



# Study of Policies of the Indonesian National Police in the Settlement of Crimes against the Background of Social Conflict

Asep Adi Saputra

Padjadjaran University, Bandung, Indonesia

## ABSTRACT

*This study aims to analyze and find answers regarding the actions and application of non-penal policies by the National Police in resolving criminal acts against the background of social conflict that occurred in several regions in Indonesia based on Indonesian positive law and to find a model for resolving crimes against the background of social conflict. through a non-penal policy approach that can be carried out by the National Police in the future. The research method used is a legal research method with a normative juridical and sociological juridical approach (socio legal research). The policy of the State Police of the Republic of Indonesia in resolving criminal acts against the background of social conflicts that occurred in several areas is to use a penal policy approach and a non-penal policy approach. is not final and binding, so it cannot provide legal certainty, justice and benefits and does not touch the basic problems that occur in the community. In addition, prolonged social impacts still have the potential to occur, for example retaliation, ex-convicts in criminal cases with a social conflict background lose their status (unemployment due to job loss), social reactions from the community by distancing former convicts in criminal cases with a social conflict background and the root cause of the problem. conflict cannot be resolved comprehensively. The model for solving criminal acts with the background of social conflict carried out by the National Police in the future should prioritize a non-penal approach as a premium remedium and a penal approach as an ultimum remedium.*

**Keywords:** Criminal acts, Crime, Social Conflict.

## 1. INTRODUCTION

Indonesia is a large, broad, and diverse country with various ethnic groups, religions, races, and cultures with a population of more than 270 million people. According to the Center for Research and Development of the National Legal System, the diversity of characteristics of the Indonesian population, on the one hand, is a nation's wealth which can directly or indirectly contribute positively to efforts to create community welfare. But on the other hand, these conditions can have a negative impact on national life, if there are conditions of development inequality, injustice and economic, social, poverty and uncontrolled dynamics of political life. This condition places Indonesia as one of the countries prone to conflict. both horizontal and vertical conflicts (Center for Research and Development of the National Legal System, 2011:1). Horizontal and vertical conflicts are forms of social conflict, which occur because of differences in social interests (Pratama, 2020).

The intended horizontal conflict is a conflict between community groups caused by various factors such as political ideology, economy and primordial factors. While the vertical conflict in this case is the conflict between the government/rulers and citizens. These conflicts contain a very broad spectrum of understanding, ranging from small conflicts between individuals, conflicts between families to conflicts between villages and even to mass conflicts involving several large groups, both in regional ties or primordial ties (Pratama, 2020).

Various social conflicts that occur not infrequently lead to criminal law problems, such as the occurrence of criminal acts, for example in the form of violence against people (for example, persecution, even murder) and goods (for example destruction) carried out by those in conflict, either individually or collectively. the same, which harms others. The problem of criminal acts with the background of the social conflict, of course, needs to be resolved. Settlement of criminal acts caused by social conflicts in practice can be done in various ways, such as through social control, deliberation and consensus based on the dimensions of local wisdom of customary law,

The actions of the National Police in resolving criminal acts with a social conflict background through non-penal policies that are carried out in a comprehensive, integrative, effective, efficient, accountable and transparent manner and on target based on a dialogical approach, and peaceful, communication, togetherness, sympathetic, empathetic approaches, and restoration or restoration of victims of criminal acts with a background of social conflict based on consensus to achieve peace, prioritizing prevention while still based on adequate legal norms and heeding religious norms, local wisdom, decency, morality, upholding

human rights (HAM). ), and the obligation to explore the values of humanity, law, and justice that live in society, is an effort to rediscover the spirit of togetherness, community, and concern for others, which is currently disappearing in modern society.

The author argues that the resolution of criminal acts with a social conflict background through non-penal policies can provide positive benefits or impacts, including: 1) providing a sense of justice, and benefits for the conflicting parties, 2) eliminating feelings of revenge between the conflicting parties. 3) create harmony in the social order of social life by not neglecting justice for the conflicting parties; and 4) can reduce the stagnation or accumulation of cases in the Police, even in the Courts and to simplify the criminal justice process.

The author has stated that the resolution of criminal acts with a social conflict background through non-penal policies has several advantages as stated above, but there are also weaknesses, namely normatively in Indonesia, criminal acts with a social conflict background cannot be resolved by victims, and perpetrators non-penally, such as through consensus deliberation or alternative dispute resolution methods (APS) in general and peace (mediation) in particular, because normatively, the prevailing doctrine in Indonesia is that peace does not eliminate the criminal nature of a criminal act. Empirical Indonesian legal facts have shown that even though there has been peace between the victim and the perpetrator, the criminal case will continue until a court decision is handed down which imposes a sentence, because criminal acts, especially those that do not include complaint offenses, have been resolved by the victims and perpetrators. on the basis of peace does not eliminate the criminal nature of a crime.

Regarding the originality of the research, or with regard to previous research or previous dissertations that are related to the research object of this researcher, namely the topic of handling community conflicts and topics related to Polri investigations in the criminal justice system found in the Doctoral Study Program of Law Sciences, Padjadjaran University Bandung, are as follows: (1) Legal Interpretation of Police Investigators in Criminal Case Investigations in the Indonesian Criminal Justice System by Zulkarnein Koto in 2011; (2) Witness Protection in the context of Realizing a Fair Criminal Justice Process (Fair Trial) linked to the Indonesian Criminal Law System by Warasman Marbun in 2012; and (3) Police's Discretion Against Criminal Actors Based on Restorative Justice by Ronny F. Sompie in 2015; and (4) The Concept of Restorative Justice in the Settlement of Criminal Cases by Police Investigators Based on Law Number 2 of 2002 concerning the Police by Nico Afinta in 2015.

The previous research or dissertation is different from the research conducted by this researcher. This research is focused on the actions of the Indonesian National Police in resolving criminal acts with a social conflict background through a non-penal policy, which is carried out by Polri Investigators, which can be carried out, both outside the investigation process, namely before a complaint or report is received, as well as at the national level. investigation after a complaint or report exists, so that research on the actions of the Police in resolving criminal acts with a social conflict background through a non-penal policy is original and has a novelty level.

Research on "Policy of the Republic of Indonesia National Police in the Settlement of Criminal Acts with a Social Conflict Background Through a Non-Penal Policy Approach", in particular the model for resolving criminal acts with a social conflict background through a non-penal policy approach that can be carried out by the Indonesian National Police in the future. In the future, what this researcher offers, is an idea or thought about a model for resolving criminal acts with a social conflict background through a non-penal policy approach that can be carried out by the Indonesian National Police in the future, which has a novelty, namely

- 1) The process and procedures are simpler than the existing APS/ADR mechanisms, running and being applied in practice in Indonesia, namely the method of consultation, negotiation, mediation, conciliation, or expert assessment;
- 2) It is made as an independent institution or has its own body, for example, Arbitration has an Arbitration Board, and is made an integral part which is an integral part of the criminal justice system.
- 3) As a behavioral guide for Polri investigators to process criminally or not against criminal acts with the background of the social conflict.
- 4) This is an effort to try to reduce or suppress the number of criminal cases that are reported and resolved through the investigation process by the Police, because considering the large number of criminal cases that enter the Police and often continue through various legal remedies, it is necessary to strive to reduce the number of cases. criminal cases that are entered and reported to the Police, and at the same time minimize the conflicting parties against each other in a win-lose position, or wrong and right.

The model for resolving criminal acts with a social conflict background through a non-penal policy approach that can be carried out by the Police in the future, during the process will provide a time lag for submitting reports, so as to reduce the accumulation of criminal cases/cases in the Police, because of the filter on filing a case report/criminal case.

