

Settlement of Criminal Cases Through Integration Customary Law Values Angkon Muakhi in Lampung Province*

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Abstract

The current Indonesian criminal law, although it has used the restorative justice method, has not been able to resolve the core of the problem and has not restored balance in society, so the settlement of criminal acts is not complete to the community, the victim and the victim's family. The importance of criminal law policies for the settlement of criminal cases through the integration of Angkon Muakhi law is to realise justice, benefit, balance, and kinship in criminal law enforcement. This research method uses the combined theory paradigm and mixed legal system to generate new ideas in settling criminal cases. This research is normative juridical and empirical juridical research with a socio-legal approach. In-depth interviews were carried out in primary data collection; sources were determined by the snowball method, while secondary data collection was carried out using a literature study. The findings of this study indicate that the enforcement of criminal law at this time still does not involve the community. There are still the rights of victims' families and communities that have not been restored; even though restorative justice has been resolved, it still leaves disputes, seeds of conflict and grudges both from the victim, the victim's family and the surrounding community. Prison sentences are still prioritised in light cases and negligence, both in the investigation process, prosecutors' demands, and the judge's decision. The importance of resolving criminal cases through integrating the customary law values of Angkon Muakhi, which can resolve cases, conflicts, hostilities and disputes between perpetrators, victims and the community.

Keywords: Settlement; Criminal cases; Integration; Customary Law Values; angkon muakhi

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A. INTRODUCTION

Litigation and non-litigation failed to provide resolution with legal certainty, even though the purpose of the law is to provide justice, benefit and legal certainty. ([Ilyas & Hamzah, 2022](#)) Law enforcement has goals that must be directed to efforts to uphold justice and social welfare as well as efforts to protect society from crime and to achieve harmony and balance of life in society by taking into account the goals and interests of society, the state, victims and perpetrators. Law enforcement should properly be used as a tool for "social defence", which means it functions to protect society from crime by repairing or restoring "rehabilitate" and restoring "restoration" for both perpetrators and victims without reducing the balance of individual and community interests. The purpose of law enforcement is not to send as many people as possible to jail, but actually to create justice, peace and order in society. ([Zuhri, 2019](#))

The large number of criminal cases whose resolution is through law enforcement which has an individualistic character currently still leaves problems, starting from the problem of social conflict, ongoing disputes in society causing the law in its enforcement and settlement to often give rise to new problems such as prolonged conflicts, the emergence of revenge from perpetrators. and the victims and their families so that the balance and peace in the community are disturbed.

The practice of law enforcement in the field is often far from what is aspired to, while the goal of law enforcement is essentially to create justice, peace and public order. The initial goal of the law is to regulate human life to be orderly. Of course, law enforcement must meet the requirements so that it can meet the requirements of social developments that occur in society. ([Sambas & Mahmud, 2019](#)) In connection with the above, there needs to be a new formulation and new construction in sentencing or sentencing guidelines. There is a factor of forgiveness from the victim/victim's family or forgiveness from the judge when it has been tried, and there is a concept of a value that lives in a very positive society. This concept is then integrated into the national criminal law, which can be a solution to law enforcement problems in Indonesia.

Indonesia, as a constitutional state, ensures civil rights to all citizens, particularly vulnerable groups. The country provides special attention and protection for children, and minority groups in terms of physical and psychological violence, discrimination, poverty, underdevelopment, and other problems. ([Rudy et al., 2022](#)) Indigenous peoples are one of the groups that are vulnerable to extinction, especially in terms of local wisdom especially

customary law or living law. At the formulation stage, criminal law policy is a strategic policy whose system lines are the legal basis for implementing the crime by the judiciary and the criminal implementing apparatus. The legislation empowers the implementers of the Act or law enforcement officers in their application. ([Haprida et al., 2022](#))

The integration process for the settlement of these criminal cases with customary law that has long lived and grown in society will be discussed in the discussion on the settlement of criminal cases through the integration of Angkon Muakhi customary law, where this article will try to discuss the customary law values of the people of Lampung in resolving problems, especially in the criminal law enforcement process in Lampung Province. There is a tradition in the indigenous people of Lampung, namely the culture of making brothers, the tradition of making these brothers known as Angkon Muakhi. Angkon Muakhi comes from the Lampung language, namely *angkon*, which means to adopt or adopt and *muakhi*, which comes from the word *Puakhi*, which means brother. In contrast, *Muakhi* itself means brothers (generally brotherhood between men and men, although in practice, this Angkon culture is also It can also happen with women, both between women and women and women and men).

