
THE ROLE OF COMMUNITY INSTITUTIONS IN LEGAL RESOLUTION IN MULTICULTURAL SOCIETIES

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ABSTRACT

Indonesian society is pluralistic, consisting of various ethnic groups, religions, and customs. This diversity can trigger various disputes in multicultural societies. This research aims to analyze the role of societal institutions in dispute-resolution efforts in multicultural communities. This study uses a qualitative research method with a literature study approach, focusing on societal institutions as the primary subjects, specifically their role and effectiveness in managing disputes. Data from various sources were analyzed in three stages: data reduction, presentation, and conclusion drawing. The research results show that society institutions play a significant role in resolving disputes through mechanisms such as deliberation for consensus, customs, and customary sanctions. Strengthening the role of these institutions is essential for maintaining social harmony by increasing community understanding of customary law and building synergy between customary institutions and state law.

Keywords: dispute resolution, multicultural, traditional institutions

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INTRODUCTION

Indonesian society is pluralistic, consisting of various tribes, religions, races, and cultures. This diversity occurs because people from different regions in Indonesia come and settle in one place, bringing their culture and customs to their new residence (Baas, 2019; Zulaeha, 2013). Factors that cause cultural diversity in an area include religion, customs, level of education, arts, and various types of work (Nurhayati & Agustina, 2020).

This diversity can trigger the emergence of various disputes in multicultural societies. Differences in cultural background, religion, ethnicity, and customs often become a source of conflict, whether related to the way of life, values, or views on various social issues (Ulya, 2016). Apart from that, differences in education levels and types of work can also give rise to social and economic disparities, further increasing the potential for disputes to arise (Suharno, 2021). Therefore, an effective dispute-resolution mechanism is needed to maintain harmony and peace in a multicultural society (Jayadi et al., 2022).

Efforts to resolve disputes to maintain harmony and peace in a multicultural society can be made in various ways, one of which is through society community institutions (Wannewitz & Garschagen, 2024). Disputes in multicultural societies often arise from differences in cultural background, religious beliefs, and social practices, leading to misunderstandings or conflicts over values, land ownership, and social obligations (Amirrachman, 2015; Gede Agung et al., 2024; H et

al., 2024). Economic disparities, varying levels of education, and employment types further contribute to these conflicts, creating friction within diverse communities. Customary institutions, which are social organizations that grow and develop within specific societal communities, play a crucial role in managing these disputes. They possess legal jurisdiction and rights over property within their customary areas, and indigenous communities have the authority to regulate, manage, and resolve matters related to their customs (Dasor, 2020). Through these institutions, communities can address disputes in a manner that respects local customs and traditions, thereby fostering social harmony.

This society institution, which the tribal chief or society elders lead, has a significant role in carrying out government tasks, implementing development, and fostering community at the village and sub-district levels. The role of tribal heads or society elders is vital in encouraging and mobilizing community participation, often more effective than the role of village officials (Sampe et al., 2019).

Previous research by Miranda-Lescano et al. (2024) shows that the solution offered by the Malay Traditional Institute of Dusun Muara Kuamang to resolve land conflicts using two main methods, namely mediation and customary hearings, is the people of Muara Kuamang Hamlet use a form of society wisdom and discretion. This method of resolving land conflicts is beneficial for the government in providing legal certainty regarding disputes that occur wisely and judiciously.

Other research by Busroh (2017) shows that litigation resolution can sometimes not resolve societal social conflicts. For this reason, the government must collaborate and empower local society forums/communities to assist the government in resolving disputes through mediation. Social mediators, in this case, society leaders, are also critical in social mediation. The authority of society figures dramatically influences the success of mediation. For this reason, the government must protect and maintain the existence of these figures through empowering society forums/communities.

This research can enrich the literature on conflict resolution by adding cultural perspectives and highlighting the role of societal institutions in managing disputes. Understanding these mechanisms offers valuable insights into how customary practices contribute to social cohesion in diverse societies. The findings can serve as a reference for policymakers and community leaders, emphasizing the importance of integrating customary dispute-resolution methods with formal legal systems to enhance harmony in multicultural communities.

METHOD

This study used qualitative research methods. The qualitative method is an approach that focuses on in-depth observation. Thus, applying qualitative methods in research can produce a more comprehensive analysis of a phenomenon (Firmansyah & Masrun, 2021). The data collection technique in this research is a literature study. Literature studies involve collecting and analyzing information from various written sources, such as books, journal articles, research reports, official documents, and other publications relevant to the research topic. The data that has been collected is then analyzed in three stages, namely data reduction, data presentation, and conclusion.

