

*Research Article***Strengthening *Rembugan* as A Mediation Model in The Resolution of River Water Pollution Disputes (A case study in Purbalingga, Central Java, Indonesia).**

Nita Triana^{1*}, Naqiyah Mukhtar², Farah Nuril Izza³, Ade Tuti Turistiati⁴

^{1,2}Faculty of Sharia, UIN Prof. KH. Saifuddin Zuhri Purwokerto, Indonesia

³Faculty of Humanities, Tilburg University, Netherlands

⁴Faculty of Business and Social Sciences, Universitas Amikom Purwokerto, Indonesia

*triananita@uinsaizu.ac.id

ABSTRACT

Purbalingga as an industrial area is prone to pollution that has a detrimental impact on society and the environment. It is necessary to find a way that can bring together the parties involved to peacefully resolve environmental disputes. The purpose of this study is to strengthen *rembugan* as a mediation model for resolving pollution disputes in the old industrial area. This research is qualitative research with a socio-legal approach, by conceptualizing law as non-doctrinal. The results showed that *rembugan* is a community culture in dispute resolution that reflects the values of local wisdom possessed by the Purbalingga community, namely the attitude of the parties to accept and use consensus methods in dispute resolution. The purpose of *rembugan* is to achieve harmony and togetherness. The mediator is the Environment Agency (DLH) and Village Head (Kepala Desa). Strengthening *rembugan* position in the dispute resolution model is supported by Purbalingga community culture, whose characters are honest, free, open, egalitarian, and accepting of consensus. Strengthening *rembugan* as a mediation model is also supported by government institutions such as village heads and Environment Agency, and is formally regulated in Law No. 32 of 2009 concerning environmental protection and management.

Keywords: Rembugan; Mediation; Dispute resolution; Pollution; Local Wisdom.

A. INTRODUCTION

Development in the industrial sector is very beneficial for people's life because it contributes to economic growth and opens up job opportunities and provides business opportunities. On the other hand, industrial activities that are not performed properly can cause harm to the environment and people. These activities adversely affect people living around the industrial site.

Purbalingga Regency, one of the industrial cities in Central Java, is currently considered a global industrial city. The biggest industrial product in Purbalingga is Artificial Hair crafts in the form of Wigs and Artificial Eyelashes. As an industrial city, Purbalingga district has attracted many foreign investors, especially Korean investors to open factories in this city to create jobs for both local residents and citizens coming from surrounding cities, but

on the other hand as an industrial city, it cannot be separated from pollution problems.

Pollution according to Environmental Protection and Management Laws UUPPLH Number 32 of 2009 is the entry or inclusion of living things, substances, energy, and/or other components into the environment by human activities so that they exceed the established environmental quality standards. One part of pollution is water pollution. This pollution has caused a decrease in the utilization value of water, both in groundwater, rivers, and seawater. Water pollution has caused many disputes between the community and the companies (industry) causing pollution. Disputes occur not only because of conflict of interests between the company and the community, but also because of disagreement between the community and the company in determining the value of the pollution compensation given to the community and the environment.

If conflict of interests and non-compliance of compensation between the company and the community is not resolved properly, this will often lead to public demonstration against the company. Meanwhile, the process of settlement of disputes on pollution in the District Court has discouraged people to choose this way. There are some reasons people avoid settling disputes in The District Court. The main reason is because it takes quite long time for the district Court to settle the case. The dispute settlement in the District Court also requires a fairly

expensive cost and the result is a win and lose (Margono, 2000). In addition to the weakness in litigation settlement, the most important thing related to the industry is that people do not want factories to be closed because it will reduce employment opportunities.

Based on those issues, dispute resolution performed out of court through a mediation model that follows local culture or local wisdom is an alternative for resolving environmental disputes (Fitri, 2019). Local wisdom is one of so many aspects that must be considered in environmental protection and management activities, as regulated in the Environmental Protection and Management Laws UUPPLH Number. 32 of 2009. In the planning, utilization, supervision, and law enforcement stages of dispute resolution related to environmental protection and management, it is necessary to pay attention to several things including: (1). diversity of characters and ecological functions, (2). Population distribution, (3). Distribution of natural resource potential, (4) local wisdom, (5). Community aspirations, and (6). Climate change.

A previous research is related with the theme of non-litigation conflict resolution such as that of (Hafid, & Raodah, 2018) entitled The Application of Mosehe In Solving Conflict By Tolaki People and Newcomers in Konawe Regency South East Sulawesi Province, as well as a research conducted by (Iriani, 2017) which discussed Sigaruang Telli Ceremony As one of

the Conflict-Solving Mechanism in Luwu, and also a research conducted by (Rado, Arief, & Soponyono, 2016) on Penal Mediation Policy on Sara's Conflict Resolution in Kei Islands in Efforts to Renew the National Criminal Law. This study has a similar theme to this study, namely discussing non-litigation dispute resolution based on the culture of Sumatra, Sulawesi, and Maluku.