Thus, it can also have an impact on reducing criminal cases/cases from the investigation level to the courts, if the settlement of criminal acts with a social conflict background through a non-penal policy approach that can be carried out by the National Police succeeds in reaching an agreement. Therefore, this study seeks to try to reduce or suppress the number of criminal cases/crimes reported and resolved by the National Police through a penal policy process, so of course it can also prevent the parties from getting angry and resentful.

- 5) To find a settlement of modern crimes based on the culture of the Indonesian nation itself, which is final and binding on both parties (final and binding) and has executorial power (executoriale kracht) as usual court decisions that have permanent legal force (in kracht van gewijsde) , which can be enforced by force by state instruments, as is usually the case with court decisions that have permanent legal force, so that if there is a denial of the contents of the agreement that has been agreed upon by the parties, it can be executed by force which in the end can satisfy, fulfill the sense of justice, providing legal certainty, and benefits for the disputing parties, because so far how the consensus deliberation will be carried out, normatively in what form, is final and binding on both parties (final and binding) and has the power of law to compel the executive (executoriale kracht) as usually court decisions still have no rules.
- 6) The results of the settlement of criminal acts with a social conflict background through a non-penal policy approach carried out by the National Police which will result in peace in the future must be used as the basis for aborting the right to sue victims, the right to investigate Polri investigators and the authority to prosecute the Public Prosecutor and to abolish the right to retaliate cases. not criminal with the same subject and object (nebis in idem) in order to prevent the re-submission of criminal cases with the background of social conflict in the same subject and object, so as to provide legal certainty, justice, and benefits for the disputing parties.

## **2. RESEARCH METHODS**

### **2.1. Research Specification**

The research that the researcher carried out was juridical normative or doctrinal and juridical sociological (socio legal research) or according to Prof. Lili Rasjidi researches law with a multi-disciplinary approach, because in this study not only analyzes the rule of law but also social aspects that affect the realization of the objectives of law enforcement). Muhjad and Nuswardani (2012) argue that: "Normative legal research is research that examines legal issues from the point of view of legal science in depth against established legal norms". Muslan Abdurrahman argues that: "Legal doctrinal legal research is conceptualized as what is written in legislation (law in books) or law is conceptualized as a rule or norm which is a benchmark for human behavior that is considered appropriate".

### **2.2. Approach Method**

The research method used is a legal research method with a juridical normative and juridical sociological approach (socio legal research). Thus, the approach taken in this study is a combination of a socio-legal approach, and a normative juridical approach through a law approach or a statute approach or a juridical approach, and a comparative juridical approach (comparative law), because the answer to one problem is sought through a study. field research and the other is sought through library research.

### **2.3. Data analysis**

In connection with the approach method used in this research is the juridical normative and juridical sociological approach (socio legal research), the data analysis used is juridical-qualitative. Juridical means according to law; legally (the Editorial Team of the Big Indonesian Dictionary of the Language Center of the Indonesian Ministry of Education). Thus, this research is based on the law, especially the existing statutory regulations as positive law. Qualitative, namely data analysis by not using numbers and statistical formulas (Fuady, 2018:95). The analysis process starts from reading, studying and studying the data carefully, then from the analysis process the writer draws a conclusion from general problems to specific problems (deductive).

## **3. THEORETICAL REVIEW ON THE STATE OF PANCASILA LAW, CRIMINAL POLICY, LAW ENFORCEMENT AND NON-PENAL POLICY**

### **3.1. Pancasila Law State**

Salim HS and Erlies Septiana Nurbani (2016:4) stated as follows: The rule of law theory is: "The opinion of experts who examine every action, whether carried out by government administrators or the people must be based on applicable laws and regulations. And it is not allowed to take vigilante action". The rule of law requires that all actions or actions of the authorities have a clear legal basis or have legality, both based on written law and based on unwritten law (Harahap, 2005:1).

Theoretically, the conception of the rule of law adopted by Indonesia is not in a formal dimension, but in a material sense or commonly used in terms of a welfare state or a prosperous state. Therefore, the goal to be achieved by the Indonesian state is the realization of a just and prosperous society, both spiritually and materially based on Pancasila, so that it is also called a legal state that has independent characteristics (Mulyadi, 2007: 4).

The Pancasila state law is not individualistic-secular, not Islamic-theocratic and non-nomocratic socio-communist, and not passive. Rather, it has the character of a value system that pivots on values: Belief in the One and Only God, just and civilized humanity, Indonesian Nationalism-Unity, Deliberation/Representation, and Social Justice that have functional mobility (flexibility) and their roles are active and always adaptive. and always in accordance with the development of community dynamics nationally and internationally (Sulaeman, 2017:71).

### **3.2. Criminal Policy Theory (Criminal Policy)**

Criminal policy is a form of policy taken by the state to criminalize an action that is considered detrimental, as well as a strategy to overcome it. With reference to the three main roles of policy: policy making, policy implementation, and policy advocacy. So criminal policy can be interpreted as the making, implementation and advocacy of policies taken by the state in order to overcome the problem of crime. The main institutions that produce criminal policies include the legislature, the criminal justice system, and policy-making institutions, namely various bureaucratic institutions that are given the authority to regulate matters relating to crime control in various forms (Mustofa, 2007:44).

### **3.3. Law Enforcement Theory**

Mertokusumo (2010:207) argues: the law functions as the protection of human interests. In order for human interests to be protected by law, it must be implemented. The implementation of the law can take place normally, peacefully, but it can also occur due to violations of the law. In this case the law that has been violated must be enforced. It is through law enforcement that the law becomes a reality. Law enforcement is an attempt to tackle crime rationally, fulfill a sense of justice and be efficient. In the context of tackling crimes against various means as a reaction that can be given to criminals, in the form of criminal and non-criminal means, which can be integrated with one another. If criminal means are used to tackle crime, it means that criminal law politics will be implemented.

### **3.4. Non Penalty Policy Theory**

There are two means as an effort to prevent and overcome crime in criminal policy, namely penal and non-penal means. A rational effort to control or overcome crime (criminal politics) of course does not only use the means of "penal" (criminal law), but also uses the means of "non-penal" (Arief, 2002: 109). Prevention and control of crime by using the means of "penal" is a concrete effort of the application of criminal law or with a broader scope is the enforcement of criminal law (Faisal, 2020: 75). With regard to efforts to overcome criminal acts that occur in the community with non-penal efforts, Barda Nawawi Arief stated as follows: In order to carry out efforts to overcome criminal acts that occur in the community, an integral effort is needed, meaning that it is carried out with integrated and rational efforts. In tackling criminal acts, it must be an integral part by using criminal sanctions, and combined with other non-penal efforts. The main purpose of these non-penal efforts is to improve certain social conditions that indirectly have a preventive effect on criminal acts (Arief, 2020: 75).

One of the non-penal means used is through social policy, which is included in the "prevention without punishment" route. Social policy is basically a rational policy or effort to achieve public welfare. In addition to non-penal efforts, which can be pursued by making the community healthy through social policies and exploring the various potentials that exist in society, these non-penal efforts are also explored from various other sources that also have potential preventive effects, for example through mass media, utilization of progress technology and utilization of potential preventive effects of law enforcement officers (Arief, 2020:75).

## **4. CRIMINAL ACTIONS WITH A BACKGROUND OF SOCIAL CONFLICT AND EFFORTS FOR RESOLVING THEM IN SOME REGIONS IN INDONESIA**

### **4.1. Social conflict**

The great poet Aristotle has said that "Humans are destined to be social beings" or in Latin called "zoon politicon". Humans cannot be creatures whose lives are isolated from other humans, but must always live in group, class, or harmony as a unitary bond. As said by Bouman, a well-known sociology scholar, that "Humans only become human after living together with fellow humans", this is due to the factors of life's necessities, feelings of helpfulness, self-esteem, desire to obey, to seek protection. , and others because of their interests (Amriani, 2011:11).