RESULTS AND DISCUSSION

Problem Statement

Cirebon is a city located east of Jakarta, in West Java Province, and one of the major cities in the region. The city is located on the north coast of Java, known as Pantura. Cirebon has a significant history in the Islamic civilization in Java because the Cirebon Kingdom, led by Sunan Gunung Jati, is

one of the figures spreading Islam in Java. As a city rich in culture and tradition, Cirebon has significant historical and cultural value (Agustina et al., 2021). In addition, the city of Cirebon is also supported by the diversity of the people who live in the city, such as Sundanese, Betawi, Javanese, Madurese, Batak, Arab, Chinese, Minangkabau, Ambon, Pakistani, and Indian (Soekarba, 2018). This ethnic diversity makes Cirebon known as a city with a multicultural society, thus creating an environment rich in diverse cultures and traditions.

One of the manifestations of culture and tradition in the city of Cirebon is reflected in various customary institutions that play an essential role in social life. According to cultural science, customary institutions are defined as a relatively fixed form of customary organization with structured patterns of behavior, roles, and relationships that include individuals. This institution has formal authority and customary legal sanctions to fulfill the community's basic needs (Manik, 2019). These customary institutions function to maintain cultural values and traditions and help resolve various disputes that arise in the community. Disputes are events that can occur anywhere and involve anyone. Disputes can occur between individuals, groups, companies, and the State. Disputes can be public or private and can occur at the local, national, or international level. A dispute occurs when one party feels aggrieved by another party and expresses its dissatisfaction with that party. A dispute occurs if this situation creates a difference of opinion (Fadillah & Putri, 2021).

As disputes arise in society, there is also an awareness of how to resolve them. In some communities in Indonesia, customary institutions such as village or tribal heads, religious leaders, and community leaders are seen as the highest leaders in their area. They are considered to have the authority to make decisions or mediate disputes that occur in the community (Lie et al., 2021). The existence of local wisdom and the strengthening of the role of customary institutions are included in the mechanism of social control or social control. Social control means creating balanced societal conditions to achieve harmony between stability and change. In essence, the law in social control functions as a tool to maintain order and achieve justice. The law acts as a means of coercion that protects citizens from actions and threats that endanger themselves and their property (Atho'illah, 2024).

The laws applied by customary institutions aim to revive old traditions that are considered to have lost their role in maintaining constitutional values. Customary institutions have the potential to be reactivated, especially in modern villages that are affected by the times. This is important because actions that violate traditions not only defile the sanctity of the community but also violate the honor of the family concerned (Hamamah & Sarip, 2019). This is also true in Cirebon City, where community dispute resolution still involves customary institutions. This involvement shows that customary institutions still play an essential role in maintaining traditions and social norms, as well as helping to resolve disputes that occur in the community.

Customary institutions such as Cirebon have various roles in dispute resolution efforts in multicultural communities. The first role of customary institutions is as mediators in conflicts between two conflicting parties (Taki et al., 2019). As is known, mediation is a popular alternative for out-of-court dispute resolution because it is considered capable of providing a win-win solution for all parties involved. This method emphasizes the importance of goodwill and willingness to achieve peace to maintain good relations between the parties to the dispute. Indonesian society also accepts mediation as it aligns with national values, such as deliberation for consensus (Lie et al., 2021).

When choosing mediation in dispute resolution, customary institutions function as mediators between the disputing parties. Customary justice institutions do not act as authorities that impose

decisions but as mediators seeking to achieve reconciliation and consolidation between the parties. The process aims to find a decision that is acceptable to all parties, as decisions are made voluntarily by those involved (Manik, 2019). Customary mediators usually have in-depth knowledge and experience of local culture and traditions, enabling them to help disputing parties reach a fair and satisfactory agreement.

Furthermore, in addition to their role as mediators, customary institutions can function as arbitrators to resolve disputes. In certain situations, customary institutions use arbitration to resolve disputes between disputing parties. Arbitration itself is regulated in Article 59 paragraph (1) of Law No. 48/2009 on Judicial Power, which states that arbitration is a method of resolving civil disputes outside the court based on a written agreement between the parties. Arbitration is used to anticipate and resolve disputes that cannot be resolved through negotiation, consultation, or mediation by a third party, as well as to avoid litigation that often takes a long time (Mahu et al., 2023). In the arbitration process, the customary institution will listen to the arguments of both parties and then render a binding decision. The disputing parties must comply with the final arbitration decision. The arbitration procedure is usually straightforward, making the decision immediately enforceable without lengthy proceedings (Mahu et al., 2023).

