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Articles

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Community Mediation-Based Legal Culture in Resolving Social Conflicts of Communities Affected by the COVID-19 Pandemic in West Nusa Tenggara, Indonesia

Mediacja w świetle kultury prawnej – rozwiązywanie konfliktów społecznych we wspólnotach dotkniętych pandemią COVID-19 w prowincji Małe Wyspy Sundajskie Zachodnie w Indonezji

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ABSTRACT

This study aims to describe the urgency of the existence of community mediation-based legal culture as an alternative dispute resolution during the COVID-19 pandemic in West Nusa Tenggara Province, Indonesia. This study employed a non-doctrinal paradigm with a descriptive study. It uses case and legislation approaches based on a series of observations, interviews, and literature studies to be analyzed qualitatively. The results of this research finding are a component to understand one of the concepts offered related to the use of culture-based community mediation as a fast and simple alternative dispute resolution. The institutionalized community mediation at Mediation Institution has culture-based management procedures that serve as a means of resolving conflicts. It aims to create a safe, orderly, and peaceful life based on the legal values of the local community that are rooted in their beliefs (religion), customs, and social culture.

Keywords: community mediation; dispute resolution; COVID-19 pandemic; legal culture; West Nusa Tenggara; Indonesia

INTRODUCTION

The coronavirus disease (COVID-19) initially appeared in China in December 2019. This outbreak then spread globally and resulted in a governance crisis. There are pandemic management policies in various countries.[1] Almost all countries faced uncertainty in handling COVID-19, regardless of their economic status, technological advancement, and reliability of the health sector. This condition forces governments to adopt policies that tend to be of a "trial and error" nature.[2]

Indonesia faces the same challenges. In addition to the problem of a minimal healthcare system, the dynamics of governance and COVID-19 handling policies also leave a gap. It includes the implementation of a social security net program for the poor to accommodate for the economic impact caused by the COVID-19 outbreak.

Cases of conflicts in West Nusa Tenggara Province, Indonesia, led to tangled social assistance problems. Chaos in some areas even led to the forced closure of village offices by residents. It paralyzed administrative services, including the village governments' efforts to deal with COVID-19, as what happened in Sadia City, Bima Village, Ranggo Village, Dompu Regency, and Dasan Baru Village, Central Lombok Regency. The confusion that resulted in conflicts between residents and the village government was primarily motivated by community demands for transparency in the process of collecting beneficiary data to obtain cash aid.[3]

[1] R.Y. Elbay, A. Kurtulmus, S. Arpacioglu, E. Karadere, *Depression, Anxiety, Stress Levels of Physicians and Associated Factors in COVID-19*, "Psychiatry Research" 2020, vol. 290.

[2] W. Mas'udi, P.S. Winanti, *Tata Kelola Penanganan Covid-19 di Indonesia* [*Covid-19 Management in Indonesia*], Yogyakarta 2020.

[3] R.S. Dewi, *Evaluasi penyaluran bantuan sosial (bansos) tahap satu Covid-19* [*Evaluation of the first stage of Covid-19 aid distribution*], https://ombudsman.go.id/artikel/r/artikel--evaluasi-penyaluran-bantuan-sosial-bansos-tahap-satu-covid-19 (access: 12.01.2022).

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In society, chaotic situations are characterized by instability of social processes in various dimensions.

The upheaval that occurred was due to the lack of human behavior interpretation in the local community's culture, which is closely related to the meaning of truth, commonly referred to as legal facts. Knowledge and truth are in the legal culture in the context of understanding people's behavior at the level of the legislators, the sanction implementers, and role holders. As actors, humans do not merely react to the actions of others, but they interpret and define them. The actors' responses are directly or indirectly based on the assessment of a meaning.[4] Therefore, human interaction is bridged by interpretive symbols or by finding meaning in others' actions. A complete analysis of human behavior may capture the meaning of symbols in interactions.

Social control is institutionalized in cultures that share values/philosophies.[5] Legal culture is a component to understand the legal system's operation as a process, where the legal culture functions as a bridge between the rule of law and the citizens' legal behavior. Thus, with the support of a conducive legal culture, regulation or law can be realized as expected by lawmakers and the community as targets of law.

The laws that exist in various fields in society are expected to carry out their functions[6] as a means of dispute resolution, social control, social engineering, community emancipation, legitimacy and control of changes, or distributing justice. The argument proposed is that rule of law, as a mere legal/institutional construction, has no transcendence for development.[7]

Seeing from another perspective in the case of the Dayak Tomun people, the conflict resolution process was led by the *damong adat* as the mediator. The *damong adat* is the customary leader. He is accompanied by the *mantir adat* (village-level customary leader representative) as a counselor. The two call the conflicting parties for an amicable deliberation based on the traditions of the local culture. This conflict resolution model is clearly innovative as it was developed by incorporating the *bahaum* (dialog) and *mempala* (rational) models.[8]

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[4] Achmadi, K. Dimyati, Absori, S.M. Hangabei, K.K. Usop, *Concept Legal Culture of the Volkgeist-Based Customary Land Rights Conflict Resolution of the Dayak Tomun Community in Central Kalimantan Indonesia*, "Asian Social Science" 2020, vol. 16(1), pp. 115–123.

[5] Pujiyono, J. Wiwoho, W. Sutopo, *Implementation of Javanese Traditional Value in Creating the Accountable Corporate Social Responsibility*, "International Journal of Law and Management" 2017, vol. 59(6), pp. 964–976.

[6] Sidharta, *Karaktersitik Penalaran Hukum dalam Konteks Keindonesiaan* [*Characteristic of Legal Rationalization in the Context of Indonesia*], Tulungagung 2006.

[7] F.J. Fonseca, *Deficiencies of the Rule of Law and the Legal Culture, and Its Relationship to Underdevelopment*, "Asian Journal of Law and Economics" 2015, vol. 6(2), pp. 231–248.

[8] Achmadi, S.M. Hangabei, K. Dimyati, Absori, *Culture-Based Land Right Conflict Resolution Model: A Case Study of the Dayak Tomun Indigenous People*, "The International Journal of Interdisciplinary Cultural Studies" 2021, vol. 16(2), pp. 1–10.

