The Synergy Between Restorative Justice Theory, Huyula and Pohala’a Values in Overcoming Juvenile Delinquency Cases in Gorontalo

Rizal Darwis

Abstract: This research discussed the synergy between local wisdom values in term of law enforcement toward juvenile delinquency in Gorontalo. The problems that presented in this research were how was the implementation of restorative justice and cultural value of huyula and pohala’a in overcoming juvenile delinquency in Gorontalo? And how far the synergy between restorative justice, huyula and pohala’a in law enforcement system in Indonesia? The approaches that used in this research were jurisprudence law and socio-cultural, which was analysed in descriptive qualitative with a deductive and comparative method. The result of the research showed that restorative justice concept as a way of law that prioritize criminal problem solving which was involved the victim, criminal actor and society elements in reaching justice both for the victim side and criminal actor side. Restorative justice might be understood as problem-solving which lies out of court. The cultural problem that occurred in Gorontalo society could be overcome by the principle of huyula and pohala’a which could bring to the law enforcement in Indonesia. Gorontalo society by the principle of huyula (mutual assistance spirit) taught their children to well behaved, keep away from the delinquency, and when the delinquency was happening, then society can solve that problem with kinship system. In another side, pohala’a principle is a tough base and a unifying factor of Gorontalo society so they can protect their children from juvenile delinquency. This research implied that every society element (family, school, and society) is demanded in controlling and avoiding the juvenile delinquency by keeping their eyes to the local wisdom which lies in a given community.

Keywords: Delinquency Cases, Gorontalo

1. Introduction

Customary law in the course of its enforcement in Indonesia has a long way between the clash of Islamic law and colonial law which, in the context of Indonesian history since the colonial era has been around efforts codification such as the emergence of the compendium-compendiums as a reference to the application of Islamic law. In the Old Order, such as the Basic Agrarian Law of 1960, the New Order era, such as Law No. 1 of 1974 on Marriage, Law No. 7 of 1989 on the Religious Courts, and so forth. Prior to the birth of some of the above legislation, the Indonesian community in reality in some regions that Islamic law since his arrival to the archipelago is the law of life in the community, not only at the level of symbols but also on a practical level. It is not merely a sign that the majority of the population in Indonesia is Islam, but it has become a tradition are sometimes considered sacred. It also applies to criminal law in Indonesia and does not deny the existence of local wisdom that is implemented from tradition in the areas that still holds the principles of culture in solving criminal cases. Local wisdom it contains the goodness of their lives so that this belief is a tradition and is solidly attached to community life in Indonesia, not least Gorontalo.

Gorontalo as one area that has much local knowledge of the history of the birth of big government in a familial bond called Pohala’a. Gorontalo has five Pohala’a, namely Pohala’a Gorontalo, Pohala’a Limboto, Pohala’a Suwawa, Pohala’a Boalemo, and Pohala’a Atinggola. With the customary law, Gorontalo including 19 indigenous regions of Indonesia. Between religion and customs in Gorontalo fused with the term “Adat bersendikan Syara’ dan Syara’ bersendikan
Kitabullah.” Pohala’a Gorontalo is the most prominent among the Pohala’a fifth. That is why Gorontalo was more widely known as the tribal regions. Apart from that, the development of Gorontalo has evolved from various aspects, both regarding legal, social, political, religious and others. Specialized in the fields of law, which is an entirely urgent issue that occurs is a problem teenager. Hurlock explains that adolescence is a time of transition, adolescents feel doubts about the role to be performed. The unclear status teenager is also advantageous because the status is giving them time to try a different lifestyle and determine patterns of behavior, values and characteristics proper to her who could bring the criminal act of juvenile delinquency.

