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Law and Development in Disruptive Era (Indonesia and Global Context)

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EDITORIAL

LEGAL DEVELOPMENT AND GLOBALIZATION: SOME CONTEMPORARY ISSUES IN INDONESIA AND GLOBAL CONTEXT

Ridwan Arifin
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When there is society, there always law, *ubi societas ibi ius*, has been impressed us that society always changes everyday and it impacted to the law enforcement itself. The inability of the law to respond the rapid changes even disruptive changes in the society raises its own problems in one hand, and challenges in the other hands.

At this third issue, Journal of Law & Legal Reform Volume 1 Issue 3 (April 2020) presents some articles both original research articles and review articles from various institution and country. At this issue, the editor team highlight the focus theme "Law and Development in Disruptive Era (Indonesia and Global Context)" to give a high impression that this volume not only debating the contemporary issues concerning to legal development, but also the impact of law changes or law reform in the society itself.

This Volume presents nine research articles and four review articles from Indonesia and Nigeria. Some articles highlight a very interesting issues, and some other very controversial issues in law changes in society and its implication. Article written by Muhajirin & Ismail, *Theft with Violence in Criminology Aspect: How People Dealing with Law*, highlights the aspect of criminology in theft crime. They exposed how someone can be theft and what factors affected. They used some criminology theories to analyze the facts and conditions.

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Another papers, *Effectiveness of Treatment and Recovery of Domestic Violence Victims on Semarang Regency*, written by Christophorus Divo Shubma Cahyaningutomo tried to expose the phenomenon of domestic violence in Indonesia especially in Semarang Regency and how the protection for the victims of that crime. He elaborated some data and theories concerning to victim protections, and how government provide an equal justice and protection for victims of domestic violence. From his research, He emphasized that supporting facilities for victims has been conducted by several institution.

Implementation of Counseling by Bhabinkamtibmas in Preventing the Spread of Hoax in Kebumen Police Station, written by Reyhan Kusuma and *The Role of the Nusantara Task Force in Preventing Political Vulnerability in the Pati Police Jurisdiction*, by Arindra Wigrha Pratama have different perspectives. They analyze the Police Roles to maintain the public security in certain Police Jurisdiction. Reyhan Kusuma highlights the role of Bhabinkamtibmas as one of units in Police Department on preventing hoax and fake news in the society. He analyzed, how this unit progressively decrease the spreading of hoax news in one hand and increase the public awareness to social medias and good news in another hands. In the same context, Arindra Wigrha Pratama exposed and analyzed the role of Nusantara Task Force as one of units in Police Department to prevent the political vulnerability in Pati Central Java. He analyzed some impacts post General Elections in Indonesia.

Nur Kholis, *Parliamentary Threshold and Political Rights Limitation*, has same perspective with previous paper, Arindra Wirgha Pratama. Both Kholis and Pratama analyzed concerning to political rights, as well as political vulnerability. However, Nur Kholis analyzed from the context of constitutional and administrative law, where he explained the impacts of parliamentary threshold from political rights concept. He highlighted that parliamentary threshold in one hand has been limited the rights of people especially political rights, but another hands its give more effective and efficient for democracy in Indonesia.

Another papers, *Protection of Disaster Responsibilities in the Central Java Province: How the Law Protect the Volunteer*, written by Hilda Maulida, *Position of the Victim in Criminal Acts Illegal Logging* by Redentor G.A. Obe, Ali Masyhar, *Political Implications of the Law in the Formation of Law No. 13 of 2003 concerning Workers Protection in Employment Agreement Specific Time (EAST/PWKT)* by Muhammad Bram Glasmacher, *Dynasty Politics in Indonesia: Tradition or Democracy* by Hagi Utomo Mukti, Rodiyah, Dani Muhtada, and *Press Roles in Democracy Society* by Lailasari Ekaningsih

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In this third edition, we present thirteen papers (Research and Review Articles) and one Current Commentary. We thank all the authors, contributors and Reviewers who were involved directly or indirectly in the preparation and publication of this third edition. In addition, our gratitude also goes to the Indonesian Legal Journal Management Association (APJHI) for all its support, and the Law Masters Study Program at the Faculty of Law, Semarang State University.

I personally thank Dr. Rodiyah SPd SH MSi (Dean of the Faculty of Law), Dr. Indah Sri Utari SH MHum (Chair of the Master of Laws Program), and the entire Team of the Journal of Law and Legal Reform. This year, the Journal of Law and Legal Reform continues to improve the quality of journal content and online journal page display with several national and international indexations.

We also would like to extend our thankfulness to all Reviewers, Editorial Boards, and Associate Editors of Journal of Law and Legal Reform for their invaluable support. After Professor Frankie Young from Ottawa University, Canada, we also reached the collaboration with Palermo University Italy.

Furthermore, we also would like to inform all Authors and Readers, that starting 2020, our Journal has been indexed by DOAJ System, we also have intimate cooperation with several agencies in improving the quality of journals, among the General Election Supervision Board, several Law Firms, Government Agencies, and several Non-Governmental Organizations in participating in providing input and suggestions for the future development of our journal. We also provide wide opportunities for anyone who has an interest in our journal. We hope that, through the publication of this third edition of the journal, it will be able to contribute to legal scholarship and discourse on the development of law in Indonesia in a global context.

Due to our university policy concerning to paperless policy, we cannot provide the print version of the Journal for all authors. However, Author can download the full version of the issue at the journal's website (*ready to print file*), also with the certificate of authorship and letter of acceptance that can be downloaded directly on our website (online certificate).