Antonius, et al. (2002:175) argues that: Conflict is an action of one party that results in obstructing, inhibiting, or disturbing another party where this can occur between community groups or in relationships between individuals. Bunyamin Maftuh (2005:47) argues as follows: Etymologically, conflict comes from the Latin *configere* which means hitting each other. Conflict is also defined as an action of one party that results in obstructing, hindering, or disturbing the other party where this can occur between community groups or in interpersonal relationships. This is in line with the opinion of Morton Deutsch, a pioneer in conflict resolution education who stated that in conflict, Social interactions between individuals or groups are more influenced by differences than by similarities. Conflict according to the legal sense is a difference of opinion, disagreement, dispute between two parties regarding rights and obligations at the same time and under the same circumstances. In general, conflict or disagreement, dispute, is defined by different opinions between two parties regarding certain issues at the same time and circumstances (Mucshan, 1992:42).

#### **4.2. Settlement of Crimes Against the Background of Social Conflict in Several Regions of Indonesia**

The use of terms and definitions of criminal acts is quite diverse. This crime in Dutch terms is translated as "strafbaarfeit", which is theoretically the creation of Dutch and Indonesian legal experts to date (Ariman and Raghil, 2015:58). Criminal acts in other terms are also known as offenses, criminal acts, criminal events, acts that may be punished (Prodjohamidjono, 1997:15).

##### **4.2.1. Settlement of Crimes Against the Background of Conflict in Aceh**

The conflict between the Government of the Republic of Indonesia and the Free Aceh Movement (GAM) in Aceh is an injustice: there is a mismatch between reality and expectations in various fields, especially in the field of development. This has an impact on poverty, ignorance, and a low level of community safety (Jayanti, 2005). This conflict has emerged since the proclamation of Aceh's independence on December 4, 1976 in Pidie by GAM, spearheaded by Muhammad Hasan Tiro. Thus GAM was born because Acehnese ethnic nationalism rose in response to the centralized central government policy (Syamsuddin, 1987). As a result of conflict from year to year, people change professions from farmers to traders, breeders or rickshaw pullers. Seeing conditions like this causes disappointment for the community because they have to adapt to their new jobs. In their work they were always supervised by TNI militia, which caused residents not to dare to speak and their space for movement was limited (Syamsuddin, 1987).

Attention during the reign of the old order, new order to the reform era, frequent changes of President, this situation also affects the policy of handling the Aceh conflict, but all efforts that have been made by the central government often fail and there is a mismatch between wishes, expectations and reality. from both sides. If we look back at the way conflicts were handled by the central government in the old order, new order and conflict management by the central government during the reform era, it can be seen that there are quite basic differences, where in the government before the reform, conflict management in Aceh was often resolved by military way or by hard power, whereas in the post-reform era, conflict resolution began to be opened by means of dialogue to stop violence or by means of Soft Power. In contrast to the handling of conflicts that were carried out during the Old Order and the New Order, during the reformation period, conflict management in Aceh began to find new options outside the military route, namely by inviting, embracing, and respecting Aceh's wishes, so that cooperation could then be established and lead to political dialogue. related to the resolution of the Aceh conflict, but in practice sometimes the military route is still used during the reformation period, but the new option for dialogue has at least begun to be implemented during the reformation period, especially after the fall of Suharto from power.

##### **4.2.2. Settlement of Crimes with Conflict Background in Maluku**

The social conflict that occurred between Muslims and Christians in Maluku in 1999-2003 was one of the largest "religious" conflicts in Indonesia and even in the world in this century. Not only does it take a lot of lives and property, but it also causes very complex social impacts (Assagaf, 2019). The history of the North Maluku conflict that occurred in the period 1999-2000 has a very complex complexity. In addition to the very long period of conflict, it also involves many parties and events that occur in North Maluku. Briefly, the chronology of the conflicts that occurred in North Maluku, when examined from the causal factors before the open conflict occurred in 1999, has several conflict triggers.

Based on research on the picture of the conflict in North Maluku, it was found that the root and source of conflict did not originate from a single conflict source. Conflict is complex. So, the source is a combination of various factors. The results of the study by Bujang (2000) stated that the root of the conflict in North Maluku was caused by the efforts of Christianization in North Maluku, the struggle for religious territory, the struggle for economic resources and the gold mine of PT. NHM, the struggle for the seat of the Governor of North Maluku, and the involvement of foreign countries.

Based on this description, it can be concluded that the root causes of the conflict in North Maluku include competition between ethnic groups, territorial and natural resources, competition between religious groups, unequal distribution of government resources, power struggles, and social jealousy due to injustice in the government. If you narrow it down again, you will find three

factors that are the main roots of the conflict in Maluku: (1) elite rivalry in fighting over natural resource management, as well as bureaucratic and political positions; (2) The strengthening of ethnocentrism as a tool to control economic and political resources, and; (3) Disparities or gaps in the distribution of government and economic resources. The impact of the social conflict that once hit North Maluku, in addition to causing loss of human life, can be physically identified in the damage to government infrastructure, basic public services, and private property. Psychologically, open conflict certainly causes prolonged traumatic feelings that destroy the order of kinship relations (social cohesion) and even lead to segregation in society (Alting, 2019:11).

The facts show that development in the post-horizontal transitional period that hit North Maluku was stagnant. This condition was triggered by the large influx of refugees and the destruction of the investment ecosystem in Maluku which weakened the foundations of the community and regional economy. To ensure that the implementation of development can take place in a sustainable manner, the factors that hinder the progress of development must be minimized so as not to become counterproductive to development itself. Social conflicts involving ethnic and religious issues in Maluku society at the beginning of Indonesia's democratic transition (1999) were able to destroy all socio-economic joints, and from both sides many lost property and lives (Alting, 2019:12).

The conflict was principally resolved by a dialogue approach and resulted in the Malino II Peace Agreement which was signed on February 12, 2002. The agreement is a tangible form of ending the conflict and violence that has occurred in Ambon for approximately four years (1999-2002). Broadly speaking, the Malino II Peace Agreement which contains 11 points of this agreement calls for the cessation of various forms of violence, the return of refugees, the formation of an investigation team, the prohibition of separatism, and the implementation of post-conflict rehabilitation. To accelerate the post-conflict development, the central government then issued Presidential Instruction (Inpres) No. 6 of 2003 concerning the Acceleration of Recovery in the Post-Conflict Development of Maluku and North Maluku Provinces. In general,

#### **4.2.3. Settlement of Crimes with Conflict Background in Sulawesi**

The conflict that occurred in Sigi Regency, Central Sulawesi around 2012-2013 which was a series of various conflicts in the Central and South Sulawesi regions received different handling models. Disputes between residents from various regencies also often occur, both between tribes (considering the large number of indigenous tribes in this region), between villages or hamlets or between community groups. In the field search, data on conflicts that occurred in the Palu and Sigi areas were found. Disputes between residents in Sigi, among others, occurred in Marawola and Kinovaro sub-districts, Sigi district, Central Sulawesi (Zulfa and Praptadina, 2016).

Meanwhile in Palu, clashes between residents occurred in the West Palu sub-district. The peace agreement initiated by the Governor on August 22, 2012, has not been able to stop the conflict. In January 2013. Finally, the Central Sulawesi Police Chief issued a notice to the Chief of the Indonesian National Police for the Central Sulawesi Region number NAK/04/I/2013 regarding the prohibition of carrying sharp weapons and other dangerous objects. The brief contents of the notice include:

- 1) Anyone found in possession, carrying or possibly making, storing and carrying sharp weapons or items that are suspected to be used to commit acts of violence such as helmets, arrows, bows, air rifles and similar items that are not in place and or can be used for commit acts of violence against other people, the perpetrators will be arrested, detained, and will be processed according to the applicable law.
- 2) During the investigation process at the Police, there will be no suspension of detention;
- 3) Security officers will carry out swipping or raids on places suspected of being hiding places for sharp weapons, and other dangerous objects.
- 4) Anyone who hinders the activities of law enforcement, and violates this edict will be dealt with firmly in accordance with applicable law.
- 5) Referring to the Emergency Law No. 12 of 1951 Article 2, it can be threatened with a maximum sentence of 10 years. 6) Anyone who knowingly or without coercion and pressure wants to hand over the goods mentioned above, will not be subject to any sanctions.