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By including the legal culture component in the discussion about law, the law will be perceived more realistically, namely the law as it is in people's lives so that it can be known, whether the law is implemented or not – including errors in the implementation and abuse of law in society. Therefore, the legal culture will function as a soul that will revive the whole legal mechanism.[9]

Departing from the above reality, the issues discussed in this study are related to the urgency of the existence of community mediation as a fast and simple alternative dispute resolution. It was created using local wisdom instruments based on the local community's culture so that conflicts that emerged during the COVID-19 pandemic are well managed. It aims to make the escalation of the conflict not worsen the existing social conditions. This is also an entry point in reforming the national law by institutionalizing alternative means of dispute resolution in society as part of the national justice system.

West Nusa Tenggara is a province in Indonesia, which is in the western part of the southeastern island of Nusa Tenggara, the capital of which is Mataram. This province consists of Lombok Island and Sumbawa Island, which have an area of 20,153.15 km², with a population of around 5,012,687 inhabitants.

The Sasak ethnicity is an indigenous community that resides on Lombok Island, also known as Gumi Selaparang. Lombok is the second island in the Sunda Kecil island group from west to east. From Bali, it is separated by the Lombok Strait, which is rather wide; and from Sumbawa, it is bordered by the Alas Strait. This island spans around 4,700 km² (somewhat smaller than Bali), consisting of three regions, the northern mountain complex, the southern mountain complex, and the central plains.[10]

Like many other ethnic groups in Indonesia, the Sasak people also have local laws that are passed down over generations by their ancestors as a way of life. Selecting a person to be the founder of a tradition implies that by this choice, one defines the content of the tradition.[11] One of them regards dispute resolution principles which can be identified as follows: 1) the principle of divinity and self-control (*betegel leq reden neneq*), meaning that the reconciliation of disputes must be based on the spirit to carry out the commands of Allah (God), meaning that whatever results are obtained during dispute resolution should be practiced sincerely/voluntarily; 2) the principle of equality and togetherness of rights (*doe sopoq, bareng ngepe*), meaning that dispute resolution must not discriminate by gender, social status, or age; everyone has the same position and right to be treated fairly; 3) the principle of harmony and kinship (*sopoq crew*, mutual trust, mutual adoption,

[9] Achmadi, K. Dimyati, Absori, S.M. Hangabei, K.K. Usop, *op. cit.*, pp. 115–123.

[10] A.V. Kraan, *Lombok: Conquest, Colonialization, and Backwardness*, Bima 2009.

[11] K. Tuori, *The Disputed Roots of Legal Pluralism*, "Law, Culture and the Humanities" 2011, vol. 9(2), pp. 330–351.

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mutual affinity, and mutual seduction); in the Sasak language, there is a proverb (*sesenggak*) or a phrase that reads *bau empak aik meneng tunjung tilah*, which means every dispute resolution should put forward kinship – it implies that dispute resolution is solely aimed at creating balance and peace in society; 4) the principle of consensus agreement (*soloh*) is a peace decision made in the mediation process based on the results of a consensus agreement, based on local wisdom values; 5) the principle of justice (*endeq naraq, bine kire, tarik nyacap*) means the outcome of a peace decision must be fair and practiced according to the rights of each party.

The overall high awareness and obedience of the Sasak community to local laws makes it easy for traditional leaders, religious leaders, youth leaders, and village officials to resolve conflicts by becoming mediators in the mediation center, which was once symbolized by *berugak* (house with four pillars, six pillars, and so on) or *santren* (*mushola*/*a* small mosque).[12]

The art of translation has also been viewed as a genuine reflection of the actual aspects of different civilizations. Culture has been the major point of contact between human beings since the very beginning of life. It is true, therefore, to say that many societies express culture through language, creating a symbiotic relationship between culture and language.[13]

This legal research employed a non-doctrinal paradigm. According to S. Wignyosoebroto, the non-doctrinal research is intended to describe the formulation and the implementation processes of law in society. This research typology is also often referred to as socio-legal research.[14] Non-doctrinal research that is social and empirical on the law will produce an outcome on the law's existence and function in society.[15]

The type of research is a descriptive study because it intends to clearly describe (by including the possibility to explore) various matters regarding alternative means of conflict resolution, especially those that are resulted from the implementation of social security net programs for the poor to anticipate the economic impacts caused

[12] Interview with Abidin Tuarita, a Customary Community Leader, of 8 July 2020.

[13] A.O.H. Alidmat, K. Manjet, *Conflict of Culture in Translation: A Case Study of Abdelrahman Munif's Novel Cities of Salt: Al-Teeh*, "Pertanika Journal of Social Sciences & Humanities" 2020, vol. 28(S2), pp. 353–367.

[14] S. Wignyosoebroto, *Hukum, Paradigma, Metode dan Dinamika Masalahnya. Beberapa Persoalan Paradigmatik Dalam Teori Dan Konsekuensinya Atas Pilihan Metode Yang Akan Dipakai (Metode Kuantitatif vs Metode Kualitatif), dalam seminar–lokakarya* [*Law, Paradigm, Method and Dynamics of the Problem: Some Paradigmatic Problems in Theory and Their Consequences on the Choice of Methods to Be Used (Quantitative Methods vs. Qualitative Methods), in seminars-workshops*], "Metodologi Penelitian dan Statistik" Conference of Research Method and Statistics, UNAIR Press, Surabaya 1995.

[15] S. Wiradipraja, *Panduan Praktis: Metode Penelitian Hukum dan Karya Ilmiah* [*A Practical Guide of Legal Research Method and Scientific Paper*], Bandung 2015.

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by the COVID-19 outbreak. Then, this research employed the case approach and statute approach.

This research was conducted at Mediation Institution in West Nusa Tenggara, Indonesia. This institution is a role model in developing a legal culture-based alternative means of resolving conflicts. The data collection techniques were literature studies, interviews, and observations, as follows: a) finding, inventorying information, and studying the laws and regulations related to research studies, including the Regional Regulation No. 9 of 2018 on Mediation Institution; b) conducting intensive and in-depth interviews with informants, such as the West Nusa Tenggara Mediation Bale secretary Mr. Nasri Master of Law, who led the sealing actions at the Dasan Sari Village Office (Muhammad Shafi Maulana Anjani), including customary leaders (Abidin Tuarita) who understood the local wisdom values in West Nusa Tenggara province as well as those who know the patterns of resolving community conflicts in the past; c) conducting unstructured observations aimed at several informants and various situations to strengthen the existing descriptive data.