Appointing a sibling or Angkon Muakhi in the Lampung indigenous community can occur for three reasons. The first cause or reason for the occurrence of *angkon muakhi* is an excellent relationship between the two because from the start, the two parties have a relationship like siblings or siblings due to the familiarity between them. The relationship between the two parties is like because they have the same hopes and goals, struggles, or because of a situation that causes both of them to have a firm belief in a brotherly relationship, usually related to the debt of life or specific events that make an impression on the hearts of both parties that last quite a long time because of the length of interaction when studying, working, living together, and so on, to bring the bond between the two closer together, the traditional Angkon Muakhi event is carried out.

Second, Angkon Muakhi or Angkon Mengangkon or adoptive siblings occur because of the marriage process between Lampung people and non-Lampung people (this usually happens to the Lampung Pepadun indigenous people who are meant to be included in Pepadun if there is a marriage between Lampung Pepadun and Lampung Sai inner). Whereas the marriage process for the Indigenous people of Lampung is a process that must be passed through several traditional ceremonial rituals that require a unified conception for both

parties so that each process can be carried out in a linear manner, both parties must have the same traditional background, namely Lampung in particular. have Pepadun cultural customs, so for ethnic people other than Lampung or other nations who take Lampung girls or vice versa a Lampung man marries a non-Lampung girl, the Angkon Muakhi traditional procession must be carried out first before the procession for other traditional events is carried out.

Third, Angkon Muakhi occurs due to problems, conflicts, disputes, litigation or because of the reason that an event or criminal act has occurred, for example, a dispute where a person or several people are killed due to a fight, an accident that causes injury or death, persecution, beatings, defamation, fraud or other events that can still be found a way out using mediation or deliberation to reach a consensus mediated by traditional leaders. Based on the current practice of Angkon Muakhi activities in the life of indigenous peoples, Angkon Muakhi with a background like this is relatively common, so Angkon Muakhi like this is often used as a solution in handling a problem, case or conflict in the Lampung community.

The law enforcement process currently felt is far from fulfilling the people's sense of justice, so it is necessary to dig back into the noble values of customary law to restore balance in a society that was shaken due to an event or legal problem, such as customary law values. Angkon Muakhi, in the Indigenous people of Lampung, is an example of the process of settling criminal cases.

This article was written using the theory of Hart's Combine Theory and law enforcement theory. Hart's combined theory, or the combined theory of H.L.A. Hart, is a way to incorporate a legal condition that has a different background. According to Hart, justifying punishment aims to see the future consequences or impact of the punishment. This relates to what good will be obtained from the sentence given to the perpetrator in the future, such as decreasing crime rates and improving public (society) security. ([Hart, 1959](#)) Meanwhile, law enforcement theory is a series of processes that describe values, ideas, concepts, and ideals that are pretty abstract and are the goals of the law. Law enforcement must be seen realistically so that actual law enforcement must be seen as part of the discretion that cannot be avoided due to the limitations of the law itself while still implementing integrated monitoring of law enforcement officials and achieving the truth in law enforcement. Who always see the reality of society and the law that grows from society. ([Wignyosoebroto, 2002](#))

B. METHODS

Researchers in this study used normative and empirical juridical methods. Normative juridical is legal research that is carried out by focusing on library research, namely by researching and studying literature or secondary data in the form of primary legal materials, namely related laws and regulations, secondary legal materials, and tertiary legal materials, as well as legal scientific works, papers, articles, and mass media. This legal research is also known as library law research. (Soekanto, 2006) Empirical research was carried out by going directly to the field to see, observe, and interview several traditional community leaders, people who are elders in Lampung custom, Punyimbang adat, and Adat Perwatin, who carry out and apply customary law, especially Angkon Muakhi, in Lampung Province. The traditional leaders interviewed are spread across 15 (fifteen) regencies and cities in Lampung Province and consist of 2 (two) forms of customary law, namely Sai Batin and Pepapun.