This was then responded by the Police together with the regional leadership of Sisi Regency by issuing a Joint Circular Number 850/798.62/Kesbangpol Kab. Sigi/2012 which basically strengthens the position of the Police Chief's Declaration. The two letters were strengthened by the issuance of the Sigi Regent's Order No. 200/01.01/Kesbangpol, which ordered to disseminate and reproduce the Joint Circulars made by the Police and regional leaders of Sigi Regency (Zulfa and Praptadina, 216).

#### **4.2.4. Settlement of Crimes Against the Background of Conflict over the Land of "Mbah Priok" Graveyard, DKI Jakarta**

The problem of the conflict over the land for the tomb of "Mbah Priok". involving PT Pelindo II with the heirs of the tomb of "Mbah Priok, which is in the Tanjung Priok Port area, North Jakarta which occurred on April 14, 2010, due to resistance by the heirs of the tomb of "Mbah Priok" against local government officials namely the Civil Service Police unit that will carry out the order. Various efforts have been made by stakeholders in order to resolve the conflict, ranging from mediation/deliberation, and judiciary, to efforts to control land and buildings in the area of the tomb of "Mbah Priok" which then led to clashes between the heirs of the tomb of "Mbah Priok". "With local government officials (Satpol PP, Polri, and TNI), this incident resulted in the loss of several lives and damage to property as well as officers' equipment and vehicles. The incident resulted in the death of 3 (three) Civil Service Police Unit officers, hundreds of people injured, and material losses estimated at billions of rupiah, not to mention the disruption of port operations which of course brought huge losses to the country's economy. After the incident, even this conflict did not subside, controversy after controversy and the intervention of many parties allegedly exacerbated the problems between the two disputing parties. The heirs of the tomb and his followers have shown their resistance to all parties who are considered to be trying to abolish the existence of the tomb of "Mbah Priok". They claim to hold an area of 5.4 hectares which is controlled as their own and no one is allowed to enter the land except with the permission of the caretaker of the grave "Mbah Priok". The incident on April 14, 2010, really left a very deep trauma to the parties involved in the problem. this, which in the end gave birth to a tendency to be apathetic and buy time in order to maintain security stability in the Tanjung Priok Port environment, especially the Koja area, North Jakarta. This "hibernate" condition is gradually not in line with the demands of national development because it has an impact on delaying the development process. the government's strategic project related to the construction of toll road infrastructure and the expansion of the port area which should have been built on part of the land controlled by the heirs of the tomb of "Mbah Priok". The involvement of many parties in various ways at that time had not yet been able to find the right solution to this problem. , while Time continues to roll and the development process must continue (Adisaputra, 2013).

Along with the developments carried out at the Tanjung Priok port, it turns out that eating "Mbah Priok" has an important meaning because it is considered a trouble spot in the ongoing development process, this happens because the tomb area of "Mbah Priok" is part of a strategic location which is one of the development object.

Based on the description of the case above, it is known that the Police have discretion in resolving social conflicts in society. Discretion is the authority to decide what to do under certain conditions. As an effort to maintain security and public order in relation to the resolution of social conflicts, Article 15 paragraph 1 letter (b) of Law No. 2 of 2002 concerning the National Police of the Republic of Indonesia as amended by Article 75 of Law Number 11 of 2020 concerning Job Creation, it is stated that one of the powers of the National Police is to assist in resolving disputes between members of the public that may disrupt public order;

The author has stated that the National Police must set an example to the community that members of the National Police can act as peacemakers by prioritizing restorative justice in efforts to resolve social conflicts, especially those that contain elements of light crime or small losses, one of which is based on discretion. However, until now there has been no regulation that clearly states what forms of discretion and limitations the Polri has in its efforts to resolve social conflicts. In view of Law Number 7 of 2012 concerning Social Conflict Handling, which mandates the handling of social conflicts starting from prevention, termination and post-conflict recovery, which is not only the responsibility of the security forces but is the joint responsibility of the Central Government, regional governments, and the community.

#### **4.3. Comparison of Crime Settlement with Conflict Background in Indonesia and Japan**

The social conflicts that occur in Indonesia today have a strong and distinctive local character. The plurality and diversity of society makes Indonesian society easily fragmented, as well as segregated into various locality or primordial identities. The number of conflicts that are often related to government policies, making their handling is often very difficult to do. Therefore, the resolution of social conflicts in Indonesia is not only according to national law, in the sense of written law in the form of legislation, customary law is also used as the law for resolving social conflicts in Indonesia. In handling social conflicts through customary law, customary institutions are always used as a means to resolve conflicts by prioritizing local wisdom, and there have also been legal arrangements in the positive legal system.

The context of the settlement of criminal acts against the background of customary social conflicts in the Indonesian legal state causes these principles to be in harmony with the applicable legal system. The principle of harmony between customary institutions and positive law in several dimensions of its implementation does not find any obstacles. However, many of the implementations also find inconsistencies between customary institutions and positive law which have conflicting concepts or views on certain practices in conflict. For example, murder in a case of conflict between members of indigenous peoples, positive law will include it as a criminal act even though the adat institution has resolved it through its own mechanism.

Furthermore, as a comparison, the author compares the model for handling criminal acts with a social conflict background with the Japanese state, this cannot be separated from the experience of the author who has visited Japan twice to explore the Japanese Police system and the Japanese Police approach to the community by using the community policing model (community policing / Polmas).

Anthropologically and historically, Japan has noble values that are similar to the Indonesian nation, namely in the life of its people upholding these noble values which teach about a sense of kinship, togetherness, mutual cooperation and deliberation in determining agreements in resolving various matters.

Japanese people have a strong motivation to develop their own culture even though they consciously adopt modern laws. So it is not surprising that the Japanese people think that litigation or win-lose dispute resolution mechanisms are not suitable for dispute resolution, and are even seen as endangering harmonious social relations. The litigation process has been judged to be morally wrong, subversive or rebellious. Law (court) in Japanese society, is something that is not liked, even hated. Bringing people to court to guarantee the protection of their interests, even in civil matters, is something to be ashamed of. Almost the same as the Japanese people, the ways of resolving disputes that occur in South Korean society, If a citizen uses the law (court) as a means to resolve a dispute, it means that person has declared war on his opponent. Settlement through legal means will damage social relations that must be maintained in harmony (Jones and Sembiring, 2011).

For Japanese people, traditionally consider the law as an "order" (order) from the ruler to maintain order". Society in that country, traditionally refers to the teachings of Confucianism, where the law is always attached to punishment. Therefore, the Japanese, are reluctant to bring their civil disputes to court, because the "image" of the Court is only a place for bad people. Civil disputes are resolved through deliberation, conciliation and mediation (Atmadja, 2014).

In Japan, apart from civil issues that are not brought into the realm of the Court, there are also legal issues caused by events of social conflict. The social fact in Japan is that social conflicts rarely occur because the people still respect their culture and ancestors who always teach about the values of honor, harmony and peace, with this condition the Japanese Police do not feel troubled if there is a conflict between citizens because with a different approach. Persuasion has been very effective in resolving the conflict, the Japanese Police action is supported by the Police Act which provides a mandate to help solve problems in society (Interview of the author with Advisor to the Chief of Police / Program Manager Support Program for Reform of Indonesian National, Senior Commissioner/Commissioner General Pol. (Japan). Suzuki Motoyuki, on Friday, April 16, 2021, at STIK – PTIK Jakarta).