(Hudayana, Suharko, & Widyanta, 2020) also researched the settlement of environmental disputes outside the courts. The research was conducted on the people of Central Sulawesi. In this research, community violence was described as a model for the community to negotiate with polluters. This is different from the research conducted in Purbalingga, where *rembugan* /discussion becomes a method used in dispute resolution. Research related to the settlement of pollution compensation was carried out by Zahar (Zahar, 2018). This article argues that, in the name of justice and good governance, China's legislature should begin to facilitate the development of the environmental verifier industry in the non-governmental sector. Concerning environmental verifiers, Purbalingga still involves government institutions such as DLH as mediators that also act as environmental verifiers when pollution occurs.

This research complements previous research. The novelty, and uniqueness, of this research is in analyzing the strengthening of Rembugan as a mediation model in the

implementation of alternative water pollution dispute resolutions in Purbalingga Regency. Strengthening Rembugan as local wisdom has long been used by Purbalingga community and can continue to be developed as a dispute resolution model that is accepted by the community. Based on this, it is very interesting to discuss how this *rembugan* becomes strong as a mediation model for resolving river pollution disputes in Purbalingga community, in terms of community culture, government institutions, and legal regulations.

B. RESEARCH METHODS

This research is non-doctrinal research, with a qualitative descriptive analysis, which describes the values and non-legal forces in the process of working the law (Irianto, 2009). Legal approach is used to conduct a textual study of regulations and legislation related to discussions as a mediation model in dispute resolution, while the social science approach is in the realm of its methodology, namely to uncover external aspects outside the law, which are the key factors for the success of the law. In this study, the researcher analyzed the process of resolving water pollution disputes through *Rembugan* and how to strengthen this *rembugan* as a mediation model in resolving pollution disputes. This analysis will cover the culture of the Purbalingga community, the support from government institutions, and the laws and regulations that formally support it.

C. RESULTS AND DISCUSSION

1. *Rembugan* as a Mediation Model in the Resolution of Water Pollution Disputes in Purbalingga.

Purbalingga is a district in Central Java Province. The population of Purbalingga in 2021 is 1,021,443 people. This regency is bordered by Pemalang Regency in the north, Banjarnegara Regency in the east and south, and Banyumas Regency in the west and south. The biggest industrial product from Purbalingga is artificial hair crafts in the form of Wigs and artificial or False Eyelashes. The advantage of this artificial hair (wig) and artificial eyelash product from Purbalingga is that it is made purely by hand (handmade). So the results will be neater and not the same to one another.

The production of wigs and false eyelashes uses chemicals such as ammonia (NH₄OH) as a washing agent and chromium (Cr(VI)) as a dye. The waste comes from the process of washing raw materials for natural and synthetic hair. The content of wastewater can be in the form of dirt attached to the hair, adhesives, washing agents, and dyes. Most hair and eyelash industries do not yet have adequate wastewater treatment plants (WWTP/IPAL).

The disposal of industrial waste into the environment has resulted in complaints from

residents about the emergence of a pungent smell from gas that comes out through factory chimneys and liquid waste that comes out of rivers around the factory, such as in Manyaran Village, Kalimanah District, Purbalingga Regency. There are also some farm workers working in the fields behind the factory complaining that the plant growth is stunted because the river water used for irrigation has been polluted and some workers have experienced itching or skin irritation. So far, there is no specific data from the local health office or health center regarding health complaints due to waste pollution. The impact of industrial waste pollution from 2017 to 2021 is the occurrence of dead fish such as tilapia and carp in residents' ponds (Supriyanto, 2022).

The dynamics of river water pollution and its dispute resolution have become a social phenomenon in the industrial city of Purbalingga. The people, on the one hand, realize the importance of the existence of factories in absorbing labor and also the increase in their regional income (PAD) which will have an impact on the development of their city. On the other hand, the affected people also want to receive justice for their rights to a good and healthy environment. The response to this win-win solution option then fosters alternative dispute resolution (out of court).

This alternative environmental dispute resolution, according to the UUPLH of the Environmental Protection and Management Law

Number 32 of 2009, is called the settlement of environmental disputes out of court. Based on Article 85 of the UUPPLH, the settlement of environmental disputes outside the court is held to reach an agreement in the form and amount of compensation and/or certain actions to ensure that there will be no occurrence or recurrence of negative impacts on the environment. In the settlement of environmental disputes out of court, one of them can be used as a mediation model, namely by using the services of a mediator to help resolve environmental disputes.

