

CUSTOMARY CRIMINAL LAW POLICY ON DOMESTIC VIOLENCE SETTLEMENT THROUGH RESTORATIVE JUSTICE IN WEST SUMATRA

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ABSTRACT

The purpose of law enforcement is increasingly difficult to realize and be felt by the community. Where the sense of expediency and justice as well as the tendency of law enforcement officers to only pursue legal certainty has resulted in people looking for alternatives to solve their problems. The community believes that the settlement of criminal cases does not reflect the justice of the process and the judge's decisions due to differences in perceptions of justice by law enforcement officers and justice seekers. Likewise, the settlement of criminal acts of Domestic Violence (KDRT) has been considered problematic in law enforcement.

Because of the lack of understanding by the public of domestic violence as many believe it needs not be settled in court as prescribed by Law No. 23/2004 on the Elimination of Domestic Violence. West Sumatra, which adheres to Minangkabau customs, has the philosophy of Indigenous Basandi Syarak, Syarak Basandi Kitabullah, Sarak mangato adat mamakai (customs are based on Islam, which is, in turn, is based on the Qur'an. this paper discusses how the Minangkabau customary criminal law policy can help prevent and settle domestic violence through a Restorative Justice approach. This is a socio-legal study drawing on the results of deliberations through interviews with traditional leaders. The results of the study found that customary criminal law policies related to the settlement of domestic violence were through non-judicial settlements. Minangkabau customary criminal law is a law that lives and is adhered to by the Minangkabau community based on the matrilineal system. The rules of life for the Minangkabau community are in the form of customs (adat istiadat) and customary law, which are sourced in Islamic law.

Keywords: Criminal Law Policy, Customary Criminal Law, Domestic Violence, Restorative Justice.

INTRODUCTION

The purpose of law enforcement is increasingly difficult to realize and be felt by the community. Where the sense of expediency and justice as well as the tendency of law enforcement officers to only pursue legal certainty has resulted in people looking for alternatives to solve their problems. The community views that the settlement of criminal cases does not reflect the justice of the process and the judge's decisions due to differences in perceptions of justice by law enforcement officers and justice seekers. Likewise, the settlement of criminal acts of Domestic Violence (KDRT) has been considered problematic in law enforcement. Due to the

public's lack of understanding of domestic violence, many believe that it should not end up in court. However, Law No. 23/2004 on the Elimination of Domestic Violence says that domestic violence must be processed in criminal justice. Crime prevention policies may include penal efforts in the form of criminal law and non-penal in the form of pathways outside of criminal law. West Sumatra, which adheres to Minangkabau customs, has the philosophy of Adat Basandi Syarak, Syarak Basandi Kitabullah, Sarak mangato adat mamakai (customs are based on religion, religion is based on the book of Allah (Al-Qur'an) where this principle refers to Islam. further discussed in this paper is how the Minangkabau customary criminal law policy can play a role in resolving the crime of domestic violence through the Restorative Justice approach. The authors examine how the non-penal approach can be made effective through customary settlements involving customary institutions that live and develop in society (Soeroso, 2011).

The term domestic violence crime relates to wives as victims. The term domestic violence in western literature is generally used in various ways, for example, domestic violence, family violence, wife abuse. However, Lisa Fredman points out that the term domestic violence does not always describe the actual situation (Marta, 2003; Ismansyah & Aria, 2016).

Customary Criminal Law and Local Wisdom

The term customary criminal law comes from the Dutch customary *delicten recht* or customary law violations so that indigenous peoples themselves do not know customary criminal law. This is because the concept of customary criminal law is very different from the concept of western criminal law. Customary criminal law is a law that shows events or actions that must be punished because those events or actions have disturbed the balance of society. The customs in question are past and present customs, living customs, customs that can develop, and rhythmic customs. If he is investigated, then there are sanctioned regulations, namely, rules which if violated have consequences, and those who violate can be prosecuted and then punished. This custom is not recorded or codified so that later it is called unwritten law and non-statutory law (Soekanto, 1980; Zurnetti, 2017).