Based on the description of the settlement of criminal acts with the background of social conflict in Japan, this becomes a reference for the author that Japan and Indonesia have the same characteristics in terms of the values of their people's lives (local wisdom), therefore it is deemed appropriate for Japan to become an example of a model in conflict resolution in the community who still highly respects local wisdom and the police also act with great attention to local wisdom, so that punishment is a last resort (ultimum remedium).

## **5. POLICY OF THE STATE POLICE OF THE REPUBLIC OF INDONESIA IN THE SETTLEMENT OF CRIMINAL ACTIONS WITH A BACKGROUND OF SOCIAL CONFLICT THROUGH A NON-PENAL POLICY APPROACH**

### **5.1. Actions and Implementation of Non-Penal Policies by the Indonesian National Police in the Settlement of Criminal Acts with Social Conflict Background Based on Indonesian Positive Law**

Settlement of criminal acts against the background of social conflicts that occurred in several regions in Indonesia in the perspective of criminal law policies with a retributive justice pattern in Indonesia by the Indonesian National Police is part of the repressive efforts carried out by the Police after the occurrence of criminal acts in accordance with the provisions and threatened by the law. material crime, and the Criminal Procedure Code and other laws and regulations. Settlement of criminal acts with a social conflict background through a non-penal approach, in the sense of resolving criminal acts with a social conflict background without punishment, which is carried out by the National Police, can reflect on the implementation of Community Policing (Polmas), namely in the implementation of the settlement of criminal acts through APS and Restorative Justice which has been an effort made by the National Police in participating in solving problems that occur in the community or members of the Police together with the community looking for problem-solving efforts, this is clearly stated in Perkap Number 7 of 2008 concerning Basic Guidelines for Strategy and Implementation of Community Policing in the Implementation of Duties. Police. However, not all existing problems can be resolved by means of Restorative Justice. Efforts to resolve the Polmas pattern are efforts made regarding disputes between two parties and are cases that are considered light in weight, and generally involve community or

religious leaders as a counterweight. Related to this, the pattern of settlement with Polmas prioritizes peace in the community compared to the pattern of law enforcement approaches, while parties with problems should also consider the problem solved (Poerba, 2011).

Settlement of criminal acts with a social conflict background, if it is always resolved through a criminal justice process or a means of penalizing, how many tasks are law enforcement officers, especially the Police? Although it is not something that is prohibited, the submission of the settlement of criminal acts with the background of social conflict through the means of penalizing, the means of penalizing should be the last alternative (the last resort or *ultimum remedium*) in the settlement of crimes with the background of social conflict. Such commitment to the penal facility as the last resort or *ultimum remedium* must become a culture because the penal means are not effective in resolving social conflicts completely. The means of reasoning for talking about winning and losing, right and wrong based on the evidence with all its formalities and satisfaction and dissatisfaction for the litigants with all their perceptions.

The author has stated that regarding the settlement of criminal acts with the background of social conflict based on criminal policies that in addition to being able to be resolved through criminal law policies, namely especially by applying criminal law through the penal route, which focuses more on repressive nature and retributive justice, it can also be resolved in out of court / non litigation / non adjudication, namely by using a non-penal policy through alternative dispute resolution by negotiation, mediation, or conciliation in general or peace (mediation) in particular based on the principles of deliberation and restorative justice, which can be chosen to obtain and realize a win-win solution in resolving criminal acts with a social conflict background.

The Pancasila state law has several values, namely harmonious relations between the government and the people, proportional functional relations between state powers, the principle of dispute resolution by deliberation and the judiciary is the last means if deliberation fails. The basic values contained in Pancasila are transformed into legal ideals and legal principles, which are then formulated in the concept of Indonesian national law in order to realize the value of justice, protect the entire Indonesian nation and the entire homeland of Indonesia (Parasong, 2014).

The author has stated that the settlement of criminal acts with a social conflict background through non-penal policies has several advantages as stated above, but there are also weaknesses, namely normatively in Indonesia, criminal acts with a social conflict background cannot be resolved by victims and perpetrators non-penally, such as through alternative dispute resolution (APS) in general and peace (mediation) in particular, because normatively, the prevailing doctrine in Indonesia is that peace does not eliminate the criminal nature of a crime. Empirical Indonesian legal facts have shown that even though there has been peace between the victim and the perpetrator, the criminal case will continue until a court decision is handed down which imposes a sentence, because criminal acts, especially those that do not include complaint offenses, have been resolved by the victims and perpetrators. on the basis of peace does not eliminate the criminal nature of a crime.

Social conflicts have a criminal aspect, of course, there are those who are suspected of having committed criminal acts. Perpetrators of criminal acts, both crimes or violations in criminal cases, cannot bargain with the state as the incarnation and guardian of the public interest. In this dimension, a criminal with a social conflict background cannot resolve cases through amicable agreements or compensation to the state, because in criminal cases it seems that it must be resolved through the courts, it is very rare and difficult for criminal cases to be resolved outside the judicial process through the courts. deliberation and consensus, although actually in the positive criminal law doctrine, there is a classification that divides criminal offenses into two categories, namely ordinary offenses (Gunadi and Efendi, 2011) and complaint offenses (Anwar, 1986:110).

The author has argued that normatively in Indonesia, criminal acts with a social conflict background cannot be resolved by the victim and the perpetrator non-penally, such as through consensus deliberation and alternative dispute resolution methods (APS) in general and peace (mediation) in particular, because normatively, the application of non-penal policies by the Indonesian National Police in resolving criminal acts with a social conflict background is reviewed under the Criminal Code and the Criminal Procedure Code in general is not allowed, because the Criminal Code tends to dwell on the formulation of criminal acts, liability, and criminal threats. This is inseparable from the underlying criminal law doctrine, namely criminal law issues include prohibited acts or crimes (offence), people who commit prohibited acts and have aspects of guilt (guilt) and criminal threats (punishment), and the Criminal Procedure Code, if examined in it is regulating the legal process of criminal cases, both crimes or violations, which begins when there is a crime, and the victim of a crime the particular criminal concerned submits/make a report or complaint, which then the perpetrator of the crime is processed through an investigation, investigation, prosecution, examination process before a court and the implementation of a court decision, and based on the prevailing doctrine in Indonesia is that peace does not abolish the criminal nature of a crime. criminal act. Empirical Indonesian legal facts have shown that even though there has been peace between the victim and the perpetrator, but the criminal case continues until a court decision is imposed which imposes a sentence, because criminal acts, especially those that do not include complaint offenses, which have been settled by the victim and perpetrator on the basis of peace do not eliminate the criminal nature of a crime. This is generally reflected in every

settlement of criminal cases by law enforcement officers (police, prosecutors and judges) through the criminal justice process often ending in imprisonment.

Thus, this study can find the results that the actions of the Indonesian National Police in resolving criminal acts against the background of social conflicts that occur in several areas are by using criminal policies, both with penal policy approaches and non-penal policies. The penal policy approach carried out by the Indonesian National Police through the criminal justice system tends to use discretion and dwells on the Criminal Code and the Criminal Procedure Code, which often ends in imprisonment, while the non-penal policy approach is carried out by the Indonesian National Police with peace efforts through consensus deliberation which has not been comprehensive. contained in Law Number 2 of 2002 concerning the Indonesian National Police, the Criminal Code, the Criminal Procedure Code, and Law Number 7 of 2012 concerning the Handling of Social Conflicts, so that the implementation of non-penal policies by the Indonesian National Police in resolving criminal acts with a conflict background social events that occur in several regions in Indonesia based on Indonesian positive law, the final result has no legal force, is not final and binding, because if there is a denial of peace through deliberation, it cannot be executed properly. the prosecution, and does not invalidate the right to sue the victim, the right to investigate the National Police Investigator and the authority to prosecute the Public Prosecutor, and does not abolish/abort the right to retaliate against a non-criminal case with the same subject and object (nebis in idem) in order to prevent the emergence of guidance on the same case. with the same subject and object, so that it cannot provide legal certainty and justice, does not guarantee order, often creates uncertainty, and does not touch the basic problems that occur in society.