C. RESULTS AND DISCUSSION

1. Settlement of Criminal case through Angkon Muakhi

In the indigenous people of Lampung there is a tradition called Angkon Muakhi, this tradition is a tradition of appointing siblings or making siblings for various reasons such as because of a very good relationship, there is an event such as marriage with a different tribe and an event has occurred between the two parties such as conflicts, fights, misunderstandings or other disputes which can then be resolved through Angkon Muakhi. According to Prince Kelana Datuk Putih Buay Tenupus Halom Bawak, Irham, the Angkon Muakhi used as a means of settling criminal cases in Lampung has been carried out since the 15th century since the influence of Islam entered Lampung continues to develop and been implemented in every case settlement. But then, it gradually sank and began to disappear since positive law continued to be enforced in Indonesia; according to him, customary law's application in Lampung had decreased since the 1970s. Even though the settlement of cases through Lampung customary law, especially Angkon Muakhi, according to Irham, can maintain kinship and community peace without suing people in court and imprisoning someone who further strains kinship ties. According to him, reporting someone to the police or bringing a problem to court is a form of taboo for the people of Lampung.

Tradition in the Indigenous people of Lampung, namely the culture of raising brothers, Angkon Muakhi is a tradition of conflict resolution in the indigenous people of Lampung which has the concept of reconciling the two conflicting parties as well as the existence of a criminal incident on one of them so that a peace agreement is reached through a customary settlement using kinship and kinship methods. Namely by bringing together the two parties in conflict or litigation. Angkon Muakhi is one of the legal concepts for settling cases outside the court, and it is currently being enforced in Lampung. Conflict resolution with the traditional Angkon Muakhi tradition in the lives of indigenous peoples is an entirely accurate strategy, resolving cases after taking persuasive methods and models of socio-cultural approaches.

Settlement of criminal cases through Angkon Muakhi often occurs in Lampung province. Based on the following research results, the settlement of criminal cases through Angkon Muakhi is shown in tabular form:

Table 1. Settlement of Criminal Cases through Angkon Muakhi

No	Traditional figure Sources (Adok)	Location	Sai Batin/ Pepadun	Criminal Case	Year
1	Damanhuri Fattah (Raja Sempurna Jaya)	Lampung Barat	Sai Batin	Ganging up	2012
				Fight	2012
2	Darmansyah Yosie (Pangeran Kapitan Ratu)	Pesisir Barat	Sai Batin	Child Crime	1968
				Traffic Crimes	1989
3	Syapril Yamin (Mamak Lil Rajo Gamolan)	Lampung Selatan	Sai Batin	Ganging up	2012
				Destruction	2012
				Murder	2012
				Insult	2018
4	Syahrudin (Dalom Dikrama Pemapah Marga)	Tanggamus	Sai Batin	Child Crime	1991
				Theft	2022
				Destruction	2022
				The invasion	
5	Irham (Pangeran Kelana Datuk Putih)	Pesawaran	Sai Batin	Fight	1975
				Theft	1980
				Land grabbing	2002
6	Syahmin Akhyar (Pangeran)	Bandar Lampung	Pepadun	Traffic Crimes	2016

Rajo Ratu)					
7	Ahmad Nyerupa (Suttan Balai Bang)	Lampung Tengah	Pepadun	Defamation	2012
8	Salpiyan (Nimbang Ratu)	Lampung Utara	Pepadun	Traffic Crimes	2014
9	Mawardi Harirama (Suttan Seghayo Dipuccak Nur)	Lampung Timur	Pepadun	Persecution	1988
				Traffic Crimes	2000
10	Iskandarsyah (Raja Alamsyah Pangeran Pemuka Ilir)	Way Kanan	Pepadun	Penyerobotan tanah	1970
				Destruction	1970
				Persecution	1979
				Traffic Crimes	1981
11	Oktavianur (Sutan Liyu Ngepih Mangku Marga)	Way Kanan	Pepadun	Threats	1985
				Fight	1990
12	Zulqoini Syarif (Suntan Panji Negara)	Pesisir Barat	Sai Batin	Theft of damar resin	1998
				Child Fight	2010
13	Putrawan Jayadiningrat (Suntan Pangiran Dalam Ratu)	Pesisir Barat	Sai Batin	Child Fight	2020
14	Panji Perdana (Suntan Simbangan Ratu)	Pesisir Barat	Sai Batin	Child Fight	2015
15	Arifin (Sunan Guru Adat)	Lampung Utara	Pepadun	Fight	2000
				Defamation	2001