Customary criminal law according to Hilman Hadikusuma is a living law and will continue to live as long as there is human culture, it cannot be abolished by legislation. If there is also a law that abolishes it, it will be useless. Statutory criminal law will lose its source of wealth because customary criminal law is more closely related to anthropology and sociology than legislation. I Made Widnyana said that customary criminal law is the living law, followed and obeyed by indigenous peoples continuously from one generation to the next. Violation of the rules of conduct is considered to be able to cause shock in society because it is considered to disturb the cosmic balance of society. Therefore, the violators are given customary reactions, customary corrections, or customary sanctions by the community through their customary administrators (Mulyadi, 2015).

Long before Western law came to Indonesia, and long before the formation of national law, people already had their own rules of law. The rules of customary law cover all aspects of the life of the customary law community, including matters relating to order and security as well as overcoming them. Thus, every community already has local wisdom and also rules related to law enforcement, conflict resolution, and law enforcement institutions that exist in resolving conflicts that exist in society and even in criminal cases.

In Minangkabau society, for example, there is a concept of solving through local wisdom, as in the proverb: "*kalau bulu kusuik paruh yang manyalasian*," there is also a concept which prevents the completion of something through stages. When examined from the political perspective of Indonesian criminal law through the provisions of Article 2 of the 2015 Criminal Code Draft, it has been recognized that the existence of living law in society states that: The provisions as referred to in Article 1 paragraph (1) do not reduce the enactment of the law that lives in a society which determines that a person deserves to be punished even though the act is not regulated in the legislation; A law that lives in society as long as it is per the values contained in Pancasila, human rights, and general legal principles recognized by the people of nations. The above provisions confirm in principle and legal principles the application of the law that lives in society. This has been specifically regulated in the draft of the national Criminal Code in Chapter XXXVII concerning Crimes Based on Laws Living in Society in Article 774:

Every person who commits an act that according to the law lives in society as an act that is prohibited is a crime.

The punishment as referred to in paragraph (1) is a criminal threat as referred to in Article 68 paragraph (1) letter e jo. Article 101. The criminal threat as referred to in Article 68 paragraph (1) letter e is in the form of fulfilling local customary obligations, or obligations under the law that live in the community, and Article 101 states: If the judge's decision may stipulate the obligation of the convict to carry out payment of compensation to the victim or his heirs; If the payment of compensation as referred to in paragraph (1) is not carried out, then the provision of substitute imprisonment for a fine shall apply.

With due observance of the provisions as referred to in Article 2 paragraph (2) the judge may determine the fulfillment of local customary obligations and/or obligations under the law living in the community; Fulfillment of local customary obligations or legal obligations that live in the community as referred to in paragraph (1) is the main or priority crime, if the crime committed meets the criminal provisions as referred to in Article 2 paragraph (1). 5. Local customary obligations or obligations under the law living in the community as referred to in paragraph (1) are considered comparable to category I fines and may be subject to a substitute penalty for fines, if the local customary obligations or legal obligations living in the community are not fulfilled or not served by the convict. The substitute penalty as referred to in paragraph (3) can also be in the form of a compensation sentence (Zurnetti, 2016).

Local wisdom has a pattern that is considered efficient in maintaining peace or harmony in people's lives. M. Echols and Hasan Sadily in the English-Indonesian Dictionary argue that the word local wisdom consists of 2 (two) words, namely wisdom (wisdom) and local (local), wisdom which can be interpreted as wisdom and local which can be interpreted as local. In general, local wisdom can be interpreted as local views/ideas that contain good values and are wise, full of wisdom that is embedded and followed by the community. Local wisdom is explicit knowledge and emerges from a long period and evolves together with the community and its environment in a local system that has been experienced together (Tiezzzy et al., 2003). Local wisdom itself has the following functions (Sufia et al., 2016):

1. As a marker of the identity of a community.
2. As an adhesive element (cohesive aspect) across citizens, religions, and beliefs.
3. Local wisdom provides a color of togetherness for a community.