Another role of customary institutions is to apply a restorative justice approach to dispute resolution. Restorative justice is an approach to justice that emphasizes healing and reconciliation rather than punishment. It aims to repair the harm caused by a crime or dispute by involving all parties, including victims, perpetrators, and communities. Customary leaders, who have authority and knowledge of customary law, act as judges or arbiters in the customary justice process. These customary courts will impose sanctions or punishments on parties deemed guilty in the dispute. However, this approach emphasizes restoring community relationships and balance rather than punishing the perpetrator. Sanctions may include fines, community service, or other measures by the values and norms of the local community (Stella, 2023). This approach focuses on restoring relationships between the parties involved in the dispute rather than focusing solely on retaliation or punishment.

Fundamentally, social conflict resolution mechanisms in customary institutions always emphasize the importance of social harmony and harmony. In Indigenous communities, especially in rural areas, efforts to create and maintain social harmony are considered very valuable, and communities generally give priority to restoring social relations when problems occur. The conflict resolution process in customary institutions is flexible, with loose structures and norms that can constantly adjust to social changes (Dasor, 2020). This shows that customary institutions are sensitive to social dynamics in their communities and strive to ensure conflict resolution with mutual interests and welfare in mind. There are several advantages when resolving disputes through community customary institutions compared to resolving through formal legal channels (Lie et al., 2021), namely:

1. Speed and cost

Settlements through customary institutions tend to be faster and cheaper than litigation. This is because customary institutions usually have more straightforward procedures and do not require high costs such as lawyer fees and administrative costs.

2. Fairness and emotional considerations

Settlements through customary institutions focus on the legal aspects and consider the parties' real interests and emotional needs. This makes the settlement more fair and satisfying for the parties involved, as it considers local cultural values and traditions.

3. Direct participation

The parties involved in the dispute participate directly in the resolution process through customary institutions, which helps them to be actively involved in finding a solution that is satisfactory to all parties.

4. Process and outcome control

Through customary institutions, the parties have direct control over the dispute resolution process and outcome. They can determine the procedures to be followed and the expected outcomes.

5. Durable results

Settlements through customary institutions tend to provide more durable outcomes, as they are based on agreements between the parties involved.

6. Reduction of conflict and hostility

Dispute resolution through customary institutions can help reduce conflict or hostility in litigation disputes. As the settlement is conducted according to cultural values and local traditions, this can strengthen social cohesion and unity among various community groups.

Based on these benefits, dispute resolution through customary institutions has the potential to provide a more effective and satisfactory solution for all parties involved in the dispute. However, settlement through customary institutions has several significant areas for improvement, namely arbitrariness and lack of supervision (Dasor, 2020). This means that in adat settlements, there is a risk that power holders in adat institutions may exercise their power unfairly or favor one of the parties. In addition, due to the lack of external oversight, resolving disputes through customary institutions may not be transparent and adequately accountable, increasing the potential for abuse of power or injustice.

To keep customary institutions relevant and functioning well, several steps are needed to strengthen them. First, community understanding of customary law can be increased through education and socialization of applicable customary values and norms. Second, they strengthen adat institutions by providing the necessary human resources and facilities support so that adat institutions can carry out their functions more effectively. Third, building synergies between customary institutions and state law ensures that customary dispute resolution mechanisms align with national and international legal principles. Implementing these measures can help strengthen the role of customary institutions and ensure that they remain relevant in the context of changing social and legal developments.

CONCLUSION

The role of social institutions in dispute-resolution efforts in multicultural societies is still very significant. Traditional institutions have various effective dispute-resolution mechanisms, such as deliberation for consensus, customs, and customary sanctions. Deliberation and consensus, as a deliberative process, allow all parties to participate in discussions and reach mutual agreements. Customs, as norms that are respected and upheld by society, serve as guidelines for resolving conflicts in a way that all parties accept. Customary sanctions, which can be fines or social penalties, function as an effective law enforcement mechanism in maintaining order and harmony in society. However, several strengthening steps are needed so that the role of society institutions can continue to function well and be relevant. First, increasing people's understanding of customary law is very important. This can be done through education and socialization regarding applicable societal values and norms. Second, society institutions should be strengthened by providing the necessary human

resources and facilities support to carry out their functions more effectively. Third, build synergy between customary institutions and state law to ensure that customary dispute resolution mechanisms align with national and international legal principles.

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