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Law Adagium

LEX NEMINI OPERATUR INIQUUM, NEMININI FACIT INJURIAM

The law works an injustice to no one and does wrong to no one

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RESEARCH ARTICLE

THEFT WITH VIOLENCE IN CRIMINOLOGY ASPECT: HOW PEOPLE DEALING WITH LAW?

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ABSTRACT

Theft is a crime that can harm others. One of them is the crime of theft with violence and weighting. The theft with violence and weighting is theft carried out accompanied by violence against the victim and taking the victim's belongings (Jabar, Bjorkman, & Matzopoulos, 2019). Usually this theft is carried out by two or more people. Violent theft is usually carried out through robbery, robbery, mugging, robbery and piracy. Meanwhile, if accompanied by ballast, the perpetrators also take a motorcycle that is in a place that is the target of the theft took place. Then all communities should be able to work together with the police to eradicate criminal acts of theft within the community. So that these crimes can be prevented and reduced (Naanen, 2019). This study aims to determine the factors that cause the emergence of violent theft with violence in the Demak Police jurisdiction and the coping process carried out by the Demak Police in overcoming theft crimes with violence in the Demak region.

Keyword: *Theft; Violence; Criminology; Law Enforcement*

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INTRODUCTION

Today we often hear and see crimes committed by a person or a particular group. Various kinds of certain ways or motives used by the perpetrators against victims of crime even some of them victims who suffer physically and psychologically (de Ribera, Trajtenberg, Shenderovich, & Murray, 2019). Forms of violence that are both collective and individual in nature, such as assault and battery attacks, homicide, and theft with violence and finally individual acts, such as suicide (Lamintang, 2009).

A criminal act of theft that is regulated in Article 365 of the Criminal Code is also a theft with qualifications or is a theft with incriminating elements (Chin & Cunningham, 2019; Tyas & Rodiyah, 2020). Thus, what is regulated in Article 365 of the Criminal Code is actually only one crime, and not two crimes consisting of crimes of theft and crimes of the use of violence against people, from crimes of theft with crimes of the use of violence against people (Simons, 2005: 106). Basically, there are a number of things that cause a person to commit an act of theft (looting) which is very detrimental to someone and causes panic and causes misery of others namely:

1. Internal Factors
   a. Intelligence Factor
      Intelligence is a person's level of intelligence for or ability to weigh and make decisions. Where in a person's intelligence factor can influence his behavior, for example, if someone who has high intelligence or intelligence, then he will always first consider the advantages and disadvantages or good or bad done in every action. And if someone who is affected by committing a crime, he is the

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perpetrator and if he commits the crime alone he will be able to do it himself, so that by seeing him people will doubt whether he actually committed the crime (Bonger, 1977: 61).

b. Age Factor

Age or age can also affect the ability to think and do the ability to act, the more age or age of a person, the more maturity of thinking increases to be able to distinguish between good and bad deeds (Bonger, 1977: 63).

c. Gender Factor

That from the birth of a person has a different level of Sex Graduality and some even have offspring. According to Sigmund Freud, that humans live in the Libido of Sexuality. If someone is not able to control himself then there will be sexual offense. As P. Luke said that evil nature is inherently present in humans from birth and this is obtained in offspring (Bonger, 1977: 70).

d. Factors of Urgent Economic Needs

In this phase it is very influential on someone or the perpetrators of theft, where at the time of the theft every person must need food and other living needs that must be met, then it encourages someone to commit theft. Even if only to expect from government assistance and from the help of other communities it will definitely arrive for them long. So, with that situation they take actions that are no longer suitable for the public interest because in this problem there are some people who feel disadvantaged (Bonger, 1977: 73).

2. External Factors

a. Education Factors

Education in the broadest sense is included in formal and non-formal education (courses). The education factor really determines the development of one's soul and personality, with a lack of education it influences one's behavior and personality, so that it can lead to actions that are contrary to the norms and rules of applicable law(AbiNader, Salas-Wright, Vaughn, Oh, & Jackson, 2019). If someone has never tasted the name of school, then the development of one's soul and way of thinking of that person will be difficult to develop, so that with retardation in thinking he will do an action that he thinks is good but not necessarily for others is good (Bermudez et al., 2019).

b. Social Factors

In principle, a certain association creates or produces certain norms contained in society. The influence of relationships for someone inside and outside the home environment is very different, very far from the scope of the association. Regarding the different associations conducted by someone can be attached and as a motivation for someone (Boduszek et al., 2019; Millennia, Anan, Lestari, Arifin, & Hidayat, 2020).

c. Environmental Factor

Environmental factors are all objects and materials that affect human life such as physical health and spiritual health, physical and mental tranquility (Cantos, Kosson, Goldstein, & O'Leary, 2019). The social environment is in the form of a household, school and outside environment everyday, a social environment and a community environment. A household is the smallest environmental group but its

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influence on the soul and behavior of the child. Because the initial education can be from this environment(Borges, Lown, Orozco, & Cherpitel, 2019).

Speaking of crime prevention problems, this will relate to police duties. In Article 13 of Law No. 2 of 2002 concerning the Republic of Indonesia National Police mentioned the main tasks of the Republic of Indonesia National Police namely (Britt, Patton, Remaker, Prell, & Vitacco, 2019):

1. Maintaining public order and safety,
2. Uphold the law, and
3. Provide protection, protection and service to the community.

The role as a protector and protector of the community is manifested in the security activities of each community's activities, both those that have been regulated in the provisions of the legislation (the legality principle) or those that have not been regulated by legislation (the principle of opportunism contained in police law) (Carolina Maria Motta Stoffel et al., 2019). To carry out this role the Indonesian National Police is complemented with the capabilities of community policing, community rescue and community security (Mulyana, 1983: 49).