The analytical activity in this study started by collecting both oral and written data from informants through intensive and in-depth interviews, as well as from the behavior of several informants and various situations based on unstructured observations. Then, the data were dialogued using the doctrines used in this study.

Based on these efforts, interpretations were then carried out by looking at correlations within the data, mainly based on the researchers' viewpoint. Then, this was formatted in the form of an offer that was expected to provide a solution to the problem that becomes a research study in the form of an alternative means of resolving conflicts which are fast and simple based on the legal culture in the community. The culture of deliberation to reach consensus, such as *soloh*/*begundam* in the Sasak community, and similar values, such as the mutual respect of *Ra Eli* in the Mbojo community or the traditional *tokal* (Samawa community) were formalized so that they could synergize in the judiciary and the legal needs of today's society.

RESEARCH AND RESULTS

1. The urgency of establishing a Mediation Institution in West Nusa Tenggara

Referring to the West Nusa Tenggara Regional Regulation No. 9 of 2018 on Mediation Institution, this institution is formed to maintain a safe, orderly, and peaceful life as in West Nusa Tenggara. Here, there are often cases of civil and criminal disputes which tend to be resolved through justice institutions. This certainly requires great funds and takes quite a long time. Plus, it may potentially

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disturb the togetherness and the relations among society. Thus, this institution is formed to minimize the piling of cases in courts and maintain order in society.[16]

The West Nusa Tenggara Mediation Institution is open to parties that wish to resolve conflicts peacefully, especially during the current COVID-19 pandemic, including the conflicts that arise as a reaction to the governmental policies, such as the conflicts regarding the social aid data collection and distribution to those economically impacted by the COVID-19, considering that the aim of forming this institution is to create a safe, orderly, and peaceful society.[17] The main purpose of mediation in civil matters is to reach an amicable settlement between the parties to the dispute. Bringing about a settlement to put an end to the dispute is the task of the mediator.[18]

In accordance with the West Nusa Tenggara Regional Regulation No. 9 of 2018 concerning Bale Mediation, it is a non-structural institution in the National Political Unity Agency of the Province of West Nusa Tenggara which aims to: recognition of the government as protection, protection and empowerment of the existence of traditional institutions in performing mediation functions; prevent and prevent conflicts or disputes in the community early; and the implementation of dispute resolution in the community through mediation in order to create a harmonious, orderly and harmonious atmosphere.

The organizational structure of Bale Mediation consists of: coaches (Governor); director (Regional Secretary), a person responsible (Head of the National Political Unity Agency of the Province of West Nusa Tenggara), and daily executive (*Pelaksana Harian*). The daily executive in the Bale Mediation consists of the chairman, administration coordinator, and dispute resolution coordinator. Daily executive and mediators at the provincial level consist of elements: academics, traditional leaders, religious leaders, public figure, certified and uncertified mediators, professionals, and practitioners.

In accordance with the provisions of Articles 11 and 12 regarding the Duties and Authorities of the Mediation Bale, it is explained that the Mediation Bale is in charge of:

a) create a database of certified and uncertified mediators,
b) facilitating socialization, education, research, training, seminars, workshops, workshops on mediation,
c) compiling and establishing Standard Operating Procedures (SOP) for the Mediation Bale,

[16] Interview with Nasri, Master of Law, the West Nusa Tenggara Mediation Institution secretary, of 9 July 2020.

[17] *Ibidem*.

[18] W. Dziedziak, *Mediation and Fairness of the Decision to Resolve the Dispute*, "Studia Iuridica Lublinensia" 2018, vol. 27(3), pp. 49–60.

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d) submit reports on the implementation of their duties and authorities,
e) assistance in the implementation of dispute resolution carried out by institutions carrying out mediation functions, and
f) coordinate with institutions and institutions related to the implementation of their duties.

The Mediation Bale is authorized to:

a) strengthen the capacity of institutions that carry out mediation functions in the community,
b) to increase the capacity of mediators,
c) coordinate with institutions that carry out mediation functions, and
d) resolve disputes through mediation.

2. The cases handled by the West Nusa Tenggara Mediation Institution

One of the principles in the national justice system is fast, simple, and affordable justice. However, our justice system is often faced with issues regarding the piling of cases, which may inhibit the conflicting parties to obtain legal justice, legal certainty, and legal benefit. Such a condition cannot be separated from the modernization of the society's life, which perceives that every issue should be resolved through a litigation approach as most of these modern societies think that the court is the best place to resolve conflicts. This perspective also encourages people to resolve their issues via court. Apart from that, modern society is rather individualistic, greedy, and always seeks appreciation. This often causes conflicts which also lead to various social conflicts that often end in court.[19]

The optimization of the alternative facility in resolving disputes with the deliberation approach is the main choice in decreasing the burden of the court so that not all disputes turn into legal cases. Moreover, every community must have its values. Then, in the current era, society understands this as the mediation method. Mediation is more than just a legal institution; it is the art of reaching a consensus through intermediation of a mediator acting as a guide and mentor. During the many years of practice, mediators have developed a common set of rules for carrying out mediation.[20]

Since its establishment in 2018, the West Nusa Tenggara Mediation Institution has resolved three conflicts that attract public attention, namely the conflict between Karang Genteng Village of Mataram and Bajur Village of West Lombok in 2018, environmental pollution in Sigarongan Village West Lombok in 2019, and land tenure between society and the Municipal Waterworks in East Lombok in 2020.

[19] Interview with Abidin Tuarita, a Customary Community Leader, of 8 July 2020.

[20] A. Jakubiak-Mirończuk, *Effectiveness of Mediation – Between Effort and Result*, "Studia Iuridica Lublinensia" 2018, vol. 27(3), pp. 13–34.