4. Changing the mindset and reciprocal relationships of individuals and groups by placing them on the common ground (owned culture).
5. Encouraging the establishment of togetherness, appreciation, and at the same time as a common mechanism to ward off various possibilities that reduce, even damage communal solidarity which is believed to originate and grow on a common consciousness, namely from an integrated community.

Overview of Domestic Violence in West Sumatra

The description of criminal acts of domestic violence is not only in the national scope. The description of criminal acts of domestic violence can also be found in the scope at the regional level, one of which is in the province of West Sumatra. There are data sourced from several agencies/institutions that describe the facts of criminal acts of domestic violence that occurred in the Province of West Sumatra. The data obtained is based on the last 4 years, 2016, 2017, 2018, and 2019 (January to October). Based on data on cases of domestic violence (KDRT) obtained from the Directorate of General Criminal Investigation of the West Sumatra Police, there are data on case reports that have completed the legal process. In 2019 (starting from January to October) there were 186 case reports. However, from the incoming case reports that were processed to completion in the police, there were 167 cases. Furthermore, in 2018 there were 290 case reports. However, 197 cases were processed to completion by the police. Through the data above, it can be seen that there were also 19 unfinished cases in the police force in 2019 and 93 cases in 2018.

To answer all the existing problems, a normative juridical research method was used by analyzing the results of deliberation and consensus supported by interviews with traditional leaders. The results of the study found that the customary criminal law policy related to the settlement of domestic violence was through a non-judicial settlement. Minangkabau customary criminal law is a rule of law that lives and is adhered to by the Minangkabau community which originates from the rules of life and philosophy of the Minangkabau people who adhere to the matrilineal system. The rules of life for the Minangkabau community are in the form of customs and customary law, which are sourced from Islamic law contained in the Holy Qur'an. The implementation of this philosophy is contained in the UU Nan duo puluh (the twenty laws) which consists of the UU Nan duo baleh (the twelfth law) and UU nan salapan (the eighth law). The resolution of a domestic violence case is carried out through deliberation and consensus in the Minangkabau community through local wisdom as mentioned above.

RESULTS AND DISCUSSION

Fighting Domestic Violence through Judicial Process

Policies for overcoming acts of violence against women in West Sumatra refer to positive law and the provisions of customary law that apply in the West Sumatra region. In addition, the response policy is implemented using a penal and non-penal approach. Overcoming acts of violence against women victims of domestic violence through a penal approach refers to Law Number 23 of 2004 concerning the Elimination of Domestic Violence. While the non-penal approach is carried out through the customary criminal law approach and local wisdom as living

law in Minangkabau society. So that in solving these acts of violence an approach that is per the Minangkabau philosophy is used, namely deliberation and consensus.

Article 1 number 1 of the PKDRT Law explains that what is meant by domestic violence is: *"any action against a person, especially a woman, which results in physical, sexual, psychological misery or suffering, and/or neglect of the household including threats to commit acts, coercion or unlawful deprivation of liberty in a domestic environment."* This provision implies that the PKDRT Law still focuses on women as victims of domestic violence (Harian, 2018).

Domestic violence against women can be carried out in several ways according to Article 5 of the PKDRT Law, namely:

1. Physical violence;
2. Psychological violence;
3. Sexual violence;
4. Domestic neglect.

Physical violence according to Article 6 of the PKDRT Law is an act that causes pain, falls ill, or is seriously injured. Whereas what is meant by psychological violence according to Article 7 of the PKDRT Law is an act that results in fear, loss of self-confidence, loss of ability to act, feeling helpless, and/or severe psychological suffering of a person. Furthermore, sexual violence is an act of forcing sexual intercourse carried out against people who live in the household or one within the scope of their household with another person for commercial purposes. Sexual violence is regulated in Article 8 of the PKDRT Law. Lastly, abandonment of a dated house is the act of a person who neglects a person within the scope of his household, even though according to the law that applies to him or because of an agreement or agreement he is obliged to provide life, care, and maintenance for that person. Against these acts of violence, the perpetrators can be threatened with criminal sanctions for acts of domestic violence as regulated in Articles 44, 45, 46, 47, 48,49, and Article 50 of the PKDRT Law (Harian, 2018).