The problem of juvenile delinquency can be resolved by a system of restorative justice. Restorative justice is an approach to problem-solving that, in its various forms, involves the victim, the offender, their social networks, justice agencies and the community. Relation to the national legal systems of the above, it turns into a tradition in Gorontalo area has local wisdom that is similar to the concept and practice of restorative justice. The culture is known as huyula and pohala’a. Yunus in his research suggests that one of the means to build the character of a nation by means of transforming the local cultural values, the culture of gotong royong (huyula) which used to be known by the people of Gorontalo as a means to cooperate in completing a job in the public interest. Huyula therein known ambu term, namely mutual help activities in the common interest, such as the manufacture of village roads, village and bridge embankment. In addition, ambu also be used to solve problems in society, such as fights between groups of youths. The values contained in this ambu is cooperation, solidarity, responsibility, consensus, unity and caring. In addition huyula value, Heryati and abdul also argued that the pohala’a built in Gorontalo society based on the philosophy and values of the local culture, the brotherhood. This fraternity into determination and spirit that binds all people of Gorontalo wherever they are in a bond called a limo lo pohala’a (five brothers in the locus of the earth and the same cultural roots).

Cultural diversity is a social potential that can shape the character and image of its own culture Gorontalo district, as well as an essential part of the image formation and cultural identity. Huyula and pohala’a culture is a reflection of the cultural rules that into a customary law that is used in law enforcement in Indonesia, particularly in the resolution of cases of juvenile delinquency. The framework of the sociological era is the criminal justice system to make any progress and ideas in society can be absorbed in the process of a criminal case. Although in many normative framework questionable, but in reality there are also practices criminal settlement outside the criminal justice system, mainly by customary courts as cultural institutions by huyula and pohala’a in resolving cases of juvenile delinquency in Gorontalo region in particular.

2. Method

This research is empirical law research. Empirical legal research is a legal research method that serves to see the law in a real sense and examines how the law in action of the society. Because this study examines people in living relationships in society, then the method of empirical law research can be regarded as sociological research law. The approaches that used in this research were jurisprudence law and socio-cultural. The juridical approach will examine the principles of law, legislation, jurisprudence and the opinions of jurists deeply. While the socio-cultural approach is to look at the social conditions of social and cultural aspects inherited from generation to generation and the society makes it as a form of values that are held in daily life. Data collection techniques in this study through literature research and field research. For field research using observation methods and interviews. Further analyzed by qualitative descriptive.

3. Findings and Discussion

The facts showed that all types of juvenile crime is increasingly rate following the development of industrialization and urbanization. In the industrial towns and cities are rapidly developing physically, in case of a crime far more than the people in the villages. Crimes committed
by young children adolescents, in essence, is a product of the society with all the conditions of social upheaval that is therein. Juvenile delinquency is referred to as one of the ills of society or a social disease.

Some forms of juvenile delinquency that occurred in Gorontalo are promiscuity (promiscuity), skipping school, fights and clashes, drinking and drugs. While the factors were causing juvenile delinquency in Gorontalo, partly due to internal factors, such as a crisis of identity, self-control is weak; and external factors, such as family and divorce, education is wrong, poor peer, community/neighborhood unfavorable. The completion of the criminal case in a term known system of restorative justice, a process all those associated with a particular criminal offense to sit together to solve problems and think about how to overcome the consequences of the future. The process is basically done through discretionary (policy) and diversion, namely the transfer of criminal proceedings outside the formal process to be resolved amicably. Settlement through negotiation is not new for Indonesia, even customary law in Indonesia does not distinguish between criminal and civil settlements, all matter can be settled amicably with the aim to get the balance or the recovery state. By using restorative methods, the expected result is reduction in the number of children who were arrested, detained and sentenced to prison, eliminate stigma and return the child to be normal, which is expected to be useful in the future.