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From 2021 to 2022 there were nine cases handled by Bale Mediation, four of which have an agreement, while the other five cases are on the way to settlement. Information from the NTB Bale Mediation dispute resolution coordinator, Raden Rais, of the nine cases that were entered, dominated by inheritance disputes and land disputes.[21] We have succeeded in resolving these three conflicts with win-win solutions, including using local wisdom approaches. This shows that the court is not the only place to resolve conflicts.[22]

3. The implementation of local values in Mediation Institution

Previously, especially among the Sasak people, almost all disputes were resolved through deliberation (*soloh*), facilitated by customary figures, religious figures, youth figures, including village officials through the community mediation that we symbolize with *berugak*, a house with four or six pillars (the greater the number of pillars, the greater the size of the room/building, showing the urgency of the dispute) or *santren* (mosques) as a spiritual manifestation. Unfortunately, the wisdom of these values slowly fades with the development of the era which demands more modern methods of dispute resolution.[23]

The implementation is seen in several stages of the mediation, such as before the mediation, where the parties that act as mediators believe that the effort to bring peace to the disputing people is an order from God. Thus, in formulating the steps and in preparing for the mediation, the mediator feels that God brings them ease. Society then states this principle as *beteqel leq raden neneq*. Also, in the implementation of the mediation, the principle *sopoq bareng ngepe* will ease the conflicting people in achieving peace as the position of each party is regarded as equal, just as partners. It develops a familial nuance without discriminating gender, social status, or age. Lastly, in the implementation stage of the mediation results, it is hoped that the agreement may be implemented based on commitment as shown during the mediation process, where each party believes that the agreement produced is just and that it is a manifestation of the implementation of the *endeq naraq, bine kire, tarik nyacap* principle.[24]

As Masturiadi stated, "We always try to prevent the conflicts in the customary society from reaching the law enforcers. However, our customary elders sit the conflicting parties together to resolve the conflict. It is better to resolve conflicts peacefully by deliberation rather than to make it a legal case".[25]

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[21] Interview with Raden Rais, Bale Mediation dispute resolution coordinator, of 24 March 2022.

[22] Interview with Nasri, Master of Law, the West Nusa Tenggara Mediation Institution secretary, of 9 July 2020.

[23] Interview with Abidin Tuarita, a Customary Community Leader, of 8 July 2020.

[24] *Ibidem*.

[25] Interview with Masturiadi, a Member of the Customary Society, of 26 July 2020.

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Regarding customary institutions, elders and their members resolve disputes in indigenous peoples so that they can be resolved without fighting at the court table. Masturiadi said that he has a recipe or key to solving it. "With religious figures, customary figures, and social figures, we agree to resolve these conflicts using deliberation (*soloh*) with the approach of local wisdom values such as *betekel leq redden neneq* (the principle of divinity) and *doe sopoq bareng ngepe* (equality of rights). Anyhow, if it reaches the court, usually no one agrees".[26]

In Masturiadi's statement, *soloh* becomes a choice and effective to resolve conflicts because *soloh* is a customary thew. It is carried out by making the elderly and the conflicting parties sit together. The elderly gives them the advice to forgive each other and to resolve conflicts heart to heart by deliberation. If there are people who make wrongdoings, the compensation is discussed. Alternatively, if there are things that cause concern with a mediator, it will not result in great hostility. Moreover, the *soloh* results are attached to social sanctions if the *soloh* that was agreed upon is not fulfilled.

In an interview with Masturiadi,[27] he stated there had not been any problems with police officers nor State officials in villages. Even, they fully support this *soloh* as it eases their job. Disputes may be brought to peace without involving the law. If some parties recklessly resolve conflicts by litigation after the *soloh* has been carried out and after there has been an agreement, there will be social sanctions such as isolation. However, if the *soloh* has not been carried out, it is okay as, principally, customary institutions resolve disputes submitted by one or all the conflicting parties rather than offering resolution. This is because to carry out *soloh*, each party must be big-hearted. If, after an agreement from *soloh*, the parties still file a dispute via litigation, it means that they are disrespectful to the customs, the customary institutions, and the customary figures.

4. Mediation Institution to resolve conflicts due to the COVID-19 pandemic

The COVID-19 pandemic impacted almost all aspects of life. This global health problem eventually targets the economic sectors of society. This condition is inseparable from the rapid spread of the COVID-19 outbreak. Various policies were formulated by governments to prevent its worse impacts, including the West Nusa Tenggara Province government. As of 25 June 2020, the cumulative number of people infected by COVID-19 in West Nusa Tenggara has exceeded a thousand from the population of around 5,012,687 inhabitants.[28]

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[26] *Ibidem*.

[27] *Ibidem*.

[28] M. Zainuri, *Bagaimana Ekonomi NTB Keluar dari Tekanan COVID-19, Lombok Post, Nusa Tenggara Barat Provinsi di Indonesia* [*How West Nusa Tenggara Escapes the Pressure of Covid-19*], Mataram 2020.

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The West Nusa Tenggara Government has allocated IDR 80 billion for social safety net programs intended for the poor to protect them from the economic impacts caused by the COVID-19 outbreak, including the creation of various economic stimuli in the region.[29] However, in its implementation, this program encountered several obstacles, especially regarding the data collection and aid distribution, which often led to open conflicts between community members and village government officials, as described in Table 1.

Table 1. Conflicts in the implementation of the social safety net program in West Nusa Tenggara province

No.	Date	Regions	Issues	Output of conflict
1	May 12, 2020	Sadia Village, Mpuda Sub-district, Bima City*	– demanding transparency of data collection process for beneficiary residents – the aid was not distributed to rightful targets – there were double data of cash transfer recipients in one family – encouraging the role of community groups to collect data	– the local village chief and a cash transfer data collection officer were evacuated by the authorities due to disagreements – the closure of Sadia Village Office for one day
2	June 15, 2020	Ranggo Village, Pajo Sub-district, Dompu Regency**	– demanding transparency of data collection process for beneficiary residents – assistance was considered not on target – demanding that the Head of the Ranggo village and the apparatus of the Ranggo Village Representative Body resign from their positions	– the closure of the Ranggo Village Office for two days
3	June 10, 2020	Dasan Baru Village, Kopang Sub-district***	– demanding to revise data on poor people who receive COVID-19 social aid – demanding transparency regarding budgets to handle COVID-19	– closure of Dasan Baru Village Office for six days

* E. Irawan, *Untuk meminimalisir konflik, Walikota Bima meminta pemerintah pusat memberikan waktu kepada daerah* [*To minimize conflicts on the cash aid, the Bima mayor asked the central government to give time to the regions*], 2020, https://daerah.sindonews.com/read/29671/174/minimalisir-konflik-blt-wali-kota-bima-tegaskan-pusat-beri-tenggang-waktu-untuk-daerah-1589493946 (access: 12.01.2022); Kahaba, *Bantuan tunai bermasalah, warga menyegel kantor desa* [*Problematic cash aid, the people seal the village office*], 2020, https://kahaba.net/berita-bima/77167/blt-bermasalah-masyarakat-sadia-segel-kantor-lurah.html (access: 12.01.2022).