Mediation is a negotiation involving a third party who has expertise in conducting effective mediation procedures and can help in conflict situations to coordinate their activities so that they can be more effective in the bargaining process (Iacobucci, 2012). Mediation can also be interpreted as an effort to resolve the dispute between the parties by mutual agreement through a neutral mediator, and does not make decisions or conclusions for the parties but supports the facilitator for the implementation of dialogue between the parties with an atmosphere of openness, honesty, and exchange of opinions to reach consensus (Rahmadi, 2011).

Based on this definition, mediation is a negotiation between the disputing parties assisted by one or more neutral mediators to reach a consensus in dispute resolution, which is mutually beneficial to both parties. The consensus or consensus approach in the

mediation process implies that everything produced in the mediation process must be the result of an agreement between the parties. Mediation can be done for a dispute involving two or more parties (multi parties)(Crump, & Glendon, 2020).

A peace deed can be reached or produced with this mediation model if all parties involved in the dispute can accept the settlement. However, there are times when due to various factors, the parties are unable to settle so mediation ends in a deadlock (stalemate). This situation is what distinguishes mediation from litigation. Litigation must end with a legal settlement, in the form of a judge's decision, although a legal settlement does not necessarily end a dispute because tensions between the parties are still ongoing and the losing party is always dissatisfied (Triana, & Purwinto, 2018).

The essential paradigm concerning efforts to build a dispute resolution system based on a consensus approach such as mediation is the reason the person or parties to the dispute wish to resolve the dispute through consensus, namely: a. The first theoretical view refers to culture as the dominant factor. Based on this view, the ways of consensus resolution such as negotiation and mediation can be accepted and used by the community because the approach is following the perspective of people's lives. People or communities who inherit cultural traditions that emphasize the importance of harmony and togetherness in life will be more

able to accept and use consensus methods in dispute resolution (Rahmadi, 2011); b. The second theoretical view sees the power possessed by the disputing parties as the dominant factor. According to this view, people are willing to do mediation due to the relatively balanced power of the parties. People are willing to negotiate not because they feel sorry for the other party or because they are bound by cultural or spiritual values, but because they need the cooperation of the other party so that they can achieve their goals or realize their interests.

In the settlement of environmental disputes in several villages in Purbalingga Regency, efforts have been made to resolve environmental disputes through mediation. In this regard, the people of Purbalingga have a sense of law in assessing environmental disputes that need to be resolved amicably, accepted, and used by the community because the approach is following the egalitarian perspective of the community life. People or communities who inherit cultural traditions that emphasize the importance of harmony and togetherness in life

The interesting thing about the local wisdom of Purbalingga that can distinguish it from other local wisdom is the tradition of *rembugan*. This tradition can run because the people of Purbalingga have local wisdom in the form of egalitarian nature, not compartmentalizing based on social strata and

making it a communal society. *Rembugan* has the meaning of deciding something based on an agreement known as deliberation to reach a consensus. Deliberation of every plan will be responded to based on the simple logic of the community which views harmony, togetherness, and equality.

The local wisdom of the Purbalingga community aforementioned will not materialize as a model of dispute resolution in the environmental field if there is no place or forum able to empower local wisdom in resolving environmental disputes. The existence of mediation, which is starting to be recognized as an alternative to environmental dispute resolution in national legislation, can be a reinforcement of the empowerment of local wisdom that has long existed. In principle, the settlement of environmental disputes can be carried out outside the court. Dispute resolutions carried out outside the judiciary mean that the environmental dispute has not been reported or reported to the police so here, there is no police intervention and all control rests within the parties.

An egalitarian culture that places Purbalingga community in a balanced and harmonious social status will facilitate dispute resolution in this discussion model, according to Moore (Rahmadi, 2011), if the parties both have symmetrical and balanced strengths, they tend to take negotiations and negotiations can run more effectively. This will be different if the

parties have unequal or asymmetric power, negotiations can also take place, but the strong party may manipulate and exploit the weak party. A well-functioning third party is needed, namely a reliable mediator who can bring together both parties in the same position, so that negotiations can run in a balanced manner.

A neutral mediator implies that the mediator is impartial, has no interest in the ongoing dispute, and neither benefits nor is harmed if the dispute can be resolved or if mediation reaches a dead end. Procedural assistance of mediators includes, among others, the tasks of leading, guiding, and designing a meeting or negotiating sessions, while substantial assistance is in the form of providing suggestions to disputing parties regarding the settlement of the main dispute.

The role of the mediator can be active or passive in helping the parties. An active role must be taken when the disputing parties are unable to carry out constructive negotiations. On the other hand, the mediator plays a passive role if the parties themselves can carry out constructive negotiations in the sense that the parties themselves can propose possible solutions to the problem and discuss the proposed solution to the problem to end the dispute. Thus, the level of the mediator's role in helping the parties resolve their differences is highly situational, that is, it depends on the ability of the parties to carry out negotiations.

