* institutions for dispute resolutions in some regions have been growing and attempting to assist people in settling disputes⁵⁹. With this idea, this research attempts to share ideas of reinforcing the existence of dispute resolutions with the help of *adat* institutions through the following measures:

1) Institutional Reinforcement

Adat institutions bear a distinguishing nature among other tribal institutions; they are more traditional and simplified. Regional governments are expected to give opportunities and recognition to the existence of the people of the Baduy community and facilitate all the decisions made within their jurisdiction. Sasak community with a more modern way of dispute settlement has *Bale Mediasi* to settle conflicts. The regional governments are expected to reinforce the existence of *Bale Mediasi* by boosting the number of certified mediators, providing infrastructure and facilities, and adequate funding.

Through this reinforcement, people's trust is expected to rise, the main causal factors of conflicts can be curtailed, conflicts can be fairly settled, and people are satisfied with conflict resolutions. All these expectations certainly involve the need to reveal the triggering factors of conflicts and improve harmony, well-being, and collective satisfaction⁶⁰.

2) Regular coordination between *adat* institutions and law enforcers

⁵⁸ Supreme Court of Republic of Indonesia, "Laporan Kinerja Mahkamah Agung Tahun 2022."

⁵⁹ NOONE, Mary Anne; OJELABI, Lola Akin. Alternative dispute resolution and access to justice in Australia. *International Journal of Law in Context* [online]. June 2020, Vol. 16, n° 2, p. 108-127. DOI 10.1017/S1744552320000099.

⁶⁰ Ajanaw Alemie and Hone Mandefro, "Roles of Indigenous Conflict Resolution Mechanisms for Maintaining Social Solidarity and Strengthening Communities in Alefa District, North West of Ethiopia," *Journal of Indigenous Social Development* 7, no. 2 (2018): 1–21.

Issues growing in society are often complex and vary. The presence of the *adat* institutions to settle disputes is intended to assist law enforcers. That is, regular coordination between the institutions is required to raise awareness and discuss issues of rule of law. Such coordination is also essential to raise the awareness and the skills of public figures in dealing with the formal systems established by the state and extensive legal problems and rights⁶¹.

3) Meaningful Participation

Adat institutions exist to assist and serve people in dispute resolution. The mechanism of resolving disputes requires meaningful participation involving interaction that shows respect between the institutions and the *adat* people. This respect is established on the basis of a sensitivity to the cultures of the locals and the recognition of human rights⁶².

A tribal leader or a mediator can develop a mechanism of dispute resolution that guarantees data protection and other sensitive concerns for the public to avert conflict expansions. Parties involved, especially the locals, should take some measures to understand history, culture, and people's characteristics to allow them to interact with other tribal members with expected respect and responsiveness⁶³. Meaningful participation may involve the following mechanisms: (1) whether these institutions give initial opportunities to the public to participate in a decision-making process; and (2) whether these institutions use local/native language to resolve disputes⁶⁴.

4) Evaluations

Evaluations are considered essential to maintain the existence of *adat* institutions for dispute resolutions. Evaluations help decide whether the approaches to dispute resolutions have reached the objectives and contributed

⁶¹ AL-ZWAINI, Laila. *State and Non-State Justice in Yemen*. Kabul, Afghanistan : United States Institute of Peace, 10 December 2006, p. 1-17.

⁶² Ministry of Justice, Ministry of Interior, and UNDP Cambodia, *A Case Study of Indigenous, Traditional Legal Systems and Conflict Resolution in Rattanakiri and Mondulakiri Provinces, Cambodia* (Phnom Penh: UNDP Cambodia, 2007).

⁶³ COHAN, John Alan. Environmental Rights of Indigenous Peoples under the Alien Tort Claims Act, the Public Trust Doctrine and Corporate Ethics, and Environmental Dispute Resolution. *UCLA Journal of Environmental Law and Policy* [online]. 2002, Vol. 20, n° 2, p. 133-185. DOI 10.5070/L5202019386.

⁶⁴ CAMPBELL, A. Nikki Borchardt, SHELTON, Brett, WATTS, Shawn, et al. U.S. Commission on Civil Rights, *Alternative Dispute Resolution and Meaningful Public Participation* [online]. USA : National American Indian Court Judges Association, August 2016. Available from: <https://www.usccr.gov/files/pubs/envjust/ch5.htm>.

recommendations regarding how the methods of resolutions can be made more efficient for better outcomes. Evaluations can be performed by a tribal leader by referring to earlier cases dealt with.

Conclusions

The paradigms of dispute resolutions within the purview of the national law in Indonesia bear a distinguishing nature compared to dispute resolutions taking place in *Adat* institutions. Settling disputes in these institutions is guided by values and traditions passed over generations, and they are spiritual and simplified. In this condition, the respect and rights of the offenders and their family members are safeguarded. The institutions responsible for settling disputes in Baduy and Sasak communities set a good example. Although both bear different characteristics, the models of dispute settlement in Baduy and Sasak communities bear similar natures-ending conflicts with restorative justice and peace simply, fast, and affordably. The mediators in dispute settlement are trusted by the people of the communities. However, in such a dispute settlement setting in *adat* institutions, some issues may arise: (1) one of the parties may refuse to be present; (2) limited availability of mediators; (3) limited scope of cases settled; (4) socio-cultural issues in the communities; (5) inadequate infrastructure; and (6) inadequate funding. To tackle all these issues, reinforcement of the existence of dispute resolutions through *adat* institutions needs to be taken into account with the following measures: (1) institutional reinforcement; (2) regular coordination between *adat* institutions and law enforcers; (3) meaningful participation; and (4) evaluations. The development of the dispute resolution process through *adat* institutions is expected to improve access to justice without overlooking the type/the nature of the dispute, the objects involved, the availability of natural resources, and the understanding of holistic dispute resolution.

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