In addition, the police have special authority to conduct investigations. From the description above, it is clear that the police have a central role in preventing and overcoming a crime through law enforcement efforts(Chan & Shehtman, 2019). Thus the workings of the police in the community always on one party depart from the system of criminal law and criminal procedure rules that apply, while on the other hand carry out law enforcement in the form of official social reactions to crime (Fischer, Halibozek, & Walters, 2019; Juliana & Arifin, 2019).

In this connection, understanding and evaluating the workings of the police are basically related to three main aspects, as stated by Mulyana (1983). namely:

1. The nature and extent of crime in the community, both reported and recorded and reported by the police or known through mass media or other means.
2. The environment in which the police operate, including public attitudes and views about the degree of seriousness of crime and the image of the police and community resources.
3. Internal factors in the police which include, among others, organizational structure, management and administration, allocation and distribution of data collection, information and communication systems, continuity of field operations by the police (such as patrols, investigation oversight and others).

METHOD

The method used for this research is empirical legal research with qualitative approach (Arifin, Waspiah, & Latifiani, 2019). The method as explained as follows:

1. Research Objects
   a. Factors that cause violent crime theft in the Demak Police jurisdiction
   b. The coping process is carried out by Demak Police Station in overcoming the crime of theft by force

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2. Research Subjects
   a. Demak Police Station with officers related to the research
   b. Suspect of criminal theft with violence
   c. Victims of the crime of theft with violence.
3. Research Data Sources
   a. Primary data is data obtained through direct interviews of research subjects about the factors that cause the occurrence of crime of theft with violence in the Demak Police jurisdiction.
   b. Secondary data is data obtained from legislation, literature, magazines, newspapers, dictionaries, encyclopedias, and scientific papers relating to research material.
4. Data Collection Methods
   a. Interview, namely two-way communication between researchers and respondents to obtain primary data more quickly and obtain confidence that the interpretation provided by respondents is correct. The interview was conducted by making a list of questions in a systematic and orderly manner as prepared (Jeffries, Chuenurah, Rao, & Park, 2019).
   b. Literature study, which is a data collection method used to obtain secondary data by exploring written sources, both from related institutions, as well as literature books that have relevance to the research problem used as research completeness.
5. Approach Method
   a. The method used is a normative juridical method that is a legal research method that looks at the provisions of the applicable law.
   b. The method of approach used is sociological juridical, which is a legal research method that deals with problems with applicable law applied by law enforcement officers.
   c. The method used is criminological approach, which is a legal research method that explains the principles of criminology in order to know the factors that cause theft by violence (Jolliffe et al., 2019).
6. Data analysis
   Analysis of the data used in this research is descriptive qualitative, which explains and explains clearly about the problem under study.

THEFT IN CRIMINAL LAW: LIMITATION AND DEFINITION IN BROADER CONTEXT

I. DEFINITION OF CRIME OF THEFT

This criminal act of theft by Article 362 of the Criminal Code is formulated as follows: taking goods, in whole or in part belonging to another person, with the aim of

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possessing them illegally. The first element of the crime of theft is the act of taking goods. The word takes in a narrow sense limited to moving the hands and fingers, holding the object, and diverting it to another place (Wirjono, 2003: 12).

It should be noted that both the Law and the legislators apparently never provided an explanation of what was meant by the act of taking, whereas according to the daily understanding the word take itself has more than one meaning (Tasci & Sönmez, 2019), respectively namely:

1. According to Mr. Block, "take" is a behavior that makes an object in its real authority, or under its authority or in its detention, regardless of its intention about what it wants with the object (Lamintang, 2009: 13).
2. According to Noyon and Langemaijer. Taking (in the sense of Article 362 of the Criminal Code) is always a unilateral action to make an object in its control (Klasios, 2019).
3. According to Simons, Taking is to bring an object to be in its authority or bring the object absolutely under its real authority, in other words, when the perpetrator does his actions, the object must not be in his control. (Wirjono,2003;14)
4. According to Van Bemmelen and Van Hattum, Taking is any action that makes a portion of the assets of another person in his control without assistance or permission of the other person, or to sever the relationship that still exists between that other person with that part of the intended asset (McGowan & Elliott, 2019).

II. ELEMENTS OF CRIME OF THEFT

The elements of theft consist of:

1. Subjective elements, namely: With the intention to master the object in an unlawful way.
2. Objective elements, namely:
   a) Whoever.
   b) Take.
   c) Something thing.
   d) Some or all of it belongs to someone else (Lamintang, 2009: 2).

In order for someone to be proven to have committed a criminal act of theft, that person must be proven to have fulfilled all elements of the criminal act of theft contained in the formulation of Article 362 of the Criminal Code(Mustafa, Anwar, & Sawas, 2019). Although the establishment of the law does not state explicitly that the theft of the criminal acts referred to in Article 362 of the Criminal Code must be done intentionally, but the truth is that the criminal act of theft must be denied intentionally, namely because of our applicable criminal law do not know the institution of a criminal act of theft which was carried out accidentally or installed culpas (Rodrigues et al., 2019). Deliberation or the perpetrators' *opzet* includes the following elements:

1) Take it.

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2) Something objects.
3) Which partly or wholly belongs to another person.
4) With the intention to control the object in an illegal manner (Wirjono, 2003: 2).