There are five kinds of approaches that can be used in dealing with offender age of the child, namely: (1) a pure approach promoting the welfare of children; (2) a welfare approach to legal intervention; (3) approach using/based on the criminal justice system alone; (4) The educative approach in awarding punishment; and (5) approaches a purely retributive punishment. The existence of the five forms of the approach, not in spite of the opposition between two dominant strategies in dealing with juvenile delinquency (delinquency), a welfare approach to justice approach and also reflect changes or dynamics of thought within society in response to the age of the child offenders. If the Court wishes to represent the welfare approach to diagnosing the main problems involving children as offenders and treat the child, such as treating children, the justice approach represents the traditional concern of the law aimed at punishing perpetrators according to the degree or seriousness for any consequences thereof. There are four criteria for cases of children in conflict with the law in the city of Gorontalo that can be solved with a model of restorative justice. First, the case was not sacrificing the public interest and not a traffic violation; Second, the child's first time doing mischief and not a recidivist; Third, the case was not the case that resulted in loss of life, serious injury, or crippled for life; and Fourth, the case was not a serious crime involving honor decency. However, if a child were reported and arrested for minor criminal offenses, such as shoplifting or stealing lightweight, lightweight fights, never mind jail, just call the parents and advised. Law enforcement agencies such as police, prosecutors, and judges do not have to pass sentence. For the case that it should not matter if the law enforcement authorities undertake discretionary (taking a stand alone).

Implementation *huyula* and *pohala’a* values in resolving cases of juvenile delinquency in Gorontalo are inseparable from the customary law as public law in Indonesia is getting attention, especially in the development of national law, because it was under construction are being carried out today on the development of customary law not to miss too. The customary law that is one of the sources of law will be included in the formation of national law receives attention as well. Issues of implementing the customary law and customary functionalization of the judiciary in reality often blasted with formal law. This fact departs from the historical reality in which decades of colonialism led to European law dominates the shape of the legal system in many countries in the world [9]. Regime underlying sociological work in the criminal justice system to make any progress and ideas in society can be absorbed in the process of a criminal case.

Customary law is the law of the original indigenous groups of people, which is the law of life in the form of unwritten and contains elements of national original, namely the nature of community and family, which is based on a balance and covered by the religious atmosphere. Especially
indigenous Gorontalo, have norms or rules are upheld and guidance in social life in the midst of a society consisting of: (1) Wu'udu (rules of thumb) that have no doubt but not laid down by law. For example, Wulea lo Lipu (head), who was not wearing a skullcap is not respected tubo (respect for indigenous) by Tauda'a (village head); (2) Aadati (wu'udu has no doubt) that the indigenous people of Gorontalo called customary law; (3) Tinepo (rules of politeness) are guidelines to behave in daily life in order to honor each other. Example, customary reception of high state officials were not included in the return (in custom department); (4) Tombula'o (rules of decency) that was the cue for everyone to not only learn, but must be able to distinguish what is good and bad. This rule prevents arbitrary actions of the authorities and prevent the action of controlled apathetic; (5) Butoqo (law) is the law of Olongia (king), Baate (adat), which is an indicator of things done in society.

Gorontalo is one of the traditional areas in Indonesia in the formation of community life is known of: (1) customary devices, such as: baate, wu'u, mayulu, handhalo, sikili, longgo; (2) devices to Islamic law, such as Qadi, imam, saradaa, kasisi; and (3) the government, such as the chief of RT/RW, village head (father / mother), district governor. Baate and wu'u (buatulo adat) is indigenous stakeholders and are equal. Baate used in Limboto, Wu'u used in Suwawa, while in the city of Gorontalo, Bulango (Tapa) and both used the same Atingola. Mayulu means custom security officer. The role of custom devices that are assisting the government in addressing social problems that occur or take place in the community. Related to the question of juvenile delinquency that occurred in Gorontalo, based on the number of interviews obtained information that the role of traditional authorities, religious leaders and community leaders in Gorontalo is enormous and essential. Social issues can be queried and resolved through these people. People still respect the position of their leaders in the world. This is because the traditional culture still dominates the lives of the people of Gorontalo.

Handling cases of juvenile delinquency based on information from the respondents that the people of Gorontalo have cultural values, such as huyula and pohala'a. Huyula for the people of Gorontalo application can be seen in several types, namely: First, ambu is a mutual help activity for the common good, or better known as voluntary work, such as road construction, rural, village dikes, bridges and so on. Additionally, ambu is one of the ways used by the community to solve problems in the community such as fights between residents; Second, hileiya is a mutual help activities spontaneously considered an obligation as members of society, such as the help given to families who are experiencing grief and other disasters; and Third, ti'ayo is mutual help activities among a group of people to do the work of a person, for example, agriculture, home building activities, activities to build Bantayo (tent) for the wedding.