2. The Mechanism of *Rembugan* in the Resolution of Water Pollution Disputes in Purbalingga.

The use of Mediator as a neutral third party service in the settlement of environmental disputes is to the extent desired by the parties and depends on the needs of each case. But now, the need for a third party has become very important along with the high public acceptance of mediation. This is reasonable, considering that mediation has culturally comparative advantages when compared to dispute resolution by arbitration and litigation (Galanter, 1981). Even not only in Indonesia, but in the Netherlands mediation has been officially carried out by the Dutch Ombudsman Institution, Podemos (a non-profit institution that functions as a supervisor of Government policies and provides training and education on democracy), the Dutch Ministry of Home Affairs which implements procedural justice (a form of settlement on public satisfaction with government services and policies), and the Office of the Local Government of the Netherlands Municipality of Amsterdam to learn about handling demonstrations. Mediation has officially been used by the government.

Dispute resolution out of court or mediation is not a new thing for the Indonesian people. This model of dispute resolution is known as *musyawarah* or deliberation. Deliberation has been implemented for ages in Indonesia. The traces can be seen from several

ethnic groups, such as Aceh, North Sumatra, Minangkabau, Kalimantan, Sulawesi, Jawa and Yokari. *Musyawah* is the wisest way to solve problems and make decisions for the common good.

The Indonesian people believe that *musyawarah* and consensus are part of their ancestral heritage that has been preserved for a long time. Deliberation is Indonesia's advantage in carrying out a democratic life compared to other countries. Deliberation is considered the original tradition of Indonesian society. In terms of language, it is defined as a joint discussion to decide on solving a problem. That means deliberations are collective bargaining to resolve problems in a dialogical manner. The key to achieving consensus in *musyawarah* is good communication, mutual respect, and the desire to resolve a problem. Deliberation is contained in the fourth principle of Pancasila which reads, "People led by wisdom in deliberation and representation."

In Indonesia, the settlement of environmental disputes out of court is the choice of the parties and is voluntary. The parties are also free to determine the service provider institution that assists in the resolution of environmental disputes. Service provider institutions provide environmental dispute resolution services using the assistance of mediators or other third parties. If the parties have chosen an out-of-court settlement of environmental disputes, a lawsuit through the

courts can only be taken if such efforts are declared unsuccessful in writing by one of the disputing parties or if one of the disputing parties withdraw from the negotiations.

Formally, environmental disputes out of court use the mechanism of Alternative Dispute Resolution as regulated in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. The dispute resolution mechanism is carried out with the following steps: a. Disputes or civil differences of opinion can be resolved by the parties through alternative dispute resolutions based on good faith to the exclusion of litigation in the District Court; b. Settlement of disputes or differences of opinion through alternative dispute resolution as referred to above shall be resolved in a direct meeting by the parties within a maximum period of 14 (fourteen) days and the results shall be stated in a written agreement; c. If the dispute or difference of opinion as referred to above cannot be resolved, then upon the written agreement of the parties, the dispute or difference of opinion is resolved through the assistance of one or more expert advisors or a mediator; d. If the parties within a maximum period of 14 (fourteen) days with the assistance of one or more expert advisors or through a mediator fail to reach an agreement, or the mediator fails to bring the two parties together, then the parties may contact an arbitration institution or other institutions, an alternative dispute resolution to appoint a mediator; e. After the appointment of a mediator

by the arbitration institution or alternative dispute resolution institution, within a maximum of 7 (seven) days the mediation business must be able to start; f. Efforts to resolve disputes or differences of opinion through a mediator by upholding confidentiality, within a maximum period of 30 (thirty) days, an agreement must be reached in writing and signed by all parties concerned; g. The agreement to settle disputes or differences of opinion in writing is final and binding the parties to implement with good faith, and the agreement must be registered at the District Court within 30 (thirty) days of the signing; h. The agreement to settle disputes or differences of opinion must be completed within 30 (thirty) days of registration; i. If the peace effort cannot be achieved, the parties based on a written agreement can submit a settlement effort through an arbitration institution or ad-hoc arbitration.

Furthermore, formally in Law Number. 32 of 2009 concerning the protection and management of the environment, it is regulated that in carrying out dispute resolution, the principles of settlement of environmental disputes must be followed, namely: a. The parties are voluntarily willing to resolve the dispute amicably; b. The third party who acts as a facilitator/mediator is agreed upon by the parties and must be neutral; c. Neither side held on to its position; d. The parties do not have excessive suspicion; e. Requirements or forms of demand must be rational.

Based on the results of research in Purbalingga, Strengthening *rembugan* as a mediation model for resolving river pollution disputes is strongly supported by the culture of the Purbalingga people, who have character of honesty, courage, openness, egalitarian, and consensus nature. This character greatly facilitates the dispute resolution mechanism that must be carried out by the parties.