III. DEFINITION OF THEFT WITH VIOLENCE

The criminal act of theft regulated in Article 365 of the Criminal Code is actually only one crime, and not two crimes consisting of crimes of theft and crimes of the use of violence against people(Schuringa, Spreen, & Bogaerts, 2019). The criminal act of theft regulated in Article 365 of the Criminal Code is also a *gequalificeer* installed or a theft with qualifications or is a theft with aggravating elements(Szablowski & Campbell, 2019). According to the arrest of Hoge Raad the meaning of the word is burdensome because in the theft, people have used violence or threats of violence (Lamintang, 2009:56).

Violent theft is the formulation of a criminal law for an act that lay people often refer to as robbery, robbery or mugging (Tillyer & Tillyer, 2019). Violent theft is one type of crime that can occur if supported by situations and conditions that are vulnerable. The crime itself always involves the criminal as the perpetrator and the victim, or every time there is a crime there is always a victim (Valasik, Brault, & Martinez, 2019).

Meanwhile, in the opinion of R.Soesilo in interpreting violence is using physical or physical force is not unlawful (Soesilo, 2009: 123). According to Lamintang P.A.F. and C. Djisman Samosir Article 89 of the Criminal Code only says about violence, the sound of Article 89 of the Criminal Code is what is likened to committing violence is to make people faint or be helpless (Lamintang, 2009:156).

According to Simons, the violence does not need to be a means or means to theft, but rather if the violence occurred before, during and after the theft was carried out with the intent as stated in the formulation of Article 365 paragraph 1 of the Criminal Code, namely (Simon, 2009:54).

a) To prepare or to facilitate theft that will
b) If the crime that they committed was *op heterdaad betrapt* or known at the time being committed, to allow himself or others the crime participants can escape.
c) To guarantee that they will still control the items they have stolen.

IV. ELEMENTS OF THEFT WITH VIOLENCE

In criminal law we recognize several definitions of the definition of a crime or the term criminal act as a substitute for the term "*Strafbaar Feit*". While in our country's laws the term is referred to as a criminal event, criminal act or offense. Seeing what is meant above, then the legislators are now consistent in the use of the term crime (Zellars, 2019).

The criminal act of theft with violence regulated in Article 365 of the Criminal Code, basically has the following elements:

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1. Intent to "prepare for theft", such as acts of violence or threats of violence that precede the taking of goods. For example: tying house guards, hitting and others.
2. The intention is to "facilitate theft", that is, the taking of goods is facilitated by violence or the threat of violence. For example: pointing to be silent, not moving, while the other thief took the items in the house (Sudradjat, 1986: 71).

From the formulation of Article 365 of the Criminal Code can mention the elements of criminal acts of theft with violence from paragraph 1 to paragraph 4. The elements of this criminal act as emphasized by Wirjono (2003), are as follows:

1. Theft with:
   a) Preceded.
   b) Accompanied.
   c) Followed.
   d) By violence or threats of violence against someone.
2. Subjective elements:
   a) Preparing or facilitating the theft or,
   b) If caught red handed gives an opportunity for yourself or other participants in the crime.

CRIMINOLOGICAL REVIEW OF FACTORS THAT CAUSE VIOLENT THEFT

The definition of criminology in the narrow sense is science which aims to study the symptoms, because of the causes and consequences of evil deeds and disgraceful behavior (Noach, 1992: 36-37).

Mr.W.A Bonger said criminology is science that aims to investigate the symptoms of crime to the fullest (theoretical and practical criminology). Theoretical criminology is a science based on experiences, like a kind of science that considers the causes of the phenomenon in the ways available to it (Bonger, 1982: 9).

Whereas Edwin H. Sutherland and Donald R. Cressey, who opposed criminological views, are a unit of knowledge about crime as a social phenomenon, arguing that the scope of criminology includes processes of legal action, violation of the law and reactions to violation of the law. In this connection criminology can be divided into 3 parts, namely (Soesilo,1983.6):

1. The sociology of law as a scientific analysis of the conditions for the development of criminal law.
2. Etiology of crime, which tries to do a scientific analysis of the causes of crime
3. Penologists who pay attention to crime control.

According to Gerson W. Bawengan, crime is a name or stamp given by people to judge certain actions, as evil deeds. Thus, the offender is called a criminal. Because that understanding comes from the realm of values, it has a relative meaning, which is very dependent on the human being who gives those judgments (Bawengan, 1973: 11; Anggraeni, 2020)

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According to Sue Titus Reid. To formulate a law about crime, the things that need attention are (O'Reilly & Doerr, 2020):

1. Crime is a deliberate act, in this sense a person cannot be punished only because of his mind but rather there must be an action or an idle in acting. Failure to act can also be a crime, if there is a legal obligation to act in a particular case. Besides that, there must be evil intentions.
2. Is a violation of criminal law.
3. What is done without a legal acknowledgment or justification.
4. State sanctions are imposed as a crime (Mulyanah, 1989:20).

So, in short, criminology is a discipline that studies criminals, which are seen from the factors of crime, how to deal with it. So that criminology is expected to provide input on criminal science.

CRIMINOLOGICAL THEORY OF CAUSES OF VIOLENCE THEFT AND ANALYSIS OF FACTS

I. CONTROL THEORY

Control theory is a theory that seeks to find answers why people commit crime. Control theorists see that humans are creatures that have pure morals. Therefore, every individual is free to do something. This freedom will lead someone to various actions. This action is usually based on the choice of obeying the law or violating the rule of law(Aryanezhad, 2019).

Hirschi said, there are 4 elements of social ties found in every society, namely (Hendro, 2004: 98):

1. Attachement is the ability of humans to involve themselves in others.
2. Commitment is a person's attachment to conventional subsystems such as schools, jobs, organizations and so on.
3. Involvement is a person's activity in a conventional sub-system. If an active person in all activities then that person will spend all their time and energy on these activities.
4. Belief is one's belief in moral values.