Acts of violence against women victims of domestic violence that occur in the community today continue to increase and are very worrying. Based on data from the Women and Children Service Unit (PPA) of the Padang City Police, as of January 2018, it has received as many as 103 cases of violence experienced by women and children (Delmiati, 2019).

Overcoming acts of violence against women victims of domestic violence through a non-penal approach using a customary law approach and local wisdom in society in West Sumatra, namely through deliberation and consensus. When there has been an act of domestic violence, especially against women, it is first attempted to resolve it through deliberation within the family concerned. However, if the settlement effort is not successful, then it will be brought to the niniak mamak deliberation, to be resolved by custom. In addition, the proverb also reveals that according to tradition every case must be resolved and will always try to find a solution to every dispute. In addition to paying attention to the severity of the acts of violence committed, the settlement is in stages in the mechanism starting from the closest family, clan, tribe, jorong, and finally the nagari (Zurnetti, 2016).

In addition, to tackle crime and violations in society for the sake of realizing security, order, and peace in the community, a mutual agreement was made to optimize the Empowerment of Customary Law between the West Sumatra LKAAAM and the West Sumatra Police. This

agreement was named a joint agreement between the West Sumatra Minangkabau Natural Customary Density Institute (LKAAM) and the West Sumatra Regional Police Number B/2618/VII/2017 and Number 158/LKAAM-SB/VII/2017 concerning Synergy between the Police and the Minangkabau Natural Kinship Institution. (LKAAM) in maintaining community security and order as well as solving social problems through the Minangkabau traditional approach and local wisdom at the Kimitraan and Community Center (BKPM) as a follow-up to the Police Chief Regulation. The follow-up to this collective agreement is the synergy between the police and elements of the nagari government in realizing the goals of Polmas in tackling crime in West Sumatra. The settlement of Minangkabau customary law uses deliberation and consensus to seek peace. When an agreement has been reached, then the parties must obey and implement the agreement properly.

Fighting Domestic Violence through Restorative Justice

Countermeasures through a restorative justice approach in West Sumatra can be explained based on data obtained in several areas, including:

Table 1 HANDLING OF DOMESTIC VIOLENCE IN 2017 BY WEST SUMATRA POLICE													
No	Police District	Month											
		Jan.	Feb.	Mar.	Apr.	May.	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.
1	S.Pes.	0	0	2	0	0	2	4	0	2	1	1	0
2	Padang	3	9	6	9	9	6	10	8	6	5	5	5
3	B.Ting.	1	1	2	0	0	0	3	3	0	0	4	4
4	P.Panj.	3	2	3	0	0	0	0	0	2	1	1	1
5	Pasam.	2	1	1	2	1	2	2	0	1	2	1	0
6	Payak.	1	2	0	2	2	1	2	3	2	1	0	0

Source: West Sumatra Police report.

The Table 1 above shows that the handling of domestic violence cases in 6 (six) regions out of 20 (twenty) Polres in West Sumatra shows that domestic violence crimes, especially against women, still occur in West Sumatra. Based on this data, it can be seen that the Padang Police Legal Area occupies the first position with the highest level of domestic violence in 2017 with a total of 81 cases of domestic violence. Followed by the Bukittinggi Police with the number of cases of domestic violence as many as 18 cases. Of the 6 regions, Pesisir Selatan occupies the lowest position with 12 cases of domestic violence. The following describes the handling of domestic violence at the Padang Police.