The water pollution dispute mechanism between the two companies (PT) of wigs and false eyelashes is carried out in deliberation through three stages, namely the complaint stage, the conflict stage, and the complaint stage. Meanwhile, in the dispute stage, the practice of mediation carried out outside the court is as follows: 1). The community submits complaints through internal deliberation (meetings) from the victims of pollution to the head of the RT, the head of the RW, and the head of the village/village head; 2). Appoint a person or persons from the victim's side to represent the victims to complain about the problem with the polluter, accompanied by the RT (Neighborhood Association), RW (Citizens Association) and Lurah (Village head) to the company/polluter. At this stage, there has been a conflict of interest between the community as a victim of pollution and the company as a polluter; 3). When the complaint to the Polluter is not responded to, then the conflict has turned into a dispute. The Polluter victim comes to the Environmental Agency to complain about the

pollution that has been produced by the Polluting Company. In this dispute stage, the people of Purbalingga continue to encourage and open themselves to holding meetings or discussions with the Company; 4). The Environment Agency then positioned itself as a mediator to bring together the company and the community by calling the disputing parties to the Environment Agency. In the role of Mediator, the Environment Agency has the task of (a). introducing oneself to the parties, (b). Formulating problems and developing an agenda, (c). Revealing hidden interests, (d). Generating dispute resolution options, (e). Analyzing dispute resolution options. (f). Final bargaining process, (g). Reaching a formal agreement; 5). The Environmental Agency (DLH) requires the community who is victims of pollution to submit complaints on allegations of environmental pollution and/or destruction, either orally or in writing, by stating the name, address, location of the incident, alleged source or cause of pollution, type of activity, name of the activity and or business of the community as a victim of pollution and the company, the time and description of the pollution incident, the time when the pollution and or environmental damage was discovered, a description of the incident, the impact felt due to the pollution and or environmental destruction, the dispute resolution desired by the community/pollution victim; 6). At this stage, the case is resolved by involving a person or several mediators as a neutral third

party. The Environment Agency as a mediator evaluates the water pollution disputes that occur. The assessment relates to the type of pollution at the pollution site. This is done to ascertain the source of water pollution. This assessment is important considering that the sources of water pollution are generally caused by human activities. The size of the pollution will depend on the amount and quality of waste discharged into the river, both solid and liquid waste. Based on the type of activity, the sources of water pollution are divided into: (a). Industrial processing, which is the outpouring of liquid waste that enters the water sourced from the disposal of production residues, agricultural land, livestock, and domestic activities. (b). Domestic sources/household waste, which is waste that comes not from industry but from households, offices, hotels, restaurants, places of worship, entertainment venues, markets, shops, and hospitals; 7). In determining this type of pollution, the Environmental Agency also comes directly to the factory site to inspect the WWTP /IPAL (Wastewater Treatment Plant), to check whether the company has a WWTP that meets the standards, whether the environmental safety equipment at the factory site is running properly, and to ascertain whether The WWTP is used to the maximum by the employees; 8). Based on the results of an assessment of the type of pollution, the Environmental Agency then uses these findings as a material for consideration in discussions between the company and the

community. If an agreement is not reached, but the parties still want to be resolved amicably, then the consultation process is carried out again by involving more mediators, such as village heads, religious leaders, community leaders, or from other government agencies; 9). If an agreement is reached between the parties, then the results of the agreement are stated in the form of a mutual agreement or peace agreement. In general, the results of the agreement are in the form of (a) Polluters admit all their actions and realize their mistakes; (b) The polluter has apologized to the community/victim; (c) The polluter will not repeat the act; (d) The polluter is willing and able to compensate the victim; (e) The community/victim has forgiven the perpetrator; (f) The community/victim will not take legal action, namely reporting or complaining about criminal acts committed by polluters; (g) Polluters will not take legal action in any form (criminal/ or civil); (h) If in the future the polluter denies this agreement, the victim community will file a civil lawsuit by litigation. (i). Next, a Minutes is made containing the following: 1. The company is willing to treat wastewater according to applicable regulations before dumping the waste into the waters; 2. There is commitment between the company and residents related to the procedures for treating wastewater so as not to pollute the environment; 3. The company must be willing to provide compensation if the waste produced by the company is proved to be

detrimental to the affected community; 4. The company is obliged to provide fish ponds to test the liquid waste that is released before entering the free waters; 5. The company must be open to the public regarding the liquid waste management system and indicate the place or point of discharge of the water from the liquid waste management; 6. The company shall attach laboratory tests for the last 3 months.

10). After the agreement letter is approved by both parties, then a CSR (Corporate Social Responsibility) Acceptance Statement is made, which contains a statement of willingness to pay the agreed amount, a statement that the system has been repaired for liquid waste disposal in the company, and testing has been carried out in the company. Samples of liquid waste are taken every month by a certified third party, and the sampling and testing process has to comply with environmental quality standards. This CSR statement also states that if in the future there are dead fish in people's ponds, the company is not fully responsible, because there are many factors that cause pollution of irrigation water and residents' pond water, not only from one company concerned. It could also be from other companies or pesticides used in agriculture.