Source: Data processed from interviews with informants in 2023

Based on the list of tables above, in practice in the field, there are still many events with a background in criminal acts that are resolved through the Angkon Muakhi process; this shows that Angkon Muakhi is still alive and well as a concept for settling criminals cases in Lampung Province. Looking at the criminal cases that can be resolved through Angkon Muakhi above, basically, the perspective of restorative justice currently applied only addresses specific conflicts between victims and perpetrators, whereas when viewed from a justice perspective using the Angkon Muakhi concept it tries to use local wisdom values to resolving not only settlement of cases but also being able to resolve disputes between the two parties by making both parties become brothers like

blood siblings because they are bound by oaths and customary law rules whose legality was ratified by traditional leaders.

2. Mechanism for Resolving Criminal case through Angkon Muakhi

There are many criminal cases that the community wants to settle and do not reach court through non-penal channels, such as mediation, reconciliation, and, more specifically, customary law. The community wants to emphasise the aspects of justice and legal benefits rather than legal certainty. The mechanism for imposing criminal sanctions is no longer necessary in criminal law enforcement. Various factors, including the following, cause this:

- a) The criminal law enforcement system as explained by Muladi and Barda Nawawi Arief can be a process of regeneration of criminals. Various facts behind the prison can prove this argument;
- b) Imprisonment sanctions no longer provide a deterrent effect on criminals so that the threat of imprisonment is no longer something frightening and embarrassing and can instead be used as a comfortable place to commit other crimes;
- c) The criminal process does not provide benefits or advantages for the victim, does not restore the victim's losses and even tends to add to the burden of the victim's suffering;
- d) Criminal sanctions are often disproportionate to the impact of the crimes committed by the perpetrators, so they do not provide a sense of justice for victims and their families;
- e) The community has local wisdom from cultural values, with a mechanism for settling criminal cases through customary law, and is full of family values, namely peaceful deliberations to reach a consensus.

Settlement of criminal cases in indigenous and tribal peoples is based on the philosophical values of togetherness (communalistic), sacrifice, supernatural values, kinship, and justice. In the customary law community, common interests are a philosophy of life that permeates the chest of every member of the indigenous peoples. Mutual interests are upheld above individual interests so that indigenous peoples have a common interest. Cases between individuals and groups in the view of the customary law community are actions that interfere with common interests. Therefore, they must be

resolved quickly and wisely by using the customary settlement pattern known as communal justice.

Law is a societal tool that creates order in people's lives. It runs and works by providing information about how humans should behave based on the norms and values in a society where the law grows, binds, and works. ([Rahardjo, 1982](#)) The relationship between law and society is so close that it is inevitable that law and society are two sides of a coin that are interrelated and cannot be separated. According to Friedrich Carl Von Savigny, the law is a mirror that manifests the soul in society. His student, G. Puchta, stated that the form of the community's soul is called Volkgeist, which means that the law is born simultaneously with the birth of society; law and society go hand in hand. Some adherents of the historical school even categorically deny that the law was made and existed and was found within society. In addition to the historical flow, this statement is supported by the Sociological Jurisprudence school Eugen Ehrlich, famous for the concept of living law. According to Ehrlich, the development of law does not come from within the law, the science of law, or court decisions but within society itself. ([Ali, 2008](#))

Indonesian customary law has unique characteristics that characterize customary law: communalistic or kinship, cash or cash, and concrete or real. Meanwhile, Djodjodigono said that customary law has static, dynamic, and flexible characteristics by the times. ([Utomo, 2016](#)) Customary law communities prioritise the path of deliberation in settling criminal cases that aim to create peace in society. The path of deliberation is the main route used by customary law communities in settling cases because in deliberation, there are blessings, and a peace agreement can be made that benefits both parties. Deliberation is one of the philosophies and characteristics of indigenous peoples. Settlement of cases through customary law can be done through deliberations, which take the form of mediation or negotiation. Indigenous peoples often practise these two models of case settlement in every settlement of cases and disputes. Traditional leaders carry out their functions as mediators. In practice, traditional leaders generally use this approach together.