Hirschi said that the four elements must be formed in society. If that fails to be formed, the youth will exercise their right to infringe (Basuchoudhary & Searle, 2019). Based on the description of the control theory above, to examine this problem is the theory of social control, because the social dick theory is more able to find answers about the background or the reasons for someone to commit theft with violence(Burns, Kinkade, & Bachmann, 2012). This is due to several factors including family, education, environment, from some of these factors a person can interact individually with individuals, individuals with groups or groups with groups. From the results of this communication can provide a dominant influence on perpetrators of theft with violent crime (Hyseni, 2014).

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II. ANALYSIS OF FACTS FROM CRIMINOLOGY PERSPECTIVE

Based on field observations accompanied by interviews with informants, there are a number of factors that cause a person to commit a theft crime with violence in the Demak Resort Police jurisdiction including.

There are three factors causing the crime of theft by violence which were stated by the perpetrators of which are:

a. Economic factors
   According to the description of the perpetrators of crime, the main factor that becomes the driving force for committing criminal acts of theft with violence is the squeezing of the family economy, increasing basic needs resulting in someone being pressured to commit this stolen crime.
b. Environmental Factors (influence of friends and the environment itself)
   While from environmental factors according to his statement, the driving force for committing criminal acts of theft with violence is the influence of friends, taunts and invitations from friends so that arises a desire to have something better than the theme.
c. Factors of Victims
   The perpetrators of the crime of theft with violence explained that in addition to the factors above there were other factors, namely support from the victim, because the victim provided opportunities and opportunities to commit crimes, "The perpetrator did not have the intention to steal", the perpetrator also explained the victim took part in carrying out the violence among them the victims put up a fight, the victims screamed for help as a result of the impulse the perpetrators were forced to commit theft with violence.

Members of the police also mentioned the factors causing the emergence of violent theft by theft among others:

a. Family factors
   The family is a major factor in a child's learning can be good or bad it depends on the upbringing of the family, because the beginning of a person's learning starts from the family itself, if in a good family most likely the child is also good but if the family is bad then the effect on the child will negative. So that it will make children to dare to commit crimes as well as upbringing from their families
b. Environmental Influence Factors
   The social environment is also one of the backgrounds that gives effect to the criminal behavior of each individual. We look at the structure of society to see how it functions. If society is stable, its parts operate smoothly, social structure functions. Such a society is characterized by cohesion, cooperation, and agreement. However, if the parts are arranged in a situation that endangers social order, the composition of the community is called malfunctioning and crime arises
c. Economic factors

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The background of this economic problem is one of the factors causing the emergence of a crime is crimes relating to property, and wealth, these crimes occur because of economic pressures where the people are in poverty, which is completely lacking in food, let alone clothing and housing.

d. Influence of the Internet and Communication Media
   Communication media can really influence a person to commit violations as well as shows of violence and crime very quickly affect children and children will follow the same as in the communication media and internet shows (Lemuel, 2019).

Efforts to tackle theft of violent crime by the Demak Resort Police Department is an effort to prevent theft of violence by violence, this prevention effort aims to provide a sense of security and comfort for the community. In order to support the activities of preventing theft by violence, there are two efforts namely repressive efforts and preventive measures, including:

1. Repressive Efforts (repression)
   This activity is law enforcement where the crime of theft has occurred violently, if you find a criminal act of theft with violence, then immediately conduct an investigation process to then be processed in accordance with applicable legal provisions. Although not all members of the Police have the ability and authority to conduct investigations, but members of the Police must take action in the event of a crime of theft with violence.
2. Preventive efforts (prevention)
   Preventive activity is an activity or business that is preventive in order to prevent the occurrence of a crime of theft with violence or crime in any form. The preventive forms are: Increase ring control point, promoting routine patrol operations, Community education and guidance, Placing goods and vehicles in a safe place.

CONCLUSION

After decomposing the material regarding the problem of crime of theft with violence targeting property in the Demak Police Precinct area, and efforts to overcome it, the following conclusions can be drawn:

1. Factors that cause violent crime theft at Demak Police Station are:
   a. Economic factors, the economic squeezing of the family, increasing basic needs cause a person pressed to commit crimes of theft with violence.
   b. Environmental factors (the influence of friends and the environment itself), the influence of friends, ridicule and invitations from friends so that arises a desire to have something better than the theme.
   c. Factor of the Victim is the opportunity to commit a crime. The perpetrator has no intention to steal.
   d. Family factor is the beginning of a person's learning starts from the family, if in a good family most likely the child is also good but if the family is bad then the effect on the child will be negative.

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   e. Influence of the Internet and Communication Media shows of violence and crime greatly affect quickly to children and children will follow the same as those in the communication media and internet shows.
   f. The crime starts from the intention of the perpetrators themselves, because basically a criminal must want to commit his crime smoothly without the slightest obstacle.
2. In line with the efforts made by Demak Regional Police to tackle theft with violence, it can be concluded that the Demak Regional Police will play a role or take actions in dealing with theft with violence, by doing the following:
   a. Repressive measures (repression)
      1) Receive reports of crime from the public or victims of theft by force,
      2) Follow up on reports from the community or victims.
      3) Performing the first action location of the incident (Place of Case),
      4) Looking for informants and witnesses of crime of theft with violence,
      5) Looking for evidence of crime of theft by violence
      6) Identifying the suspected perpetrators of theft with violence,
      7) Conduct arrests and ambushes of suspected theft with violence.
   b. Preventive efforts (prevention)
      1) Increase the increase in ring control point (placement of members) in certain areas prone to criminal acts of theft with violence
      2) To intensify routine patrol operations,
      3) Counseling and community coaching about preventing criminal theft by violence,
      4) Placing goods and vehicles in a safe place.