Based on the specific needs in the case of pollution, the mechanism for *rembugan* in the case of pollution in Purbalingga has several unique characteristics, namely the first involvement of the Environmental Agency (DLH) as a mediator in the pollution case. The

involvement of the Department of the Environment is necessary as a way out of the obstacles that have been found so far, especially to bridge the differences that occur related to pollution. Differences about the causes of the pollution often occur because pollution is strongly influenced by natural factors, such as rainwater. Rainwater can cause an increase in water discharge. The increase in discharge neutralizes pollutant substances, at least reducing the level of intensity so that the result is that the river is not polluted anymore but only contaminated and is still within tolerable limits. Things like this are the cause of differences in views between the company as a polluter and the views of the community/victims of pollution so that the value of compensation claims from the community and the value of the company's ability to pay compensation are not compatible in terms of the nominal and the form of compensation (Covucci, 2019).

The Environment Agency also bridges the link with compensation because the many regulations, the criteria, and the procedures for calculating compensation in a comprehensive and aspirational manner are not clear to avoid disagreements/differences in the views of the parties. For this reason, scientific and technological studies and the opinion of experts are needed to convince the parties in conflict about the actual situation, so that the parties can understand and not hold on to their position. Therefore, there is no suspicion, and there are

rational demands for deliberation to reach an agreement (Orr, Emerson, & Keyes, 2008).

Furthermore, the unique characteristic of mediation outside the judiciary in Purbalingga community is that mediation is a form of voluntary mediation. There is a tendency that voluntary mediation is the first and foremost choice for the people of Purbalingga, rather than the use of mandatory mediation which is mandated by law when a case has entered the court. Concerning voluntary mediation, in many countries, initially, the use of mediation as a dispute resolution was based on the voluntary choice of the parties, but in its later development in several countries, the use of mediation has become mandatory based on the dictates of the law (Benda-Beckmann, 2004).

Likewise in Indonesia, the development of mediation was initially voluntary, as was the case with village communities when resolving conflicts or disputes, but in its development, especially since the Supreme Court enacted Perma No. 2 of 2003 which was replaced by Perma No. 1 of 2008 concerning Mediation Procedures in Courts (currently replaced by Perma No.1 of 2016), the use of mediation by the parties is mandatory with all the legal consequences. So in Indonesia, mediation is mandatory only for cases that have been submitted to the court (Rahmadi, 2011). Second, the community, especially the parties, still empowers the use of "Social Network Mediators (Social Relations Mediators/Non-Professional

Mediators who have a mediator certificate)" (Tamanaha, 2004) namely the community elects Village Heads, Hamlet Heads, RW Heads, RT Chairs, religious leaders, Department of the Environment as the mediator. This shows that the same social and cultural environment between the parties and the mediator has created a belief system, which is considered to be able to better understand the justice desired by the parties. At the same time, in this case, the Village Head acts like a village peace judge.

According to (Sudrajat, 2010), traditionally in the relationship between law and society, a village head, as well as a traditional and religious leader, has a role as a mediator called a village peace judge. In the early development in the use of mediation, the mediator was not a profession or a job. In the context of traditional communities or indigenous peoples, the mediator is played by the village, tribal chiefs, customary functionaries, or religious leaders. This type of mediator does not collect payments or fees from the parties in carrying out the function as a mediator, but the function is carried out more as a social duty and responsibility following his role as a leader in the community. This type of mediator is what Moore calls a social network mediator. Another characteristic of the mediator of social relations is that the mediator and the disputing parties live in the same social and cultural environment (MacKinnon, Valente, & Gonzalez, 2020). The involvement of the Environmental Agency as a

mediator or supervisor in voluntary mediation is a manifestation of the function of community empowerment and the implementation of the task of protecting and protecting the community from the Environmental Service.

The importance of the voluntary nature of this discussion or mediation was responded to positively by the government as expressed by Brigg Morgan & Roland Bleiker (2011) in the perspective of conflict resolution, as follows: ".....need approaches through engagement with local processes and sources of insight. Why have local traditions been neglected?" The relative neglect of content or local approaches in dispute resolution represents a loss to local indigenous ways of approaching and processing conflict, which ultimately eliminates value and fairness from the conflict resolution process.

The need to accommodate the values of local wisdom in the legal substance of Environmental Dispute Resolution by the Regional Government (Kaufman, 2002) is because pollution cases also occur in the region (generally the industry is in an area) all of which have cultural, ethical, and social aspects as well as morals, which is an order as a local value and a sense of justice. The government's policy in adopting local wisdom values that regulate disputes outside the court is very necessary to elevate regional substance as local wisdom values to realize harmonious, dynamic, and just industrial relations to achieve peace between the disputing parties. Thus, the Regional

Government needs to identify culture, ethics, and morals as regional values that regulate peace as a habit that lives in the area.

