



THE ROLE OF BHAYANGKARA AS THE TRUSTEE OF COMMUNITY SECURITY AND ORDER IN SETTLEMENT OF CRIMINAL ACTS OF DOMESTIC VIOLENCE THROUGH PENAL MEDIATION

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Abstract: Bhabinkamtibmas has the function of carrying out consultation, mediation, negotiation, facilitation, motivation to the community in Harkamtibmas, and solving crime and social problems. With the task as intended, this study will try to examine and analyze how the role of Bhabinkamtibmas in criminal acts of domestic violence (KDRT) through penal mediation at the Weleri Police, Kendal Resort Police and how the obstacles faced in resolving criminal acts of domestic violence (KDRT) through penal mediation by Bhabinkamtibmas at the Weleri Police, Kendal Resort Police. This study uses a sociological juridical approach, which means that this research is examined by looking at the findings of facts in the field, which are used as the basis of the author as data obtained from the field (non-doctrinal) with the existing reality. Based on the results of the study, data obtained that (1) the role of Bhabinkamtibmas in resolving criminal acts of domestic violence (KDRT) through Penal Mediation at the Weleri Police, Kendal Police, aims to obtain more effective and efficient results in controlling crime by maximizing the role of law enforcement officers, in this case, the police in resolving cases through penal mediation. First, the police as a facilitator for both parties. Second, the police also often play a role as mediators in penal mediation and build joint participation between perpetrators, victims, and the community in resolving an event or crime. The problems faced can be appropriately resolved by ensuring a sense of justice, especially for victims. (2) The obstacles faced in settlement of criminal acts of domestic violence (KDRT) through penal mediation by Bhabinkamtibmas at the Weleri Police, Kendal Police are: (1) Not familiar with the settlement process through mediation; (2) The existence of a third party who interferes in solving a problem; (3) The legal basis is not yet strong in resolving through mediation; (4) The Criminal Justice System spearheads the investigation process; (5) The parties do not comply with the mediation decision; (6) Public distrust of law enforcement officers (Bhabinkamtibmas) becomes a mediator.

Keywords: Bhabinkamtibmas, Domestic Violence (KDRT), Penal Mediation

Abstrak: Bhabinkamtibmas memiliki fungsi yaitu melaksanakan konsultasi, mediasi, negosiasi, fasilitasi, motivasi kepada masyarakat dalam Harkamtibmas dan pemecahan masalah kejahatan dan sosial. Dengan tugas sebagaimana dimaksud maka penelitian ini akan mencoba untuk mengkaji dan menganalisis mengenai bagaimana peranan Bhabinkamtibmas dalam tindak pidana kekerasan dalam rumah tangga (KDRT) melalui mediasi penal di Polsek Weleri Polres Kendal serta Bagaimana kendala-kendala yang dihadapi dalam penyelesaian tindak pidana kekerasan dalam rumah tangga (KDRT) melalui mediasi penal oleh Bhabinkamtibmas di Polsek Weleri Polres Kendal. Penelitian ini menggunakan pendekatan yaitu yuridis sosiologis, yang artinya penelitian ini dikaji dengan melihat penemuan fakta-fakta di lapangan yang dijadikan dasar oleh penulis sebagai data yang diperoleh dari lapangan (non doktrinal) sesuai dengan kenyataan yang ada. Berdasarkan hasil penelitian diperoleh data bahwa (1) peranan Bhabinkamtibmas dalam penyelesaian tindak pidana kekerasan dalam rumah tangga (KDRT) Melalui Mediasi Penal di Polsek Weleri Polres Kendal bertujuan untuk memperoleh hasil yang