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RESEARCH ARTICLE

IMPLEMENTATION OF COUNSELING BY BHABINKAMTIBMAS IN PREVENTING THE SPREAD OF HOAX IN KEBUMEN POLICE STATION

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ABSTRACT

Hoax phenomena are becoming more prevalent, especially towards the 2019 Election which makes people uneasy and will cause disruption of security and public order or in Indonesian '*Keamanan dan ketertiban masyarakat* (Kamtibmas)'. The National Police as a public servant seeks to maintain the Kamtibmas situation through Bhabinkamtibmas (*Bhayangkara pembina keamanan dan ketertiban masyarakat*). Bhabinkamtibmas through counseling is very important in preventing the spread of hoaxes. Therefore, research is conducted to find out the description of the spread of hoaxes, the extent to which the implementation of Bhabinkamtibmas counseling is related to the partnership approach and problem solving efforts and the factors that influence counseling in preventing the spread of hoax in order to create a safe and peaceful election in Kebumen Police.

Keyword: *Implementation; Counseling; Bhabinkamtibmas; Hoax; General Election*

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INTRODUCTION

The rapid flow of information technology and the influence of globalization makes it easy for people to obtain various information. One of them is through social media. This can be explained in the Graphic Information on Internet User Behavior in Indonesia at the Indonesian Internet Service Providers Association (APJII) in 2017 found that the penetration of internet users from 262 million total population of Indonesia is 142.26 million. Java Island became the island that dominates Internet users in Indonesia with 58.08 percent. This shows that the people in Java are active in using the Internet in their daily lives. Obtained 87.13% using the internet to access social media so it can be concluded that 87.13% actively uses social media.

According to Taprial and Kanwar (2012) in Rahadi (2017: 58), "social media is the media used by individuals to become social, online by sharing content, news, photos and others with others." From this definition it is clear, that the public can share information and vice versa with the government. Then "Digital social networks have substantially facilitated the process of information sharing and knowledge construction" (Hara & Sanfilippo, 2016; Park, 2017). But one negative impact of social media is the spread of hoaxes. However, "this information system also come with

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problems, one of which involves the spread of inaccurate information or fake news" (Tambuscio, Ruffo, Flammini, & Menczer, 2015). Misinformation is more quickly disseminated through social media when there is high uncertainty and high demand for public information about the issues such as crisis (Spence, Lachlan, Edwards, & Edwards, 2016) and health concerns (Jang, McKeever, Mckeever, & Kim, in Press).

In the survey of the Indonesian Telematics Society (Mastel) in 2017 it was explained that the form of hoax spreading channels was still dominated through social media at 94.2%. According to Rahadi (2017: 61), "Hoax is an attempt to deceive or outsmart the reader / listener to believe something, even though the creator of the fake news knows that the news is fake." Hoax triggers public unrest and causes hate crime such as persecution in reporting on news tribunnews.com entitled "Because the News of a Young Man's Hoax in Brebes is Engaged by the Mass"

The phenomenon of hoax is a social problem that causes public unrest so that it disturbs the maintenance of public security and order or 'pemeliharaan keamanan dan ketertiban masyarakat' (Harkamtibmas). as we know that in 2019 there will be simultaneous elections for the first time in the history of Indonesia. Simultaneous elections will be held on April 17, 2019. According to Mauludi (2018: 260) that "Fake news tends to be more interesting, the most common material is fake political news." And According to Gilligan and Gologorsky (2019) that "From politics to daily news stories to scientific, concern for public news and media misinformation is growing. This type of 'fake news' as it is often called, is created to influence public onion or for political motives". Then Based on media coverage in online media titled "Hoax is predicted to increase ahead of the election. , The officers were asked firmly. And recently there was an appalling hoax related to the holding of 2019 simultaneous elections, reported news.detik.com with the title "Hoax 7 Containers of Voting Ballots". As stated by the Chairperson of the General Election Commission (KPU) of Central Java Province Sudrajat (2019), "Hoax will damage the credibility and integrity of the holding of elections and cause social conflict" and then based on Parkinson (2016) and Read (2016) that "Incorrect information played a critical role in the eventual outcome of the election".

The main activity that must be carried out by members of the Indonesian National Police is to build resilience and deterrence of citizens against crime. This is in line with Polri's efforts in carrying out preventative actions from various aspects that have the potential to interfere with Kamtibmas (crime prevention). Crime prevention efforts can be effective actions carried out by members of Polri in the field, especially members whose task area is directly in contact with the community, such as Bhabinkamtibmas (Humberto, 2010: 50 in Wowor, 2016: 2). One of the functions of Bhabinkamtibmas Article 26 Number (1) point b of Police Chief Regulation Number 3 of 2015 is "to guide and educate in the field of law and Kamtibmas to increase legal awareness and Kamtibmas by upholding Human Rights (HAM)". Counseling conducted has an important role to increase public awareness so that the media is wise so that it is not easy to spread hoaxes.

The rise of the Hoax phenomenon in the Kebumen Police jurisdiction shows that public awareness is still low to prevent the spread of hoaxes. There are cases of hoaxes through social media that could seize Kebumen's public attention as

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kamtibmas disruption throughout 2018, namely, (1) Occurring in August 2018, namely the Hoax case which unsettled Kebumen residents with the emergence of Broadcast in the short message application about the existence of DPO cases of Mabel Polri terrorism, (2) Occurred in October 2018, the Hoax case of an 8.2 magnitude earthquake (SR) earthquake and the impact of the tsunami would hit the waters of Kebumen, making the people of Kebumen worried and uneasy. Hoax is a social problem that is difficult to get rid of because the behavior of hoaxes is spread by the community itself, so one of the pre-emptive efforts undertaken by the Police is to conduct counseling to increase public awareness in preventing the spread of hoaxes.