** Lombok Post, *Warga sakra berdemontrasi di kantor desa, menuntut Tranparansi data bantuan corona* [*Sakra people demonstrated at the village office, demanding data transparency of corona aid*], 2020, https://lombokpost.jawapos.com/selong/13/05/2020/warga-sakra-demo-kecamatan-tuntut-transparansi-data-bantuan-korona (access: 12.01.2022).

*** Lintas Rakyat NTB, *Tuntut transparansi anggaran aliansi pemuda desa timu gelar aksi demonstrasi* [*Demanding transparency of Covid aid*], 2020, https://www.lintasrakyatntb.com/2020/05/tuntut-transparansi-anggaran-covid-19_7.html (access: 12.01.2022).

Source: own elaboration.

Sadia is a district in Bima City that has the motto *maja labo dahu*, meaning that believers of God and pious people will feel ashamed of God, the people, and

[29] H. Hernawadi, *Dampak Covid 19: pemerintah provinsi NTB siapkan 80 miliar untuk rakyat* [*The impact of Covid-19: The West Nusa Tenggara Provincial Government prepares 80 billion for the people*], 2020, https://www.gatra.com/detail/news/474566/ekonomi/dampak-covid-19-pemprov-ntb-anggarkan-80-miliar-bagi-warga (access: 12.01.2022).

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themselves. This motto is a life principle for Sadia and Bima people in general. Ranggo Village is part of the Dompu Regency area, which was declared as a Cultural Village in 2012 as it is historically the oldest village with several ancient traditions. Meanwhile, Dasan Baru Village is located in Central Lombok Regency with a regional motto that is used as a general life principle, namely *Tatas Tuhu Trasne*. Each word of this motto has a meaning: *tatas* means knowledge and an open-minded perspective, *tuhu* means hard work, and *trasne* means noble character and compassion to others.

On top of this, there were community demonstrations as a form of disappointment over the management of cash transfer, such as those carried out by residents of Sakra Sub-district, East Lombok Regency together with the Association of Rinjani Foundation Lombok. They questioned the transparency of cash transfer beneficiary data for communities affected by COVID-19 to the Sikur District Government.[30] Also, the Timu Village Youth Alliance, Bolo Sub-district, Bima Regency, voiced the same demands.[31]

Based on the above reality, a fast and simple alternative means of conflict resolution is required to prevent problems from worsening the social conditions of the community, especially during the COVID-19 pandemic. It can be implemented by reviving various community mediation forums in each region as the central axis of conflict resolution. In the community mediation based on the local community's legal culture, the local wisdom principles inherited from the ancestors of the Sasak community may be implemented.

Some of the principles that become the base of community mediation to resolve conflicts by consensus are described in Table 2.[32]

Table 2. Conflict resolution principles in Sasak communities

No.	The principle in Sasak language	Meaning of the principle
1	*Betekel leq redden neneq*	The principle of God and self-control, namely in reconciling conflicts, must be based on the spirit to carry out Allah's commands. It means that any results obtained at the time of conflict resolution must be carried out sincerely and voluntarily

[30] Lombok Post, *Warga sakra berdemontrasi di kantor desa, menuntut Tranparansi data bantuan corona* [*Sakra people demonstrated at the village office, demanding data transparency of corona aid*], 2020, https://lombokpost.jawapos.com/selong/13/05/2020/warga-sakra-demo-kecamatan-tuntut-transparansi-data-bantuan-korona (access: 12.01.2022).

[31] *Tuntut transparansi anggaran aliansi pemuda desa timu gelar aksi demonstrasi* [*Demanding transparency of Covid aid*], 2020, https://www.lintasrakyatntb.com/2020/05/tuntut-transparansi-anggaran-covid-19_7.html (access: 12.01.2022).

[32] H.S. Haq, *Mediasi Komunitas sebagai Alternatif Penyelesaian Sengketa* [*Community Mediation as an Alternative Dispute Resolution*], Klaten 2020.

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No.	The principle in Sasak language	Meaning of the principle
2	*Doe sopoq, bareng ngepe*	The principle of equal rights and shared rights means that conflict resolution must not discriminate between sexes, social status, or age. Everyone has the same position and right to be treated fairly
3	*Awak sopoq, saling angkat, saling ajinin dan saling sedok/bau empak aik meneng tunjung tilah*	The principle of harmony and kinship. The spirit of kinship must be prioritized in resolving every conflict. It is intended so that conflict resolution may create balance and peace in society
4	*Soloh*	The consensus agreement principle. It is a decision made in a mediation process based on the results of the local wisdom-based consensus agreement
5	*Endeq naraq, bine kire, tarik nyacap*	The principle of justice. The outcome of a peaceful decision must be fair. It must be applied based on each party's rights

Source: own elaboration.

The implementation of the principles indicated in Table 2 can be seen in the three phases of the mediation process, such as pre-mediation, where mediators believe that the effort to bring peace to the disputing parties is an order from God. Thus, in formulating some steps and preparing for the mediation, they believe that they are facilitated by God. This principle is *beteqel leq raden neneq* by the Sasak people. Also, in the mediation implementation, the *doe sopoq bareng ngepe* principle eases the disputing parties to achieve peace as the position of each party is regarded as equal. There is no discrimination against gender, social status, or age. Finally, in the implementation phase or the implementation of the mediation results, the parties are expected to implement the results of the agreement based on the commitments they have shown during the mediation process, where the parties believe that the agreement produced is fair for each party as a manifestation of the *endeq naraq*, *bine kire*, and *tarik nyacap* principles.[33]

Regarding the peace agreement that has been registered with the court in the form of a *vandading* deed, the consequence is that the court will have an executorial effort. In principle, a peace deed made legally will be binding and has the same legal force as a court decision which has permanent legal force and cannot be appealed. The agreement that took place in the mediation bale so far this year there has never been a report of non-implementation of the agreement by the parties. People think that because it has been formalized, it seems like a mediation is like a court.