lebih efektif dan efisien dalam mengendalikan kejahatan dengan memaksimalkan peran aparat penegak hukum dalam hal ini polisi dalam menyelesaikan kasus melalui mediasi penal. Pertama, polisi sebagai fasilitator bagi kedua belah pihak. Kedua, polisi juga kerap berperan sebagai mediator dalam mediasi penal serta membangun partisipasi bersama antara pelaku, korban, dan masyarakat dalam menyelesaikan suatu peristiwa atau tindak pidana sehingga masalah yang dihadapi dapat diselesaikan dengan baik dengan menjamin rasa keadilan terutama bagi korban. (2) Kendala-kendala yang dihadapi dalam penyelesaian tindak pidana kekerasan dalam rumah tangga (KDRT) melalui mediasi penal oleh Bhabinkamtibmas di Polsek Weleri Polres Kendal berupa : (1) Belum terbiasanya proses penyelesaian melalui mediasi; (2) Adanya pihak ketiga yang ikut campur dalam penyelesaian suatu permasalahan; (3) Dasar hukum yang belum kuat dalam menyelesaikan melalui mediasi; (4) Sistem Peradilan Pidana berujung tombak pada proses penyidikan; (5) Para pihak tidak mentaati putusan mediasi; (6) Ketidakpercayaan masyarakat terhadap aparat penegak hukum (Bhabinkamtibmas) menajadi mediator.

Kata Kunci: Bhabinkamtibmas, KDRT, Mediasi Penal

A. Introduction

Law of the Republic of Indonesia Number 2 of 2002 concerning the State Police of the Republic of Indonesia Article 2 states that: the function of the Police is one of the functions of the state government in the field of maintaining security and public order, law enforcement, protection, protection, and service to the community. (Alfian, 2020) Article 4 states that the National Police of the Republic of Indonesia aims to realize internal security, which includes the maintenance of security and public order, order and enforcement of the law, the implementation of protection, protection, and service to the community, as well as the establishment of public peace by upholding human rights. (Alfian, 2020)

From the function of the police, as already mentioned, to achieve the purpose of the existence of the police, it is necessary to build a collaboration with the community through the implementation of community policing. The implementation of community policing in Indonesia is currently regulated in Perkap Number 3 of 2015 concerning Community Policing. Where in the provisions contained in Article 26 has explicitly stated that Bhabinkamtibmas has functions, among others, as follows: (Koni, 2019)

1. "Functions of Bhabinkamtibmas:"
 - a. "Carrying out community visits to:
 - 1) Listening to complaints from community members about Kamtibmas problems and providing explanations and solutions;
 - 2) Maintain friendly/brotherly relations;"
 - b. "Guiding and counseling in the field of law and Kamtibmas to increase legal awareness and Kamtibmas by upholding Human Rights (HAM);"
 - c. "Disseminating information about the policies of the National Police leadership related to the Maintenance of Public Security and Order (Harkamtibmas);"
 - d. "Encouraging the implementation of neighborhood-watch in protecting the environment and community activities;"
 - e. "Providing police services to people in need;"
 - f. "Promoting positive community activities;"
 - g. "Coordinating Efforts to foster peace and order in society with village officials and other relevant parties; and"
 - h. "Carrying out consultation, mediation, negotiation, facilitation, motivation to the community in Harkamtibmas and solving crime and social problems."

The implementation of Bhabinkamtibmas activities that aim to realize a stable and dynamic security and social order situation will affect the community, both positive and negative influences. This is because every community has a different assessment of the activities of Bhabinkamtibmas in particular and the Police in general. (N, 2020)

Crimes in the community that requires Bhabinkamtibmas in their resolution are domestic violence crimes resolved by mediation. In domestic violence crimes, usually, the wife who becomes the victim is a female figure in the family. The recovery of perpetrators and victims that focuses on healing the wounds (to restore) suffered by the victim, not an eye for an eye, is handy for maintaining the survival of the household, which, of course, in the household, there are children from the fruit of marriage who still requires love, maintenance, education costs and other costs from both parents until the child is independent and mature, so the role of Bhabinkamtibmas in resolving domestic violence problems through mediation is crucial. Based on the background of the problem above, the author is interested in researching **“The Role of Bhayangkara as the Trustee of Community Security and Order in settlement of Criminal Acts of Domestic Violence through Penal Mediation.”**

B. Research Method

The approach method used in this research is the sociological juridical approach. Sociological juridical is a study that examines law as a social fact that can be observed in the realm of experience as a pattern of behavior in realizing social institutions or social institutions. These legal studies conceptualize and theorize law as a positive and empirical social fact (Soetandyo Wignjosoebroto, 2007). This sociological juridical is the method used and aims to solve a problem in the research by examining primary data as the primary data (Efendi & Ibrahim, 2018). This empirical juridical approach (sociological juridical) is used in this study to analyze the role of Bhabinkamtibmas in resolving criminal acts of domestic violence (KDRT) through penal mediation in the jurisdiction of the Weleri Police of the Kendal Police qualitatively.