METHOD

Previous research on preventing the spread of hoaxes has been carried out by Annas Z (2018). WhatsApp social media management as a means of extension is not optimal because there are still shortages at each stage of the activity. Likewise, with hoax prevention counseling methods there is a lack of knowledge about hoaxes, communication skills, and multimedia skills at Bhabinkamtibmas and the lack of WhatsApp group socialization.

Subsequent research conducted by Aditya R. N. (2018) suggests the role of Bhabinkamtibmas in preventing religious-based social conflict is considered to be able to carry out its duties and roles in establishing partnerships with warring parties so that the situation of the Bogor City Police Resort area is quite conducive.

The approach used in this research is a qualitative method that aims to explain the phenomenon profusely through data collection. A qualitative approach is a particular tradition in social science that is fundamentally dependent on observing humans, both in their area and in their terminology. Qualitative research also produces detailed information explained by Moleong (2014: 76) "A qualitative approach produces detailed information about a particular case or situation that can and may occur even though this approach is less generalizable as a quantitative approach". This type of research used to obtain in-depth and comprehensive research results is descriptive analysis. According to Nazir in Prastowo, (2011: 201), "Descriptive method is a method used to examine the status of a group of people, an object, a set of conditions, a system of thought, or a class of events in the present". In order to obtain complete information related to the implementation of Bhabinkamtibmas counseling in the prevention of the spread of hoaxes.

In addition, this study identifies the stages of Bhabinkamtibmas counseling based on Police Chief Regulation number 3 of 2015 concerning community policing (Polmas) including the planning phase, the implementation phase, and the control phase. As well as indicators of the success of counseling by Bhabinkamtibmas in Police Chief Regulation number 21 of 2007 concerning Guidance and counseling or 'Bimbingan dan Penyuluhan (Binluh)', covering four aspects, namely aspects of the performance of the implementation of Community Policing, aspects of Polmas and Bhabinkamtibmas development, aspects of society, and aspects of Polri and community relations.

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Then this study developed the concept of media literacy Weni (2003) in Iriantara (2017: 68): accessing mass media messages, analyzing mass media messages, evaluating mass media messages, and producing mass media messages. As well as in this study developing Campbell's performance theory in analyzing the implementation of counseling by Bhabinkamtibmas, there are 8 components of Campbell's performance namely Job specific task proficiency, Non-job specific task proficiency, Written-oral communication task, Demonstrating effort, Maintaining personal discipline, Facilitating peer peer and team performance, Supervision, and Management administration. Furthermore, this study develops law enforcement theory (Soekanto: 2014), there are 5 factors in law enforcement, namely the legal factors themselves, law enforcement factors, facility or facility factors, community factors, and cultural factors, this theory is used in identifying the factors that influence counseling by Bhabinkamtibmas.

GENERAL DESCRIPTION OF HOAX AT THE KEBUMEN POLICE

The following will describe the description of the spread of Hoax in the Law Area of Kebumen Police Station in the 2017 to 2019 (Until February). above there are 3 cases of hoaxes since 2017 until 2019 (February) which occurred in the Kebumen District Police Station. Of the three hoax cases, none of the suspected hoaxes were investigated by the Kebumen Police, so no hoax cases were charged by the Kebumen Police. This is because although the three news hoaxes can be snared by the law because it upsets the Kebumen people but there are no Kebumen people who report the hoax news.

The three cases of hoaxes are spread through social media and short message applications. The first hoax case regarding the emergence of the Police DPO Broadcast about Terrorism cases. In the Broadcast, women on behalf of Sri Pujianti (36), residents of Bejiruyung Village, Sempor Tengah District, Kebumen Regency, were sought by the Elite Detachment 88 Special Detachment or Detachment 88 elite. This news developed and unsettled the community, then Kebumen police clarified that the news was a hoax. Because there was no Kebumen community who reported the broadcast of the DPO broadcast, Kebumen Police through the Cyber Patrol Subsatgas did not further investigate who broadcasted the broadcast. But it is estimated that there is another charge from the hoax news, which is estimated that the hoax news is only a strategy made by the Victims of Fraud Sri Pujianti so that the woman came out of her hiding place which has been missing since the end of 2017.

The second case of hoaxes is the emergence of a chain chat message that says a Tsunami is coming. In the message mentioned that the districts of Tegal, Brebes, Kebumen and Purworejo there will be a shift of fault Lasem fault which is expected to cause an earthquake with a magnitude of 8.2 SR. The message said that the earthquake will occur on December 18, 2018. From the earthquake Kebumen, Cilacap and Purworejo Regencies will be affected by the Tsunami. This news is very

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disturbing to the public. However, just like the previous hoax case because no one reported the case was not further investigated.

The third hoax case is the spread of chain videos through the Whatsapp Chat application about fish flooding in the middle of the highway. In the video seen the residents who picked fish. Next to the video there is a blue inscription "Kebumen latitude Wadas Reservoir". This video disturbs the public because it is feared that the cause of the fish flood is the Wadaslintang Reservoir Kebumen broken and overflowed.

According to the Smart Book of Bhabinkamtibmas (2016) there are several factors causing Hoax in the community:

a. Social media is anonymous, so it provides a sense of security for people who intend to evil and like throwing a hoax.