## **5.2. A Model for Settlement of Crimes with a Social Conflict Background Through a Non-Penal Policy Approach that the Indonesian National Police Can Do in the Future**

The author has stated that in Indonesia the model for resolving criminal acts with a social conflict background through a non-penal policy approach that can be carried out by the National Police in particular does not yet have a written legal umbrella in a special law, especially those that regulate provisions that are final and binding and The executive power of the Indonesian results of the settlement of criminal acts against the background of social conflict through the non-penal policy approach by the National Police, because its implementation is very dependent on the voluntary submission of the parties, so that if there is a denial of the agreement that has been agreed upon by both parties, it cannot be executed. by force and not being able to abort the right to sue the victim, the right to investigate Polri investigators and the authority to prosecute Public Prosecutors and to abolish/abort the right to re-little non-criminal cases with the same subject and object (nebis in idem) in order to prevent the reappearance of lawsuits in cases of the same crime that have been resolved through a non-penal policy. and finally they submit a legal settlement to the criminal justice process, so that they cannot provide legal certainty, justice, and benefits. and and finally they submit a legal settlement to the criminal justice process, so that they cannot provide legal certainty, justice, and benefits. and and finally they submit a legal settlement to the criminal justice process, so that they cannot provide legal certainty, justice, and benefits.

The author has conveyed that research on "Police Policy of the Republic of Indonesia in the Settlement of Crimes with a Background of Social Conflict Through a Non-Penal Policy Approach", in particular the model for resolving criminal acts with a background of social conflict through a non-penal policy approach that can be carried out by the State Police The Republic of Indonesia in the future, which the author offers, is an idea or thought about a model for resolving criminal acts with a social conflict background through a non-penal policy approach that the Indonesian National Police can carry out in the future, which has novelty. /novelty, which is as follows:

- 1) The model for resolving criminal acts with a social conflict background through a non-penal policy approach that can be carried out by the Indonesian National Police in the future is simpler in process and procedures than the APS/ADR mechanism that already exists, runs and is applied in practice in Indonesia, namely the method of consultation, negotiation, mediation, or conciliation;
- 2) The model for resolving criminal acts with a social conflict background through a non-penal policy approach that can be carried out by the Indonesian National Police in the future must be used as an independent institution or has its own body, for example, Arbitration has an Arbitration Board, and is used as an arbitration agency. an integral part which is an integral part of the criminal justice system.
- 3) A model for resolving criminal acts with a social conflict background through a non-penal policy approach that can be carried out by the Indonesian National Police in the future as a guide for Police Investigators to act criminally or not against criminal acts with a social conflict background.

This is an effort to try to reduce or suppress the number of criminal cases that are reported and resolved through the investigation process by the Police, because considering the large number of criminal cases that enter the Police and often continue through various legal remedies, it is necessary to strive to reduce the number of cases. criminal cases that are entered

and reported to the Police, and at the same time minimize the conflicting parties against each other in a win-lose position, or wrong and right.

The model for resolving criminal acts with a social conflict background through a non-penal policy approach that can be carried out by the Indonesian National Police in the future, during the process will provide a time lag for submitting reports, so as to reduce the accumulation of criminal cases/cases in the Police, because the existence of a filter on the submission of case reports/criminal cases.

Thus, it can also have an impact on reducing criminal cases/cases from the investigation level to the courts, if the settlement of criminal acts with a social conflict background through a non-penal policy approach that can be carried out by the National Police succeeds in reaching an agreement. Therefore, this study seeks to try to reduce or suppress the number of criminal cases/crimes reported and resolved by the National Police through a penal policy process, so of course it can also prevent the parties from getting angry and resentful.

In addition to the above, efforts to resolve criminal cases with a social conflict background can reduce the potential impact of social conflict which can result in serious (severe) disturbances in Kamtibmas.

- 4) The model for resolving crimes against the background of social conflict through a non-penal policy approach that can be carried out by the Indonesian National Police in the future will provide greater access to conflicting parties to find solutions to modern crimes based on the culture of the Indonesian nation itself. , which is final and binding on both parties (final and binding) and has executive power (executoriale kracht) as is usually the case with court decisions that have permanent legal force (in kracht van gewijsde), which can be enforced by force by state instruments, as usually a court decision that has permanent legal force, so that if there is a denial of the contents of the agreement that has been agreed upon by the parties, it can be executed by force which in the end can satisfy, fulfill a sense of justice, provide legal certainty, and benefit the disputing parties, because so far how the consensus agreement will be carried out Normatively, in what form, is final and binding on both parties (final and binding) and has legal force to force the executive (executoriale kracht) as there are usually no rules for court decisions. is final and binding on both parties (final and binding) and has the power of law to compel the executive (executoriale kracht) as usually court decisions still have no rules. is final and binding on both parties (final and binding) and has the power of law to compel the executive (executoriale kracht) as usually court decisions still have no rules.

The binding force is that the results of the agreement on the settlement model of criminal acts with the background of social conflict through a non-penal policy approach that can be carried out by the Indonesian National Police in the future are binding on both parties, meaning that the parties concerned must submit, obey and carry out the agreement that has been agreed by the parties. One of the parties may not act contrary to the results of the agreement that has been produced and agreed upon in the process of resolving criminal acts with a social conflict background through a non-penal policy approach that can be carried out by the Indonesian National Police.

Executorial power is the power to carry out what is stipulated in the agreement on the settlement of criminal acts with the background of social conflict through a non-penal policy approach that the Indonesian National Police can do by force by state instruments, because of an agreement on a settlement model. a criminal act with a social conflict background through a non-penal policy approach that can be carried out by the Indonesian National Police is intended to resolve a criminal act with a social conflict background and establish rights or laws, and also realize or enforce it (execution) by force. Therefore,

- 5) The results of the settlement of criminal acts with a social conflict background through a non-penal policy approach that can be carried out by the Indonesian National Police in the future must be used as the basis for aborting the right to sue victims, the right to investigate Polri investigators and the authority to prosecute Public Prosecutors and abolish the right to re-litigate non-criminal cases with the same subject and object (nebis in idem) in order to prevent the re-submission of criminal cases with the background of social conflict in the same subject and object, so as to provide legal certainty, justice, and benefit to the disputing parties.

Based on the description above, the legal norms, in this case, the laws and regulations are not comprehensive, it can even be said that there is no law that specifically regulates the actions of the Indonesian National Police in resolving criminal acts with a social conflict background through a social conflict approach. non-penal policy and the final result has no legal force, is not final and binding, because if there is a denial of peace through the deliberation it cannot be executed by force, and does not invalidate the right to sue the victim, the right to investigate the National Police Investigator and the authority to sue the Prosecutor General and not abolishing/aborting the right to re-litigate non-criminal cases with the same subject and object (nebis in idem) in order to prevent the emergence of guidance on the same case with the same subject and object so that it cannot provide legal certainty and justice, does not guarantee order, and often creates uncertainty, and does not touch the basic problems that occur in society. Therefore, in order to provide legal force, which is not final and binding, on the results of the model for resolving crimes against

the background of social conflict through a non-penal policy approach that can be carried out by the Indonesian National Police in the future, it is necessary to make regulations/ a comprehensive set of rules in the form of a law. This thought is closely related to the policy of the National Police Chief Gen. Pol. Drs. Listyo Sigit Prabowo, M.Si regarding law enforcement that must be carried out firmly, carefully, humanely, and paying attention to the sense of justice for the community.