Primary data is data obtained from the field directly through interviews or interviews, while library research is only as supporting data (Adiyanta, 2019). Primary data or primary data were obtained from interviews with informants who had resolved domestic violence cases through penal mediation, namely Bhabinkamtibmas in the jurisdiction of the Weleri Police, Kendal Police.

The data obtained from the results of field research and literature, then analyzed by qualitative analysis methods to answer the problems that have been formulated, namely by analyzing the quality of the data obtained, so that a clear and relevant picture is obtained regarding the role of Bhabinkamtibmas in settlement of criminal acts of domestic violence (KDRT) through penal mediation in the jurisdiction of the Weleri Police, Kendal Police.

C. Discussion

1. The Role of Bhabinkamtibmas in the Crime of Domestic Violence (KDRT) Through Penal Mediation at the Weleri Police, Kendal Police

The elaboration of the values of restorative justice where a problem is resolved by looking at all parties, be it perpetrators, victims, communities, and other parties who help troubled parties to find a form of settlement that aims to benefit all parties and is also able to restore a relationship so that there is no prolonged conflict (Amdani, 2016). The essence of Restorative Justice is healing, moral learning, community participation

and concern, dialogue, forgiveness, responsibility, and making change, all of which are guidelines for the restoration process in the perspective of Restorative Justice (Setyowati, 2020).

As for the restorative justice process, each party has a role, namely: (Masyur, 2010)

1. Actors' Role.

The perpetrator is the party who, in this case, commits a violation of the law or violates the rights of the victim so that the victim feels aggrieved. In restorative justice, the perpetrator here plays the same role as other parties. Here, the perpetrator's role is to admit an act he did, followed by an apology to the victim and the community (in this case, Bhabinkamtibmas). Here the perpetrator provides material compensation to the victim following the losses suffered by the victim.

2. Victim's Role.

The victim is the party whose interests or rights are harmed. Here the victim is the party whose perpetrator harms rights/interests. The victim plays a role here, stating his complaints and what losses have affected him after the incident. Besides, the victim also stated the right one for solving the problem. Here the victim is entitled to material loss rather than loss of rights that the perpetrator does not fulfill. Here, the perpetrator and the victim with a balanced position (in reality, the victim has a higher attractiveness than the perpetrator) conduct an excellent dialogue to find a solution that benefits the litigants.

3. Bhabinkamtibmas' Role.

Bhabinkamtibmas is a party that serves as a mediator in the implementation of this restorative justice. Although the police law and the Criminal Procedure Code do not clearly state the authority of the Police/Bhabinkamtibmas as a mediator in resolving a domestic violence crime, the Criminal Code, the police law, and the regulation of the head of the State Police of the Republic of Indonesia No. 3 of 2015 concerning Community Policing, it is stated that the police can act with their own judgment as regulated in Article 17 Paragraph (1) letter e Regulation of the Head of the State Police of the Republic of Indonesia No. 3 of 2015 concerning Community Policing, here according to Bhabinkamtibmas's assessment that a criminal case that has ties to civil cases, and the impact is not severe and can be resolved through a consensus mechanism, Bhabinkamtibmas based on considerations of the value of justice and the benefits of implementing a restorative justice approach to resolve a problem case that happened. Even Bhabinkamtibmas, to complete their duties, has implemented regulations as stated in the Secret Telegram Letter of the Indonesian National Police-Criminal Investigation Unit No: STR/583/VII/2012 8-8-2012 About examples of handling cases related to the concept of Restorative Justice, which essentially serves as a guideline for implementing restorative justice, one of which is through mediation.