Based on the Table 2, it can be seen that from 2015 to 2017 there was a constant increase in cases of domestic violence. The data on domestic violence crimes during 2015 were 50 cases of domestic violence, in 2016 it increased to 91 cases, and in 2017 the data on domestic violence cases showed a slight decrease to 81 cases. In handling cases against domestic violence, it can be seen that investigators at the Padang Police put more priority on handling cases legally. Meanwhile, non-juridical handling of cases is only carried out in a small number of cases, as can

be seen, that from 2015 to 2017 non-judicial handling of domestic violence cases was 21 cases, 7 cases, and 7 cases.

Table 2 HANDLING OF DOMESTIC VIOLENCE AT THE PADANG POLICE (2015-2017)			
No	Year	Number of Cases	Case Handling
1	2015	50	Non-Judicial Settlement
2	2016	91	Non-Judicial Settlement
3	2017	81	Non-Judicial Settlement

Source: PPA Unit Sat Reskrim Polresta Padang

Table 3 HANDLING DOMESTIC VIOLENCE CASES IN SOUTH PESISIR IN 2015		
No	Victim Names	Case Handling
1	Suharti, 33-year-old (Minang)	Lack of Evidence
2	Reni Rahayu, 18-year-old (Melayu)	Non- Judicial Settlement
3	Sumarianita, 31-year-old (Melayu)	Non- Judicial Settlement

Source: South Pesisir Police Report, 2015

Based on the Table 3 above, it can be seen that the handling of domestic violence cases in the jurisdiction of the Pesisir Selatan Police in 2015 was carried out by mostly seeking non-judicial settlements. Of the three cases that occurred, 2 cases were resolved non-judicial.

Table 4 THE HANDLING OF DOMESTIC VIOLENCE BY SOUTH PESISIR POLICE IN 2016		
No	Victim Names	Case Handling
1	Syfrinal, 39-year-old (Minang)	Non- Judicial Settlement
2	Yunilda, 18-year-old	Non- Judicial Settlement
3	Rita Susasanti, 30-year-old (Minang)	Non- Judicial Settlement
4	Nursafika, 15-year-old (Melayu)	Non- Judicial Settlement
5	Yani, 20-year-old	Non- Judicial Settlement
6	Resti, 17-year-old (Minang)	Non- Judicial Settlement
7	Efrita, 42-year-old (Caniago)	Judicial Settlement

Source: South Pesisir Selatan police Report (2016).

Based on the Table 4 above, it can be seen that there were 8 cases of domestic violence in the jurisdiction of the Pesisir Selatan Police in 2016 where 7 of the 8 cases were resolved through a non-judicial approach. In 2016, it can be seen that women who are victims of domestic violence come from various age ranges.

Based on the Table 5 below, it can be seen that the number of domestic violence cases in the jurisdiction of the Pesisir Selatan Police in 2017 was 12 cases; one of the 12 cases was investigated because of insufficient evidence. Of the 11 cases processed, 4 cases were resolved through a non-judicial approach, while the rest were through a juridical approach.

Table 5 HANDLING OF DOMESTIC VIOLENCE CASES IN PESISIR SELATAN IN 2017		
No	Victim Names	Case Handling
1	Marda Leni, 29-year-old (Minang)	Lack of Evidence
2	Fitri Yandra, 47-year-old (Melayu)	Investigation
3	Nurhayeni, 44-year-old (Melayu)	investigation
4	Noni Nofrianti, 38-year-old	Non-Judicial Settlement
5	Yesi Devita, 30-year-old (Minang)	Non-Judicial Settlement
6	Endronayeni, 32-year-old (Minang)	Investigation
7	Peni Suriati, 29-year-old (Minang)	Non-Judicial Settlement
8	Meri Trisna, 27-year-old (Minang)	Non-Judicial Settlement
9	Nurtia Juliana, 23-year-old (Minang)	Court Settlement
10	Popi Dewitasari, 34-year-old (Minang)	Court Settlement
11	Sri Wahyu Ningsih, 30 y.o (Jawanese)	Court Settlement
12	Siska Neri, 36-year-old	Court Settlement

Source: South Pesisir Police Report, 2017.