The model of resolving criminal acts with a social conflict background through a non-penal policy approach that can be carried out by the Indonesian National Police in the future will have positive implications, where philosophically the solution can be achieved which can be done simply, quickly and at low cost. This can happen because there are fewer parties involved and the process is short compared to the judicial process.

Assessed from a sociological perspective, the aspect of the model for resolving criminal acts with a social conflict background through a non-penal policy approach that can be carried out by the Indonesian National Police in the future is oriented towards Indonesian society where the cultural roots of the community are oriented towards family cultural values, prioritizing the principle of deliberation and consensus to resolve a dispute in a social system. Strictly speaking, these aspects and dimensions are resolved through the dimension of local wisdom of customary law which is based on the cosmic, magical and religious nature of thought, which is correlated with the sociological aspects of the perspective and culture of the Indonesian people.

Assessed from a juridical perspective, the model for resolving criminal acts with a social conflict background through a non-penal policy approach that can be carried out by the Indonesian National Police in the future in the dimension of state law (*ius constitutum*) is actually not widely known and still leaves controversy. between the parties who agree and those who do not agree to be implemented. The essential problem leads to the choice of a pattern of settlement of criminal acts with a background of social conflict through a non-penal policy approach that can be carried out by the Indonesian National Police in the future related to the domain of state superiority with the superiority of local wisdom communities. On the other hand, The model for resolving criminal acts with a social conflict background through a non-penal policy approach that can be carried out by the Indonesian National Police in the provisions of laws and regulations has not been explicitly regulated. Then, on the other hand, it turns out that the practice of resolving criminal acts with a social conflict background through a non-penal policy approach has been carried out by the Indonesian people and the settlement is carried out outside the court.

Based on the overall description of the discussion and analysis above, it basically emphasizes that the model for resolving criminal acts by background the right to investigate Polri investigators and the authority to sue the Public Prosecutor and to abolish/abort the right to re-little non-criminal cases with the same subject and object (*nebis in idem*) in order to prevent the reappearance of lawsuits in the same criminal case that has been resolved through a non-penal policy. and is executable in nature or can be executed by force. so that it can provide legal certainty and justice, guarantee order, legal certainty.

## **6. CLOSING**

### **6.1. Conclusion**

- 1) The policy of the State Police of the Republic of Indonesia in resolving crimes against the background of social conflicts that occurred in several regions is to use a penal policy approach and a non-penal policy approach. The penal policy approach carried out by the Indonesian National Police through the criminal justice system tends to use discretion and dwells on the Criminal Code and the Criminal Procedure Code, which often ends in imprisonment, while the non-penal policy approach is carried out by the Indonesian National Police with peace efforts through consensus deliberation which has not been comprehensive. contained in Law Number 2 of 2002 concerning the Indonesian National Police, the Criminal Code, the Criminal Procedure Code, and Law Number 7 of 2012 concerning the Handling of Social Conflicts, so that the implementation of non-penal policies by the Indonesian National Police in resolving criminal acts with a conflict background social events that occur in several regions in Indonesia based on Indonesian positive law, the final result does not have legal force, is not final and binding, so it cannot provide legal certainty, justice, and benefit and does not touch basic problems. what is happening in the community. In addition, prolonged social impacts still have the potential to occur, for example, revenge actions, ex-convicts in criminal cases with a social conflict background losing their status (unemployment due to job loss), social reactions from the community by distancing former convicts in criminal cases with social conflict backgrounds and the root cause of the problem. conflict cannot be resolved comprehensively.
- 2) The model for resolving criminal acts with the background of social conflicts carried out by the National Police in the future should prioritize a non-penal approach as a premium remedium and a penal approach as an ultimum remedium, therefore a legal breakthrough is needed that can be a juridical basis in implementing the policy.

## 6.2. Suggestion

- 1) In order for Polri's policy in resolving criminal acts against the background of social conflict to be more effective, it must pay attention to various aspects using a comprehensive approach and various perspectives. It is intended that the social conflict resolution model with a social conflict background can be carried out appropriately and effectively. Based on two approaches, namely penal and non-penal, the author suggests that the non-penal approach is the main alternative in resolving social conflicts, the non-penal approach is not carried out immediately for every criminal act with a social conflict background but still pays attention to various aspects such as aspects juridical, sociological, philosophical and anthropological. So that such an approach can give birth to appropriate and strong legal decisions in the aspect of the accompanying legal consequences. The non-penal approach is expected to be able to resolve the root causes of social conflicts, avoid retaliation as a result of punishing the perpetrators and ensure the reconciliation of various parties involved in the conflict. and order in social life.
- 2) The model for resolving criminal acts with a social conflict background through a non-penal policy approach that can be carried out by the National Police in the future, is the institutionalization model for resolving criminal acts with a social conflict background through the implementation of non-penal policies by the Police in a Law. specifically formed by the House of Representatives together with the President, or with the model of the Police Regulation (Perpol) concerning the Resolution of Social Conflicts Through Non-Penal Policies, which are oriented towards a policy-oriented approach ("policy-oriented approach") and at the same time a policy-oriented approach. values ("value oriented approach") as a juridical anticipation, that the legitimacy of the actions of the Indonesian National Police in resolving social conflicts through the application of non-penal policies is recognized, which focuses on the provisions for resolving conflicts through the implementation of non-penal policies by the National Police carried out peacefully on the basis of deliberation and consensus and resolved quickly, simply, accurately and efficiently. useful (effective and efficient), binding and final in nature, aborting the right to sue victims, the right to investigate Polri investigators and the authority to prosecute Public Prosecutors and abolishing the right to retaliate against non-criminal cases with the same subject and object (nebis in idem) and executor beslag or can be executed by force, should reflect a sense of justice, legal certainty and benefit, both for the parties to the conflict, citizens and the state. which focuses on the provision of conflict resolution through the implementation of a non-penal policy by the Police carried out peacefully on the basis of deliberation and consensus and is resolved quickly, simply, accurately and efficiently (effectively and efficiently), is binding and final, is aborting the right to sue victims, rights investigating Polri investigators and the authority to prosecute Public Prosecutors and abolishing the right to re-little non-criminal cases with the same subject and object (nebis in idem) and executor beslag or can be executed by force should provide a sense of justice, legal certainty and benefit, both for the parties conflict, citizens and the state. which focuses on the provision of conflict resolution through the implementation of a non-penal policy by the Police carried out peacefully on the basis of deliberation and consensus and is resolved quickly, simply, accurately and efficiently (effectively and efficiently), is binding and final, is aborting the right to sue victims, rights investigating Polri investigators and the authority to prosecute Public Prosecutors and abolishing the right to re-little non-criminal cases with the same subject and object (nebis in idem) and executor beslag or can be executed by force should provide a sense of justice, legal certainty and benefit, both for the parties conflict, citizens and the state.

## REFERENCES

- Adisaputra, Asep. 2013. *Resolusi Damai Makam "Mbah Priok", Sebuah Kesadaran Perpektif Kepolisian*, Polres Pelabuhan Tanjung Priok Polda Metro Jaya, DKI Jakarta, 2013.
- Ahmad, Kasman Hi. and Herman Oesman (penyunting). 2000. *Damai yang Terkoyak, Catatan Kelam Dari Bumi Halmahera*. Podium-Madani Press. Ternate.
- Alting, Husen. 2019. *Sejarah Kelam Konflik Maluku Utara*", dalam Rachma Fitriani dan Bimo Logo (Editor), *Merawat Perdamaian 20 Tahun Konflik Maluku*, 2019. Jakarta: PT Graemdia.
- Amriani, Nurnaningsih. 2011. *Mediasi Alternatif Pnyelelesaian Sengketa Perdata di Pengadilan*, PT RajaGrafindo Persada, Jakarta.
- Anwar, Moch. 1986. *Beberapa Ketentuan Umum dalam Buku Pertama KUHP*, Alumni, Bandung. 1986.
- Arief, Barda Nawawi. 2002. *Kebijakan Hukum Pidana*, PT Citra Aditya Bakti, Bandung.
- Ariman, H.M. Rasyid and Fahmi Raghieb. 2015. *Hukum Pidana*, Setara Press, Malang..
- Assagaf, Said. 2019. *Merawat Perdamaian dan Membangun Kesejahteraan*", dalam Rachma Fitriani dan Bimo Logo (Editor), *Merawat Perdamaian 20 Tahun Konflik Maluku*, PT Gramedia Pustaka Utama-M7C, Jakarta.