4. Community Role.

In the implementation of Restorative Justice, the role of the community also has an important role. The community is the middle party that is

also interested in the conflict between the perpetrator and the victim. A criminal act that occurs in society actually also causes a conflict in peace and order in society. Especially for people whose customary law is vital, if a criminal case occurs, it means that there is an imbalance in the area.

The role of Bhabinkamtibmas in criminal acts of domestic violence (KDRT) through Penal Mediation at the Weleri Polsek, Kendal Police, aims to obtain more effective and efficient results in controlling crime by maximizing the role of law enforcement officers, in this case, the police in resolving cases through penal mediation. First, the police as a facilitator for both parties. Second, the police also often play a role as mediators in penal mediation and build joint participation between perpetrators, victims, and the community in resolving an event or crime. The problems faced can be adequately resolved by ensuring a sense of justice for victims.

2. Obstacles Faced in settlement of Criminal Acts of Domestic Violence (KDRT) through Penal Mediation by Bhabinkamtibmas at the Weleri Police, Kendal Police

The settlement of domestic violence crimes carried out by Bhabinkamtibmas in the form of problem-solving often occurs problems faced by Bhabinkamtibmas due to several obstacles, including:

1. Unaccustomed to the settlement process through mediation among community law enforcers, few Bhabinkamtibmas are aware of and understand the values of restorative justice.
2. A third party interferes in solving a problem that occurs in the community, which can affect the problem-solving process carried out by Bhabinkamtibmas so that the resolution of the problem becomes difficult to resolve.
3. The legal basis that is not yet strong in resolving through mediation causes law enforcement officers (Bhabinkamtibmas) not to dare to exercise discretion. The legal basis is still limited to a secret telegram whose binding power is still weak.
4. The Criminal Justice System is spearheaded in the investigation process. If the suspect is detained during the investigation process, inevitably, it will continue in the following process, namely prosecution and trial. It is difficult for Bhabinkamtibmas to apply a restorative justice approach.
5. The parties do not obey the mediation decision. For example, the defendant repeats his actions.

Public distrust of law enforcement officers (Bhabinkamtibmas) becomes a mediator, so the community has a negative perception, giving rise to unrequited suspicions.

The obstacles faced in resolving the crime of domestic violence (KDRT) through penal mediation by Bhabinkamtibmas at the Weleri Police of the Kendal Police are in the form of the budget owned by Bhabinkamtibmas is felt to be lacking, related to professionalism or expertise, facilities, and infrastructure owned by Bhabinkamtibmas, weak laws in everyday life, new *modus operandi*, and low community participation.

D. Closing

1. Conclusions

The role of Bhabinkamtibmas in resolving criminal acts of domestic violence (KDRT) through Penal Mediation at the Weleri Polsek, Kendal Police aims to obtain

more effective and efficient results in controlling crime by maximizing the role of law enforcement officers, in this case, the police in resolving cases through penal mediation. (1) First, the Police as a facilitator for both parties. Second, the police also often play a role as mediators in penal mediation and build joint participation between perpetrators, victims, and the community in resolving an event or crime. The problems faced can be adequately resolved by ensuring a sense of justice for victims. (2) The obstacles faced in settlement of criminal acts of domestic violence (KDRT) through penal mediation by Bhabinkamtibmas at the Weleri Police of the Kendal Police are in the form of (1) Not familiar with the settlement process through mediation; (2) The existence of a third party who interferes in solving a problem; (3) The legal basis is not yet strong in resolving through mediation; (4) The Criminal Justice System spearheads the investigation process; (5) The parties do not comply with the mediation decision; (6) Public distrust of law enforcement officers (Bhabinkamtibmas) becomes a mediator.

2. Suggestion

The police should be able to maximize the role of Bhabinkamtibmas in resolving criminal cases through mediation so that the community obtains justice by peaceful means. The community should be able to maximize Bhabinkantibmas as a mediator and facilitator in every village in settlement of criminal cases because, with this mediation, the community will get justice in resolving the criminal case.

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