Table 6 DATA ON HANDLING DOMESTIC VIOLENCE CASES IN SOUTH PESISIR (2018)		
No	Victim Names	Case Handling
1	Helin Fefen, 34-year-old	Non- Judicial Settlement
2	Juslina, 21-year-old (Melayu)	Non- Judicial Settlement
3	Ilen, 39-year-old (Melayu)	Investigation

Source: South Pesisir Police Report, 2018.

Based on the Table 6 above, the policy of overcoming violence against women victims of domestic violence that occurred in the Regional Police of West Sumatra shows that the policy model for dealing with domestic violence is being pursued by the police through a non-juridical approach. The non-juridical approach is carried out through restorative justice efforts by restoring balance before the occurrence of a crime. In other words, law enforcers are trying to prevent this domestic violence case from entering the criminal justice machine, so that the objectives of the PKDRT Law can be achieved more optimally. Looking at the data on handling domestic violence cases that occurred in the jurisdiction of the Pesisir Selatan Police, it can be seen that in handling domestic violence cases, especially women as victims of domestic violence, the investigators of the Pesisir Selatan Police prioritize and seek to handle cases in a non-juridical manner. Fifteen of the 22 cases handled by the Pesisir Selatan Police were handled in a non-juridical way. According to investigators, this step is carried out to realize and optimize the goals to be achieved from the PKDRT Law. So that investigators assess that non-juridical settlements will minimize the negative effects of handling domestic violence cases through the criminal justice system. Based on the data above, we can see a more appropriate policy model to be applied in handling domestic violence, especially women as victims of domestic violence, namely through handling cases in a non-juridical manner. Juridical handling of cases can minimize the social impact of domestic violence.

Through the Approach of Customary Law and Local Wisdom

The imposition of sanctions in customary law is part of the social control system efforts owned by certain communities to create order in society. Customary sanctions are actions or efforts to restore balance, including a magical balance as a result of a disturbance that is a violation of adat. In customary law, the highest value is a socio-cultural system that contains basic principles under which there is a system of norms that function as legal principles. Customary law that grows and develops in society is said to be a tool of social control or control of community life. The existence of customary law as social control of community association, then customary law is expected to be able to meet legal needs per people's lives (Zurnetti et al., 2018).

Minangkabau customary criminal law is a rule of law that lives and is adhered to by the Minangkabau community which originates and tastes from the rules of life and philosophy of the Minangkabau people themselves who adhere to a matrilineal kinship system. For the Minangkabau indigenous people, there are rules of life in the form of customs or customary law. Custom is a pattern of community life in the form of a pattern of behavior that develops in accordance with the development of society. There are behavioral patterns that grow in society, some of which are given reinforcement by law because it is very important in achieving the standard of community life by setting/implementing it by the community itself by providing a forum/institution and tools to set sanctions for people. Who violated it? Thus, Minangkabau customary law forms patterns of community behavior by establishing clear sanctions that are implemented through institutions formed by the community itself.

Customary law is a pattern of community behavior that is sanctioned if violated. Minangkabau customary law as a norm that applies to Minang people cannot be separated from Islam as the majority religion adopted by the Minangkabau community. This expression means that Minangkabau customary law is based on Islamic law contained in the holy book of the Qur'an. Customary law is the implementation of Islamic law in Minangkabau as a legal system that is rooted in unwritten law, namely the law that lives in the community. The law is found in the proverb which is passed down from generation to generation. From these various rules, in the most general form, we recognize the existence of the UU Nan duo puluh which consists of the UU Nan duo baleh and the UU Nan salapan. When viewed from the aspect of national law, this law is a form of action or offense that is prohibited from being carried out and can be subject to criminal sanctions

Furthermore, the matrilineal system is a way of determining the lineage of women which causes women to place respectable positions in the family and society. This position is revealed in the title of women with honor, namely bundo kanduang. This expression shows that the woman is considered a natural mother who must be respected by everyone. As for the position of women in the household.