It is these local wisdom values that later underlie the achievement of peace between the residents of Dasan Baru Village and the village government.[34] Anjani, the action coordinator and a member of the youth group in the village, stated that resolving conflicts was like catching fish without damaging the surrounding

[33] Interview with Abidin Tuarita, a Customary Community Leader, of 8 July 2020.

[34] Interview with Anjani, MSM the action coordinator and a member of the village youth group, of 8 July 2021.

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ecosystems (*bau empak, aik meneng tunjung tilah*); therefore, with the community, they agreed to resolve conflicts through mediation forums to maintain the security of the village. The closure of the village office for almost six days, from 10 to 16 June 2021, ended with a peaceful agreement.

This local wisdom describes that wise and sensible people can solve any problem without disturbing or harming other parties. Therefore, with the village government, religious leaders, traditional leaders, and community leaders have agreed to solve problems through deliberation (*soloh*) using the approach of the local wisdom values such as *betekel leq redden neneq* (the principle of divinity) and *doe sopoq bareng ngepe* (the equality of rights) to maintain the safety of the village as explained by Masturiadi, a customary society member.[35] He viewed *soloh* as the best way to reduce conflict, especially during the COVID-19 pandemic.

Like the Sasak people, the Samawa and Mbojo communities who inhabit Sumbawa Island are also familiar with community mediation institutions. The Samawa people name the traditional institutions as *tana samawa* or *tokol adat*. As for the Mbojo community, there are traditional institutions called *mbolo ra dampa* (deliberation, consensus, peace) and *kesama nggahi ra eli* (deliberation to reach mutual agreement). All of them are alternative means to resolve conflicts in the community.[36] Distinctive legal institutions and informal mechanisms of social control fit other aspects of any culture.[37]

Previously, in the Sasak community, almost all disputes, both private and public (minor criminal offenses), were resolved through consensus agreement (*soloh*) by traditional leaders, religious leaders, youth leaders, and village officials, who mediated through community mediation. Unfortunately, the overall values of community mediation and local wisdom slowly began to fade as time passed. The people require formal-procedural conflict resolution as it can guarantee legal certainty in the form of an executorial right to the winning parties. Meanwhile, peace agreements from community mediations can be set aside by those who have bad intentions.[38] The research findings related to the conflict resolution processes are described in Figure 1.

[35] Interview with Masturiadi, a Member of the Customary Society, of 26 July 2020.
[36] H.S. Haq, *op. cit*.
[37] L. Rosen, *Law as a Culture: An Invitation*, Princeton 2006.
[38] Interview with Abidin Tuarita, a Customary Community Leader, of 8 July 2020.

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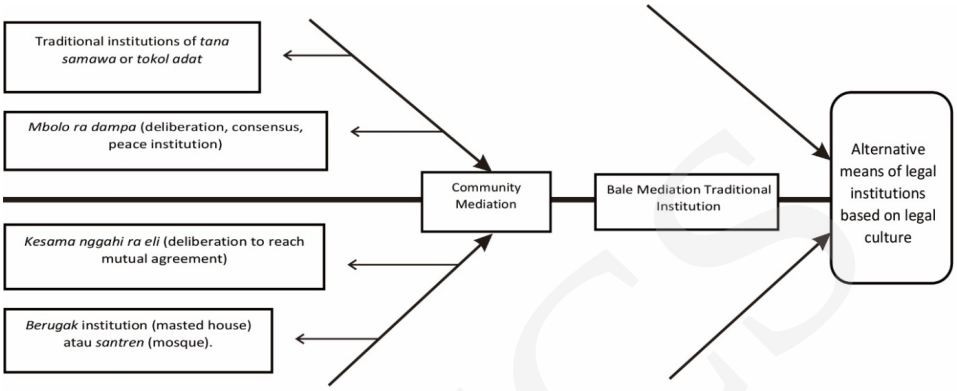


Figure 1. The flow of legal culture-based institutions of alternative dispute resolution

Source: own elaboration.

Figure 1 describes that each community has local pearls of wisdom that can be identified as alternative means of dispute resolution through deliberation, such as the Samawa community with the *tana samawa* or *tokal-adat* traditional institution, the Mbojo community with *mbolo ra dampa* or *kesama ngahi ra eli*, as well as the Sasak community, which is symbolized by *berugak* or *santren*. These diverse local pearls of wisdom then become primary dispute resolution bases in each community, resolving disputes as early as possible to prevent them from ending up in courts. The Mediation Institution is a means of realizing an alternative dispute resolution based on the components of the Bima community's legal culture. The legal culture connects the rule of law with the legal behavior of all citizens.

The seriousness of the West Nusa Tenggara Provincial Government in encouraging conflict resolution through mediation can be seen from the issuance of the Regional Regulation No. 9 of 2018 on Mediation Institution. The establishment of the West Nusa Tenggara Mediation Institution was the embodiment of this regulation. It is used to resolve both civil and (minor) criminal conflicts as stipulated in Article 12 (d) of the Regional Regulation No. 9 of 2018. Therefore, this is the only Regional Regulation in Indonesia that provides an opportunity for minor criminal cases to be resolved by mediation. It is to guarantee harmony in life as a community. Dispute resolution through local wisdom in the form of mediation is an alternative method of seeking resolution outside of the court.