- Atmadja, Hendra Tanu. 2014. Penyelesaian Sengketa Lagu Atau Musik di Luar Pengadilan, *Lex Jurnalica*. Fakultas Hukum Universitas Esa Unggul, Jakarta. <https://media.neliti.com/media/publications/18017-ID-penyelesaian-sengketa-lagu-atau-musik-di-luar-pengadilan.pdf>
- Budiardjo, Miriam. 1998. *Dasar-Dasar Ilmu Politik*, Gramedia Pusataka Utama, Jakarta.
- Faisal. 2020. *Politik Hukum Pidana*, Rangkang Education, Tangerang.
- Fuady, Munir. 2018. *Metode Riset Hukum: Pendekatan Teori dan Konsep*, Depok: Rajawali Press.
- Gea, Antonius Atosokhi, et al. 2002. *Relasi dengan Sesama*. Elex Media Komputindo, Jakarta.
- Gunadi, Ismu W, dan Jonaedi Efendi. 2011. *Cepat & Mudah Memahami Hukum Pidana (jilid 1), Dilengkapi: Buku 1 KUHP*, PT Prestasi Pustakarya, Cetakan Pertama, Jakarta.
- Harahap, Zairin. 2005. *Hukum Acara Peradilan Tata Usaha Negara*, PT RajaGrafindo Persada, Jakarta.
- Intruksi Presiden Nomor 8 Tahun 2002 tentang Pemberian Jaminan Kepastian Hukum kepada Debitur yang Telah Menyelesaikan Kewajibannya atau Tindakan Hukum kepada Debitur yang Tidak Menyelesaikan Kewajibannya Berdasarkan Penyelesaian Kewajiban Pemegang Saham
- Jose, Jimmy and Sembiring. 2011. *Cara Menyelesaikan Sengketa Diluar Pengadilan (Negosiasi, Mediasi, Konsiliasi, dan Arbitrase)*, Visi Media, Jakarta.
- Kitab Undang-Undang Hukum Pidana (KUHP).
- Kurnia Jayanti. 2005. "Konflik Vertikal Antara Gerakan Aceh Merdeka di Aceh dengan Pemerintah Pusat di Jakarta Tahun 1976-2005", <http://journal.uinjkt.ac.id/index.php/al-turats/article/download/3698/2706>.
- Lasan. 2020. "Implementasi Teori Restorative Justice Mewujudkan Keadilan yang Berimbang", <http://ejournal.kopertais4.or.id/madura/index.php/nawazil/article/view/3690/2683>, dan [file:///C:/Users/ASUS-X455LA-Q/Downloads/3690-Article%20Text-10087-1-10-20200103%20\(1\).pdf](file:///C:/Users/ASUS-X455LA-Q/Downloads/3690-Article%20Text-10087-1-10-20200103%20(1).pdf), diakses: 13-6-2020.
- Maftuh, Bunyamin. 2005. *Pendidikan Resolusi Konflik: Membangun Generasi Muda yang Mampu Menyelesaikan Konflik Secara Damai*. Program Pendidikan Kewarganegaraan, Universitas Pendidikan Indonesia, Bandung.
- Mertokusumo, Sudikno. 2010. *Mengenal Hukum Suatu Pengantar*, Universitas Atma Jaya, Yogyakarta.
- Muchsan, 1992. *Sistem Pengawasan Terhadap Perbuatan Aparat Pemerintah dan Peradilan Tata Usaha di Indonesia*, Liberty, Yogyakarta.
- Muhjad, Hadin and Nunuk Nuswardani. 2012. *Penelitian Hukum Indonesia Kontemporer*, Genta Publishing, Yogyakarta.
- Mulyadi, Lilik. 2007. *Pembalikan Beban Pembuktian Tindak Pidana Korupsi*, PT Alumni, Bandung.
- Mustofa, Muhammad . 2007. *Kriminologi Kajian Sosiologis Terhadap Kriminalitas, Perilaku Menyimpang dan Pelanggaran Hukum*, Fisip UI Press, Depok.
- Parasong, M. Ali Taher. 2014. *Mencegah Runtuhnya Negara Hukum*, Grafindo Books Media, Jakarta Selatan..
- Peraturan Kejaksaan Republik Indonesia Nomor 15 Tahun 2020 Tentang Penghentian Penuntutan Berdasarkan Keadilan Restoratif.
- Peraturan Kepala Kepolisian Negara Republik Indonesia Nomor 7 Tahun 2008 Tentang Pedoman Dasar Strategi dan Implementasi Pemolisian Masyarakat dalam Penyelenggaraan Tugas Polri.
- Poerba, Zakarias. 2011. Alternatif Penyelesaian Perkara oleh Polri Melalui ADR & Restoratif Justice", *Jurnal Studi Kepolisian, Sekolah Tinggi Ilmu Kepolisian-PTIK*, Jakarta Selatan, Edisi 075, Juni-November 2011.
- Pratama, Cahya Dicky. 2020. Kompas.com, "Bentuk-Bentuk Konflik", <https://www.kompas.com/skola/read/2020/12/11/183144369/bentuk-bentuk-konflik>, diakses: 13-6-2020.
- Prodjohamidjoyo, Martiman. 1997. *Memahami Dasar-Dasar Hukum Pidana Indonesia*, 2, Penerbit Pradnya Paramita, Jakarta.
- Salim HS dan Erlies Septiana Nurbani. 2016. *Penerapan Teori Hukum pada Penelitian Disertasi dan Tesis, Buku Ketiga*, Rajawali Press, Jakarta.
- Sulaeman, King Faisal. 2017. *Teori dan Hukum Konstitusi*, Penerbit Nusa Media, Bandung.

Surat Edaran Kepala Kepolisian Negara Republik Indonesia Nomor: SE/8/VII/2018 tentang Penerapan Restorative Justice dalam Penyelesaian Perkara Pidana.

Surat Kapolri No. Pol: B/3022/XII/ 2009/SDEOPS tanggal 14 Desember 2009 tentang Penanganan Kasus Melalui Alternatif Dispute Resolution (ADR),

Syamsuddin, Nazaruddin. 1987. *Integrasi Politik di Indonesia*, Jakarta: Gramedia.

Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.

Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja.

Undang-Undang Nomor 16 Tahun 2004 tentang Kejaksaan Republik Indonesia.

Undang-Undang Nomor 7 Tahun 2012 tentang Penanganan Konflik Sosial.

Undang-Undang Nomor 8 Tahun 1981 Tentang Hukum Acara Pidana (KUHAP)

Undang-Undang Republik Indonesia Nomor 2 Tahun 2002 tentang Kepolisian Negara Republik Indonesia.

Zulfa, Eva Achjani & Sri B Praptadina, 2016. Diskresi Kepolisian dalam Penanganan Konflik Sosial : Kedudukan Peraturan Internal Kepolisian dalam Penanganan Konflik di dalam Peraturan Perundang-undangan. *Jurnal Hukum & Pembangunan* 46 No. 4 (2016): 538-551 ISSN: 0125-9687 (Cetak) E-ISSN: 2503-1465 (Online) Tersedia versi daring: <http://jhp.ui.ac.id> DOI: <http://dx.doi.org/10.21143/jhp.vol46.no2>, file:///C:/Users/ASUS-X455LA-Q/Downloads/126-206-2-PB.pdf.