Similarly pohala'a values. The essence of pohala'a in Gorontalo culture are the values of brotherhood Gorontalo tribe. When this pohala'a meaning associated with the completion of the cases occurring in the community, then the community should promote brotherhood Gorontalo rate in solving cases that arise in society. Examples of cases, when a child is young to impregnate a young woman, it is settled amicably settlement of kinship with pohala'a based, namely that both parts of Gorontalo. Pohala'a as a local wisdom has strong historical roots, and the original has been tested for managing, maintaining and developing a harmonious life within a democratic frame, especially law enforcement. Pohala'a which implies unity, widely be interpreted unity among tribal communities Gorontalo. This means that when there is a dispute in Gorontalo tribe, then by the pohala'a bond, then the solution can be framed in shades of deliberation and kinship.

When there is a teenage boy committing mischief, like a teenage boy, impregnate teenage girl, then the issue is not necessarily directly reported to the authorities, but first performed amicably, in which the parties are in trouble with the family consulted for resolve the problem. The system is called dulohupa deliberations. Settlement of disputes related to juvenile delinquency under customary law has always aimed at restoring the balance sheet for the public order was disrupted by disputes. The
style of deliberation and consensus in the settlement of disputes are usually preceded by the spirit of
good faith, fair, and wiser than those who believed as an intermediate case.

Procession of *modulopa* related to the settlement of juvenile delinquency cases involving
some elements of society, the victims, the families, and the community (teachers, government,
traditional leaders, community leaders, and religious leaders). Their presence in the framework of
deliberation (*modulohupa*) to find a solution to the settlement of juvenile delinquency cases that
occurred in their area. Implementation of the results of mediation in indigenous communities, not only
the responsibility of the parties to the dispute, but also the responsibility of traditional leaders as
mediators. Family or relatives of the parties to the dispute, acts as a booster that mediation agreement
can be implemented as well as possible. On the other hand, the role of different indigenous peoples is
also significant as control of the implementation of the results of mediation.

To perform law enforcement, according to Friedman must be fulfilled three (3) elements,
namely: legal structures, law enforcement, and legal culture. Related to this is how the legal culture of
society in their daily lives accustomed to doing things in accordance with the norms prevailing in
society, so it is indeed an impact on the development of the nation's character. One means to build the
nation's character in a way to transform the values of the local wisdom, the culture of *huyula* which
used to be known by the people of Gorontalo as a means to cooperate in completing a job in the public
interest. *Huyula* is a system of mutual assistance or mutual help among members of the community to
meet the needs and common interests based on social solidarity.

Mochtar et al revealed that *huyula* are statements of togetherness in the build, or the habit to
deliberate any measures to be taken relating to the interests and lives of many people. Daulima also
revealed that huyula is doing a job shared by a group of people or community members in the sense of
mutual aid and reciprocity. *Huyula* for the people of Gorontalo is a system of mutual help among
members of the community, to meet the needs and common interests based on social solidarity
through family ties neighbors and relatives. Based on these opinions *huyula* a form of deliberation
regarding formulating policies that will be the basis for the provision of mutual interest. In addition to
the principle of the *huyula* value, indigenous peoples also Gorontalo hold Pohala’a principle, which is
a bond of solidarity among the people of Gorontalo that they are a band of brothers.

Both forms of this cultural principle when brought into the realm of law enforcement in
Indonesia could be a solid foundation for the indigenous people of Gorontalo. Bond mutual assistance
which is believed to support the continuity of the law with justice hence the need for the spirit of
cooperativeness to implement them. Similarly, the spirit of unity in the frame Pohala’a builds a solid
foundation in law enforcement in Indonesia. The shape of the local wisdom that must contain the
goodness of their lives, so that this principle is a tradition and is solidly attached to local community
life. Although there are differences in the character and intensity of social and cultural relations, in
the long term they are bound in the same vision of creating a dignified and prosperous life together for the
creation of law enforcement. In the frame of this local knowledge, between individuals, between
groups complement each other, unite and interact with maintaining values and social norms that apply.