In line with this, (Garna , 2008) once said that the habit of discussion or mediation is a moral value that can survive and has a meaning of goodness which continues to be believed to be an inner property embedded in people's lives. Explanations of habits are one of the sources that provide developments in law, starting from Folkways (habits). Mores (Moral). Customs (Customs), Norms (Norma), to all of which form law.

The principle of peace can be pursued by accommodating regional values (local values) which are reflected through the values of wisdom by prioritizing ways to resolve disputes by consensus in deliberation or mediation (Lev, 1988). The formulation of the formula from exploring these regional values becomes the identification of an effort to form a consensus policy that is taken as an alternative formulation of substantial and procedural regulations in the process of resolving environmental disputes that have a harmonious, dynamic, and fair goal.

Tamanaha (2004) in his theory The Mirror thesis explains that the rule of law has several explanations as alternative formulas related to justice against substantive and procedural (formal) criteria -things related to the rights and freedoms, honor, and dignity of citizens. The government must consider ways and efforts to accommodate local wisdom values which lead to

the improvement of positive law by the authorities in a material (substantial) fair manner.

D. CONCLUSION

Rembugan is a mediation model chosen by the Purbalingga community to resolve water pollution disputes. Strengthening rembugan as a mediation model for dispute resolution is supported by the culture of the Purbalingga community, characterized by local wisdom values, namely, the attitude of the parties to accept the deliberation method in dispute resolution, the community's balanced views in assessing power between the disputing parties, egalitarian character, openness/frankness and courage, so that harmony and togetherness will be obtained in life. Rembugan also becomes stronger as a mediation model due to the support of government institutions, such as village heads and Environment Agency or DLH. Strengthening *rembugan* is also formally contained in UUPPLH No. 32 of 2009 concerning environmental protection and management and is in line with Brian Z Tamanaha's statement saying that positive law is more acceptable to society when the law is a reflection of the society.

The mediator in solving environmental water pollution is the Environmental Agency and the Village Head. This mediator is not certified as a mediator and is not paid. The involvement of the Environmental Agency is necessary to bridge the differences in views between the

company as a polluter and the community as victims of pollution. In the case of pollution, it is necessary to provide scientific and technological studies as well as expert opinions in order to convince the parties involved about the actual situation, then the Environment Agency and the village head also bridge the link with compensation in the form of a comprehensive and aspirational calculation of compensation to avoid cross opinions/differences in the views of both of the parties. Thus, the parties can understand and do not hold on to their position, and so that there is no suspicion, and as a result, rational demands for deliberation can reach an agreement.

REFERENCES

JOURNAL

- Covucci, D. (2019). The Polluter Pays Principle: Environmental Liabilities and Scientific Evidence under the Italian Law System. *Acque Sotterranee - Italian Journal of Groundwater*, Vol.8,(No.4),pp.69–72. <https://doi.org/10.7343/as-2019-427>.
- Crump, Larry., & Glendon, A Ian. (2020). Towards a Paradigm of Multiparty Negotiation. *International Negotiation*, Vol.8,(No.2),pp.197–234. <https://doi.org/10.1163/157180603322576112>.
- Fitri, Dini A. (2019). Pancasila As A Legal Science Paradigm. *International Journal of Law Reconstruction*, Vol.3, (No.2, September), pp.23-132.<http://dx.doi.org/10.26532/ijlr.v3i2.8055>
- Galanter, M. (1981). Justice in many Rooms: Courts, Private Ordering, and Indigenous Law. *The Journal of Legal Pluralism and Unofficial Law*, Vol.13, (No.19), pp.1-47. <https://doi.org/10.1080/07329113.1981.10756257>
- Hafid, Abdul., & Raodah. (2018). Penerapan Mosehe Dalam Penyelesaian Konflik Oleh Masyarakat Tolaki dan Masyarakat Pendatang di Kabupaten Konawe Provinsi Sulawesi Tenggara. *Walasuji*, Vol.9, (No.1),pp.37–52. <https://doi.org/10.36869/wjsb.v9i1.20>
- Hudayana, Bambang., Suharko., & Widyanta, AB. (2020). Communal Violence as a Strategy for Negotiation: Community Responses to Nickel Mining Industry in Central Sulawesi, Indonesia. *Extractive Industries and Society*, Vol.7,(No.4),pp.1547–56. <https://doi.org/10.1016/j.exis.2020.08.012>.
- Kaufman, S. (2009). Mediation in Environmental Disputes. *Journal of Conflict Resolution*, Vol. II Published by: Sage Publications, Inc.
- Iacobucci, D. (2012). Mediation Analysis and Categorical Variables: The Final Frontier. *Journal of Consumer Psychology*, Vol.22,(No.4),pp.582–594. <https://doi.org/10.1016/j.jcps.2012.03.006>.
- MacKinnon, David P., Valente, Matthew J., & Gonzalez, Oscar. (2020). The Correspondence Between Causal and