In principle, the West Nusa Tenggara Mediation Institution is open to parties who want to resolve their conflicts peacefully, especially during the COVID-19 pandemic. It includes conflicts that arise as a reaction to government policies, the chaotic data collection, dan the distribution of social aid for those economically affected by the COVID-19. This institution is an instrument in creating a safe, orderly, and peaceful life. Therefore, since its establishment in 2018, the West Nusa Tenggara Mediation Institution has resolved three prominent conflicts in the com-

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munity, namely the conflict between Karang Genteng Mataram Village and Bajur Village, West Lombok in 2018; conflicts of environmental pollution in Sigarongan Village, West Lombok, in 2019; and land conflicts between the community and Municipal Waterworks in East Lombok, in early 2020. It also serves as capital in gaining public trust that the court is not the primary place to resolve conflicts.[39]

The outbreak of COVID-19, which continues to spread in Indonesia, is feared to have a severe impact on societal mental health. R. Setyowati who is a lecturer in the Psychology Faculty at Universitas Sebelas Maret revealed that reports on the increasing number of COVID-19 patients and the confusion on information related to governance and policies in handling COVID-19 can trigger stress or feelings of distress, both for patients and society. Besides, the impact of the COVID-19 outbreak was also reported to occur among health workers; 41.2% were stressed and 51.6% were depressed.[40]

Such conditions have also been exacerbated by the existence of a Large-Scale Social Restrictions policy as part of the government's strategy in preventing the spread of the COVID-19 virus as stipulated in the Minister of Health Regulation No. 9 of 2020, which limits broad community activities and interactions.

For the West Nusa Tenggara province, restrictions on community activities at both the national and regional levels impact various economic sectors, including the transportation sector. In the air transport industry, the Central Statistics Agency of West Nusa Tenggara recorded a decrease in the number of domestic passengers arriving at the airport in April 2020 by 75.59% compared to March 2020. For international flights, it was recorded that no passengers arrived in April 2020. The sea transportation industry faces similar conditions. The number of passengers decreased by 81.89% compared to March 2020. The lack of passengers arriving in West Nusa Tenggara had a direct impact on the hotel and tourism sector, the leading sector in the West Nusa Tenggara province.[41]

The COVID-19 pandemic also contributed to the increase in unemployment due to the closure of several hotels, tourist destinations, companies, and large retailers. This resulted in the termination of employment for countless individuals as said by Suntono as the Head of Central Statistics Agency. Therefore, Central Statistics Agency West Nusa Tenggara predicts that there will be an increase in the number of poor people in 2020.[42] It also tests the economic resilience of West Nusa Tenggara, which is recovering after experiencing a devastating earthquake in mid-2018.

[39] Interview with Nasri, Master of Law, the West Nusa Tenggara Mediation Institution secretary, of 9 July 2020.

[40] R.Y. Elbay, A. Kurtulmus, S. Arpacioglu, E. Karadere, *op. cit*.

[41] M. Zainuri, *op. cit*.

[42] Lombok Post, *op. cit*.

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DISCUSSION AND CONCLUSIONS

The amount of psychological burden experienced by the community due to the social and economic impacts of the outbreak of COVID-19, which is increasingly erratic, can be tied back to various latent (hidden) and manifest (open) conflicts in the community. According to H. Heany and M. van Ryn, the target of change due to disruption of human psychology can be in the form of attitudes and behaviors, including policies and priorities in an organization because conflict is essentially an outcome of various problems in terms of communication, personal relationships, or collective issues.[43] Therefore, conflicts can be interpreted simply as an antagonist between two or more parties.

Thus, it is vital to prepare an alternative means of conflict resolution so that conflicts that arise do not worsen the people's lives, especially during the COVID-19 pandemic. This effort departs from re-utilizing existing community mediation techniques in almost every region after the issuance of Emergency Law No. 1 of 1951, which confirmed the existence of a single state justice institution for justice uniformity in Indonesia is deemed as non-optimal. Therefore, the work of cultural analysis of the law is to read the legal dimensions of cultural productions and the cultural meanings encoded in the popular representation of legal processes and events.[44]

The rigidity of the judiciary in resolving a conflict, which is evident from the pattern of formal and technical examination with increasingly expensive costs related to the length of time of conflict resolution, is not effective enough to be used to reduce conflicts that arise during the COVID-19 pandemic. In practice, the resolution is often a race against time as conflicts result in closure or attempt to forcibly close some village offices by residents, which disrupts the administrative service processes and the efforts of the local government in handling COVID-19.

The generalization of legal culture has absolute values as the nature of the trust of the local community. Legal culture reflects the ethical and moral values of society. The terminology of ethical values for society is emphasized in the context of upholding truth and civilized life. Meanwhile, moral values reinforce the rules of life to maintain attitudes, behavior, and speech. Ethical and moral values lie behind the role of legal culture in the resolution of social conflicts.

According to R. Cotterrell, the implications of culture may be a good concept to use in addressing these matters.[45] Besides culture, the law is one of the most

[43] H. Heany, M. van Ryn, *Broadening the Scope of Worksite Stress Program: A Guiding Framework*, "American Journal of Health Promotion" 1990, vol 4(6).

[44] A. Sarat, T.R. Kearns, *Law in the Domains of Culture*, Michigan 2000.

[45] R. Cotterrell, *Culture, Comparison, Community*, "International Journal of Law in Context" 2006, vol. 2(1), pp. 1–10.

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important elements of our society.[46] There are several community mediation techniques based on the legal culture that can be used as an alternative means of conflict resolution, especially during the COVID-19 pandemic, such as the Sintung Village Security Agency, the Sempage Valley Village Deliberation Board, the Pujut Village Fair Board, and the Krame Village of Mataram City and North Lombok. Some of the mediation forums' advantages are as follows:

1. Flexibility. Mediation forums are held based on rules made by people in conflict as long as they are grounded in the conversation's basic rules. Likewise, their freedom to regulate the presence of parties is related to their interests, including the agreement on the negotiations' time and place.
2. Speed. In principle, the mediation forum ends when an agreement is reached between the conflicting parties.
3. Confidentiality. Mediation forums and the conflicting parties' agreements are confidential. The conflicting parties determine whether or not they want to open up the results of the mediation.
4. Cost. Mediation forums are affordable. Generally, a request for submission (meeting commission money) is made if an agreement is reached.
5. Relationship maintenance means that the mediation forum is a peaceful method of resolving disputes so that the relations between the parties to the dispute after the agreement can be maintained.
6. Rightsholders carry out procedures. In the mediation forum, the right holders who carry out the procedures are the parties to the dispute because the parties' participation is done voluntarily, and they can continue the existing forum or not.
7. Fill in the settlement. Mediation forums produce agreements from those who conflict.