As in customary law, the strength of law enforcement depends on the context. The context of the application of customary law can be seen in the socio-cultural context of the community where the law grows and develops, if the law grows and develops strongly even though it is not written in real terms but is obeyed with full awareness. Wholeheartedly, the power of applying customary law materially will be very strong or thick. ([Rato, 2014](#)) Vice versa, if the law is strictly adhered to when the rules have been made, formally the law

is strong or thick. According to Ike Edwin, Sultan Raja Lampung's younger brother, settling criminal cases in Lampung had existed since ancient times, long before Indonesia was familiar with the term restorative justice, which is currently in effect. The concept of settling criminal cases is known as Angkon Muakhi, where criminal cases are completed at the peace stage for all parties and create brotherhood between the two parties and their extended family.

Attempts to integrate or combine criminal law with Angkon Muakhi constitute a new form of legal construction, although in practice this amalgamation has found many applications in the field. Efforts to combine into a more legal form in the settlement of criminal cases into a criminal justice system and criminal law policies to achieve the interests and benefits of the wider community. Based on Hart's theory, it can be justified that customary law can be applied if it is accepted by anyone (any custom), even though they have different backgrounds. Mix theory or Combine theory or Hart's combined theory, when associated with models in the criminal justice system, is also known as a combined model called the kinship model or family model, which is a combined model of dissatisfaction with previous models of the criminal justice system, wherein the family model the perpetrators of criminal acts seen as a member of the family who must be advised and corrected with a spirit that underlies love and affection.

The process of settling criminal cases up to the Angkon Muakhi process has several stages that must be passed to create peace for both parties, although case by case may be different, in general, the stages of settlement of these cases include the following stages:

- a) The first stage is the cooling down stage or cooling down of the parties after the occurrence of a criminal act; this stage is the initial stage where each party will deliberate in advance in their respective families that this case will be brought up and will be resolved reasonably and amicably, who is then appointed by a person who is considered respected and elder to represent the family who will settle it;
- b) The next stage is the arrival of a messenger or representative from the perpetrator to the victim. The most common thing is that the person who feels guilty will come first to meet the victim, although it does not rule out the other way around to resolve this case through the mediation of Angkon Muakhi customary law;
- c) Determining the time and place to meet again, the victims and the perpetrators meet to discuss the mediation process and settlement of cases through Angkon Muakhi (regarding the number of times the

meeting has been held, it cannot be determined how many times, it can happen quickly, but sometimes meetings are held several times until then found the results of the agreement);

- d) Make a peace agreement that has been agreed upon between the two parties and a technical settlement in the form of material and immaterial compensation experienced by the victim (usually discussed only between the two families);
- e) Implementation of the traditional Angkon Muakhi event, which involves nurses and traditional leaders, by carrying out several traditional processions (there is an Angkon Muakhi procession with vows and promises, and there is also Angkon Muakhi, which does not use an oath or promise but only announces it to the public a lot).

In settling criminal cases through Angkon Muakhi, the perpetrators of the crime usually bear all costs incurred to carry out the settlement. The results that have been mutually agreed upon in the Angkon Muakhi settlement are then announced in front of the general public of the Indigenous people if the offender has been appointed as a relative by the victim, and the perpetrator's responsibility to the victim's family does not end at peace but continues forever.

D. CONCLUSION

Settlement of criminal cases through the integration of customary law values of Angkon Muakhi in Lampung province is carried out through the following stages: First, when a crime has just occurred, and there is no Complaint or report stage to the police, the settlement process can be immediately carried out with the appointed traditional leader by both parties so that the criminal case can be resolved through Angkon Muakhi; Second, when a crime is at the Complaint stage or a police report, a settlement process can be immediately carried out with traditional leaders appointed by both parties so that the criminal case can be resolved through Angkon Muakhi; Third, at the stage of investigation or at the stage of prosecution; Fourth, at the stage after the court decision, a settlement process can still be carried out with traditional leaders appointed by both parties so that the criminal case can be resolved through Angkon Muakhi, where the court decision can be in the form of a stipulation or a court decision in the form of an Angkon Muakhi decision.

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