- Traditional Mediation Analysis: The Link Is the Mediator by Treatment Interaction. *Prevention Science*, Vol.21,(No.2),pp.147–57. <https://doi.org/10.1007/s11121-019-01076-4>.
- Orr, Patricia., Emerson, Kirk., & Keyes,Dale. (2008). Environmental Conflict Resolution Practice and Performance: An Evaluation Framework. *Conflict Resolution Quarterly* 25(April),pp.283–301. <https://doi.org/10.1002/crq.209>.
- Rado, Rudini Hasyim., Arief, Barda Nawawi., & Soponyono,Eko. (2016). Kebijakan Mediasi Penal Terhadap Penyelesaian Konflik Sara di Kepulauan Kei Dalam Upaya Pembaharuan Hukum Pidana Nasional. *Law Reform*, Vol.12, (No.2), pp.266-276. DOI: 10.14710/lr.v12i2.15879
- Sudrajat, T. (2010). Aspirasi Reformasi Hukum Dan Penegakan Hukum Progresif Melalui Media Hakim Perdamaian Desa. *Jurnal Dinamika Hukum*, Vol.10, (No.3), pp.291–300. <https://doi.org/10.20884/1.jdh.2010.10.3.99>.
- Triana, Nita., & Purwinto, Deddy. (2018). Justice in Many Rooms in Sharia Banking Dispute Resolution To Achieve Justice. *Diponegoro Law Review*, Vol.3, (No.1), p.43. <https://doi.org/10.14710/dilrev.3.1.2018.43-64>.
- Zahar, A. (2018). Implementation of the Polluter Pays Principle in China. *Review of European, Comparative and International Environmental Law*, Vol.27, (No.3), pp.293–305. <https://doi.org/10.1111/reel.12242>.
- BOOK**
- Benda-Beckmann, Keebet von. (2004). *Pluralisme Hukum Sebuah Sketsa Geneologis dan Perdebatan Teoritis*. In *Pluralisme Hukum Sebuah Pendekatan Interdisiplin*(pp.1-33).Jakarta: Perkumpulan untuk Pembaharuan Hukum berbasis Masyarakat dan Ekologis (HuMa)
- Brigg, Morgan., & Bleiker, Roland. (2011). *Mediating Across Difference: Oceanic and Asian Approaching to Conflict Resolution*. Honolulu: Hawaii Press.
- Irianto, S. (2009). Memperkenalkan Studi Sosiolegal dan Implikasi Metodologisnya. In Shidarta. & Irianto, S (Eds), *Metode Penelitian Hukum, Konstelasi dan Refleksi* (p.177). Jakarta: Yayasan Obor Indonesia.pp. 32
- Tamanaha, Brian Z. (2004). *On The Rule of Law – History, Politic, and Theory*. New York: Cambridge University Press.
- Lev, Daniel S. (1988). *Lembaga Peradilan dan Budaya Hukum Di Indonesia*, In *Law and Social Development of the Nuku Legal Sociology Text Book* Peters- Koesriani Siswosoebroto. Jakarta: Pustaka Sinar Harapan

Garna, Judistira K. (2008). *Budaya Sunda : Melintasi Waktu Menantang Masa Depan*. Bandung : Lembaga Penelitian, Universitas Padjadjaran (Unpad).

Margono, Suyud, (2000). *Alternative Dispute Resolution dan Arbirtase: Proses Pelembagaan dan Aspek Hukum*. Jakarta: Ghalia Indonesia.

Rahmadi, T. (2011). *Mediasi Penyelesaian Sengketa Melalui Pendekatan Mufakat*. Jakarta: Rajawali Pers

ONLINE SOUCE

Iriani. (2017). *Upacara Sigaruang Telli sebagai salah satu mekanisme penyelesaian konflik di Kabupaten Luwu*. Retrieved from <https://kebudayaan.kemdikbud.go.id/bpnbs/ulsel/upacara-sigaruang-telli-sebagai-salah-satu-mekanisme-penyelesain-konflik-di-kabupaten-luwu/>

LAW

Undang-Undang Nomor 32 Tahun 2009 Tentang Perlindungan dan Pengelolaan Lingkungan Hidup.

Undang Undang Nomor 30 Tahun 1999 tentang Arbitrase dan Alternatif Penyelesaian Sengketa

INTERVIEW

Supriyanto, A. (2022). Empowerment Section of Karang Manyar Village.