4. Conclusion

The application of the concept of *huyula* and *pohala’a* in Gorontalo City community through
several steps of dispute resolution, namely: settlement between the personal, family, neighbors;
completion by the head of customs; settlement through the village head. Forms of settlement on
indigenous peoples have always strived settled amicably by holding *huyula* principle (mutual
help/togetherness) and *pohala’a* (unity in the bond of brotherhood). Law enforcement can be realized
when the three elements are met, namely the structure of law, law enforcement and legal culture.
Related to juvenile delinquency, then the terms of the legal structure in the form of rules of law. Then
there is the Law No. 23 of 2002 on Child Protection, Law No. 11 of 2012 on Child Criminal Justice
System; concerning law enforcement agencies, namely the elements of society and government who
are authorized to handle legal issues, such as the police, prosecutors, the judiciary. Regarding legal culture associated with toxicity are a good guide to implementing the law. If related to the culture, the people of Gorontalo who has principles pohala'a and huyula values can certainly deliver on law enforcement in Indonesia. Huyula principle of mutual assistance which is believed to support the continuity of the law with justice, hence the need for the spirit of cooperativeness to implement them. Similarly, the spirit of unity in the frame pohala'a build a solid foundation in law enforcement in Indonesia.

5. References

[1] Ali M D 1990 Asas-Asas Hukum Islam. Jakarta, Rajawali Press.
[2] Salmadanis and Samad D 2003 Adat Basandi Syara’ Nilai dan Aplikasinya Menuju Kembali ke Nagari da Surau. Jakarta, Kartina Intan Lestari.
[3] Ishak A 2015 Mentari Serambi Madinah Gorontalo. Gorontalo, Sultan Amai Press.
[4] Hurlock E B 1999 Development Psychology: A Life Span Approach (Terj. Istiwidayanti. Psikologi Perkembangan: Suatu Pendekatan Sepanjang Rentang Kehidupan). Jakarta, Erlangga.
[5] United N 2006 Handbook on Restorative Justice Programmes. New York, United Nations Publication.
[6] Yunus R 2013 Transformasi Nilai-Nilai Budaya Lokal sebagai Upaya Pembangunan Karakter Bangsa (Penelitian Studi Kasus Budaya Huyula di Kota Gorontalo). Jurnal Penelitian Pendidikan, 14 (1) 67-69.
[7] Heryati H, Abdul NN 2014 Kearifan Lokal Pada Arsitektur Vernakular Gorontalo: Tinjauan Pada Aspek Budaya dan Nilai-nilai Islam. El-Harakah. 16(2) 151-173.
[8] Kartono K 2010 Patologi Sosial 2 Kenakalan Remaja. Jakarta, Rajawali Press.
[9] Dinnen S 2003 Interaces between Formal and Informal Justice System to Strengthen Access to Justice by Disadvantaged System Paper was presented at Practice in Action Workshop UNDP Asia-Pasific Rights and Justice Initiative. Ahungala Sri Lanka pp 2-4.
[10] Saleh R 1983 Hukum Pidana sebagai Konfrontasi Manusia dengan Manusia. Jakarta, Ghalia Indonesia.
[11] Harsono B 2008 Sejarah Hukum Agraria Indonesia. Jakarta, Djambatan.
[12] Baruadi M K 2012 Sendi Adat dan Ekstensi Sastra; Pengaruh Islam dalam Nuansa Budaya Lokal Gorontalo. el Harakah. 12 2 pp 295.
[13] Friedman M L 1977 Law and Society: An Introduction. Englewood Cliff, Prentice Hall Inc.
[14] Mochtar M 2005 Menggagas Masa Depan Gorontalo. Yogyakarta, HPMIG Press.
[15] Tim Penulis Yayasan 1982 Perjuangan Rakyat di Daerah Gorontalo, Menentang Kolonialisme dan Mempertahankan Negara Proklamasi. Jakarta, Gobel Dharma Nusantara.