Concerning the context of legal culture in alternative dispute resolution, according to J. Burton, it is closer to the dispute settlement model, in which there are authorities and law. The mediator can ask the parties to implement them. In this case, the traditional approach to dispute management and regulation is generally based on mediation and negotiation. This approach will only work if the disputing parties agree to negotiate and to have something tangible to be offered.[47] In addition to the above advantages, legal culture-based mechanisms for resolving conflicts must be carried out by parties who mediate in community mediation centers. It includes traditional leaders, religious leaders, youth leaders, village officials, or

[46] C.D. Butculescu, *New Developments Regarding Legal Cultures in Europe: Exploring Legal Conflicts in the Multicultural Society*, "Contemporary Readings in Law and Social Justice" 2012, vol. 4(1), pp. 241–248.

[47] E.F.A.A. Salam, *The Theoretic Framework in Conflict Resolution*, "Akademika" 2001, vol. 58(1), pp. 59–81.

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people who are considered to have charisma because of their ultimate morals. They are keen listeners, who are not picky. They must cease to be active speakers, must be modest, and must not feel essential to the process. Also, they have in-depth knowledge of the values of local wisdom, religion, and other general knowledge. Thus, in resolving conflicts, the parties are understood as normative (law) as they are in court and seek peace through the religious approach and local wisdom values.

Based on the description above, to understand legal culture as a bridge in resolving social conflicts through traditional institutions, it can be interpreted as fast and simple efforts to revive cultural values and local wisdom. The aspect of legal substance combines the legal values which are not only based on the stipulations of the positive law. Yet, the law is also added with the values of divinity, humanity, and noble culture, which come from local wisdom or universal values.[48] Indonesia as a vast nation rich in cultural values, customs, and local wisdom should allow indigenous peoples to implement their local wisdom values in resolving social conflicts. Thus, the primary issue is not the interest of a specific group of individuals, but all levels of society.[49] This is what K. Dimyati said is an "ahistoric" law.[50]

Therefore, confirming community mediation's existence in the national justice system becomes an interesting issue because the issuance of the Regional Regulation No. 9 of 2018 on Mediation Institution provides a way to achieve integration. This effort can be started by placing community mediation as a working unit of Mediation Institution in West Nusa Tenggara so that the peace agreement can be produced and put into force as a court decision executor with permanent legal force. This is as stipulated in Article 20 (4) of the Regional Regulation on Meditation Institution that the peace agreement can be registered with the local district court to obtain an executorial decision. With this effort, it is hoped that the conflicts that arise during the COVID-19 pandemic can be resolved through community mediation in each region so that the government can focus primarily on overcoming the pandemic.

The outbreak of COVID-19 not only causes a health crisis but also affects the economic sector due to the implementation of the Large-Scale Social Restrictions policy. This condition disrupted the community's well-being, which can be the source of various conflicts, such as conflicts between community members and village governments in several regions in West Nusa Tenggara province regarding the implementation of social safety net programs as a protection against the economic

[48] J. Gordon, *Global Ethics and Principlism*, "Kennedy Institute of Ethics Journal" 2011, vol. 21(3), pp. 251–276.

[49] Achmadi, K. Dimyati, Absori, A. Budiono, *Cultural Implications of Dayak Tomun Indigenous Peoples in the Management Land Rights: A Case Study of Lamandau, Central Kalimantan, Indonesia*, "Humanities & Social Sciences Reviews" 2020, vol. 8(4), pp. 530–536.

[50] K. Dimyati, *Teokratisasi Hukum: Kajian Perkembangan Pemikiran Hukum di Indonesia 1945–1990* [*Theocratization of Law: A Study on the Development of Legal Thoughts in Indonesia 1945–1990*], Yogyakarta 2010.

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impacts of the COVID-19 outbreak. Therefore, the community mediation legal culture has a crucial role in resolving social conflicts by preparing an alternative means of conflict resolution using Mediation Institution. Alternative dispute resolution methods through consensus counseling are provided by some communities, such as the Samawa community with the *tana samawa* or *tokol adat* traditional institution, the Mbojo community with *mbolo ra dampa* or *kesama ngahi ra eli*, as well as the Sasak community, which is symbolized by *berugak* or *santren*. These diverse local pearls of wisdom become the primary basis for dispute resolution in each community to reduce the number of conflicts by handling them immediately to prevent worsening social conditions during the pandemic.

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Interviews

Interview with Abidin Tuarita, a Customary Community Leader, of 8 July 2020.

Interview with Anjani, MSM the action coordinator and a member of the village youth group, of 8 July 2021.

Interview with Masturiadi, a Member of the Customary Society, of 26 July 2020.

Interview with Nasri, Master of Law, the West Nusa Tenggara Mediation Institution secretary, of 9 July 2020.

Interview with Raden Rais, Bale Mediation dispute resolution coordinator, of 24 March 2022.

ABSTRAKT

Niniejsze opracowanie ma na celu wskazanie potrzeby istnienia lokalnej mediacyjnej kultury prawnej jako alternatywnego sposobu rozstrzygania sporów w prowincji Małe Wyspy Sundajskie Zachodnie w Indonezji. Artykuł opiera się na zastosowaniu niedoktrynalnego paradygmatu wraz ze studium opisowym. Wykorzystano metody badania orzecznictwa i przepisów prawa w oparciu o szereg obserwacji, wywiadów i badania literatury dla analizy jakościowej. Wyniki tych badań stanowią element pozwalający na zrozumienie jednej z zaproponowanych koncepcji związanej z wykorzystaniem kulturowo uwarunkowanej mediacji w społeczności lokalnej jako szybkiej i prostej alternatywnej metody rozwiązywania sporów. Mediacje w społecznościach lokalnych wykonywane przez Instytut Mediacji mają charakter zinstytucjonalizowany i opierają się na kulturowo uwarunkowanych procedurach służących jako środek rozwiązywania konfliktów. Mają one na celu zapewnienie bezpiecznego, uporządkowanego i spokojnego życia w oparciu o wartości prawne społeczności lokalnej zakorzenione w jej wierzeniach (religii), zwyczajach i kulturze społecznej.

Słowa kluczowe: mediacja w społecznościach lokalnych; rozwiązywanie sporów; pandemia COVID-19; kultura prawna; Małe Wyspy Sundajskie Zachodnie; Indonezja