The principle of customary criminal law in the settlement of a crime is to use a system of deliberation and consensus. Deliberation and consensus are carried out in the Minangkabau community through local wisdom as in the proverb "*kalau bulu kusuik paruh yang menyalaian*". There is also the concept of "*bajanjang naiak batanggo turun*" which requires the completion of something through stages. For acts of violence against women, especially those related to honor, Minangkabau customary law provides very strong protection or protection.

From the description above, it can be concluded that the Minangkabau indigenous people have provided the basics or signs for the protection of women. Where women determine the noble or not of his people. In Minangkabau society, conflict with violence can be pursued by peaceful means, even murder can still be forgiven, but if the action taken is in the form of acts of harassment/violence against women, all doors of peace and settlement will be closed with an apology. So that in Minangkabau society we can see the position of women who are so special.

Settlement of cases in the Minangkabau customary law community can be carried out by giving sanctions to the party who brought the dispute. The sanctions are physical but are more aimed at giving social sanctions and providing compensation. The provision of social sanctions starts from the lightest to the heaviest, namely being discarded as long as adat and expelled from the nagari. The provision of sanctions for payment of compensation to the community is more aimed at recovering those who have been disturbed by an act of violate. On Sanctions for throwing away as long as adat or throwing away from the nagari were revealed

Payment of compensation is one form of sanctions aimed at repairing the damage or loss suffered by the victim. This is stated in the proverb which states: the meaning of the expression is that if there is an effect such as illness or injury, then it must be treated. While the sanctions aimed at the general public are usually by paying customary obligations by performing traditional ceremonies. Fines for certain building customs, which are used together, and to restore the balance of customs that have been disturbed by an act.

When examined from the political perspective of Indonesian criminal law through the provisions of Article 2 paragraph (1) of the 2015 Criminal Code Bill, it has been recognized that the existence of law exists in society. This has been specifically regulated in the draft of the National Criminal Code in Chapter XXXVII concerning Crimes Based on the Law that Lives in Society in Article 774.

This concept of settlement is also seen in the concepts of restorative justice and penal mediation. In the concept of restorative justice, it is hoped that the settlement process and results can improve existing conditions, not the other way around. This concept is not formally available in Indonesia, but in certain cases, it has been implemented by the police in the community policing program which in its implementation involves the community.

The concept of penal mediation developed in line with the concept of alternative dispute resolution (ADR) that developed in civil law. The concept of penal mediation developed with the idea that the issue of criminal acts must pay attention to the interests of the victim. While the settlement through the criminal justice system does not or does not pay attention to the interests of the victim. This concept has been implemented by the National Police in the letter of the National Police Chief No. Pol: B/3022/XII/2009/SPDOPS dated December 14, 2009, regarding the handling of cases through ADR.

CONCLUSION

Policies for overcoming acts of violence against women in West Sumatra refer to positive law and the provisions of customary law that apply in the West Sumatra region. In addition, the response policy is implemented using a penal and non-penal approach. The handling of acts of violence against women victims of domestic violence through a penal approach refers to Law Number 23 of 2004 concerning the Elimination of Domestic Violence (hereinafter referred to as

the PKDRT Law). While the non-penal approach is carried out through the customary criminal law approach and local wisdom as living law in Minangkabau society. So that in solving these acts of violence an approach that is in accordance with the Minangkabau philosophy is used, namely deliberation and consensus.

The principle of customary criminal law in the settlement of a crime is to use a system of deliberation and consensus. Deliberation and consensus are carried out in the Minangkabau community through local wisdom. There is also the concept which requires the completion of something through stages. The types of customary dispute resolution principles include the principle of internal settlement first, the principle of deliberation and consensus, the principle of multilevel settlement, and the principle of justice.

The model for resolving domestic violence cases to overcome domestic violence in the Minangkabau area is more appropriate to use through restorative justice efforts to restore the balance that occurs as a result of domestic violence crimes. This is to implement and optimize the objectives of the PKDRT Law.

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