   Social media is online media that support social interaction by using web-based technology that turns communication into interactive dialogue so that interaction is possible without meeting and face-to-face. Social media users can register unlimited accounts to make a lot of fake accounts found (accounts that are used not for the right reasons for example to see the target account and to spread hoaxes). Data from the National Police Headquarters of Cybercrime Unit of 500 million fake Facebook accounts spread in Indonesia in 2017. Fake accounts are anonymous (making no identity) so that makes some people who want to abuse the account to do evil.

b. The still very low level of public literacy on online media or social media so that they do not think long about the impact caused by these uses.

   The ability of media literacy is the ability of individuals to study the media critically, reflectively, and independently and has the responsibility of utilizing the media (Iriantara, 2017: 68). Media literacy is related to the literacy ability of the media according to Sumadiria (2014: 264) "... Media literacy is directed at building a joint cultural and intellectual awareness movement about the importance of responding to media flows." So that the public will be critical in responding to any news through the media that circulates. Literacy media is one of the most prominent corrective efforts, according to Lazer et al.(2017) that "In the currenct context of fake news, one of the most prominent corrective effrots is to call for media literacy interventions." With good media literacy skills, public awareness and participation will increase so that the spread of hoaxes can be prevented. To find out the level of media literacy in Kebumen community, media literacy competencies will be used according to Weno (2003) in Iriantara (2017: 68).

   The spread of hoaxes in the Kebumen District Police Station in 2017 s.d. 2019 (February) there have been 3 cases of hoaxes, namely Terrorist DPO broadcasts, the threat of an earthquake of 8.2 magnitude and tsunami and the distribution of fish flood videos in Wadas Lintang Kebumen Reservoir. The background of the spread of hoaxes in the Kebumen Polres area is due to the consumptive culture of the community where almost all of the Kebumen people already have an android mobile phone that is not supported by good media literacy skills in using the Internet.

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1. Access mass media messages
2. Analyzing mass media messages
3. Evaluating mass media messages
4. Producing mass media messages.

c. c. Indonesian culture in general is still oriented towards "*jarene*" or people say, and does not have the tradition of confirming.
d. The community is still fun with new things, including the use of social media without taking into account the possibility that will happen.
e. Lack of productive work

Low media literacy is related to the education level of Kebumen people, which is still relatively low, only a few Kebumen people have a Bachelor's education. This is also related to the type of livelihood of the Kebumen people who are generally a farmer, so this makes the Kebumen people easily believe in hoax news.

IMPLEMENTATION OF EXTENSION BY BHABINKAMTIBMAS IN PREVENTING THE SPREAD OF HOAX

I. IMPLEMENTATION OF GUIDANCE BASED ON POLICE CHIEF REGULATION NUMBER 21 OF 2007

Stages of management about counseling are more specifically explained in the Regulation of the National Police Chief No. 21 of 2007 concerning Guidance and Socialization (*Bimbingan dan Penyuluhan* hereinafter called as Binluh). In articles 8, 9, 10, and 11 these regulations describe a series of activities from the planning stage to the control. Guidance for preparation in the implementation of Binluh is regulated in Article 8. While the implementation stage is regulated in Articles 9 and 10. The control phase (in the Decree of the Minister mentioned Analysis and Evaluation) is explained in Article 11. In order to be able to analyze the Kamtibmas message regarding prevention of the spread of hoaxes, the following stages are in accordance with the Decree number 21 of 2007 concerning Binluh.

A. Planning

In Article 8 Police Chief Regulation number 21 of 2007 concerning Binluh regulates the preparation stage which includes several factors as follows:

The first factor, in general, the material delivered by Bhabinkamtibmas can be in the form of text messages, pictures or videos. Bhabinkamtibmas must understand about the material to be delivered, so that Bhabinkamtibmas before taking a picture or

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video from the internet is expected to have media literacy capabilities, namely at the level of analyzing the material well, this is intended so that Bhabinkamtibmas is not wrong in delivering material preventing the spread of hoaxes. For the production of messages in the form of images and videos cannot be done optimally by the Kebumen Police Bhabinkamtibmas because there is a need for skills to make messages in the form of images and videos. The Kebumen Police Bhabinkamtibmas utilize the Kebumen Police official site in the form of Instagram, Facebook, Twitter and also official sites such as the Police Public Relations Div on Instagram to take messages in the form of pictures and videos. In March 2018 there was an anti hoax declaration made by Kebumen Police. Submission of anti-hoax in the form of anti-hoax declaration video so that it was followed by all people in Kebumen. This was used by Bhabinkamtibmas as a momentum to convey anti-hoax messages to the residents of the fostered villages.

The second factor, coordination with officials can be interpreted by every extension activity carried out in the knowledge of local officials or with local officials. Based on research findings that Bhabinkamtibmas still rarely coordinates with local officials so that many activities that should be carried out counseling but Bhabinkamtibmas does not utilize these activities for extension activities to the community.

The third factor, knowledge of hoaxes is related to media literacy, the legal basis of hoaxes and the definition of hoax itself. In general, Bhabinkamtibmas is only limited to knowing that it is not easily provoked by news that is not yet clear. In this case the ability of media literacy and legal knowledge about the spread of hoaxes has not been conveyed only in the form of appeals to the dangers of hoaxes.

The fourth factor, in arranging the activity organizing team, the Kebumen Police Bhabinkamtibmas has not implemented one Bhabinkamtibmas program in one village. This is due to the lack of Kebumen Police personnel and there are still Bhabinkamtibmas who have a place to live far from their fostered village without an official residence provided.

The fifth factor, delivery of anti-hoax counseling can use the Whatsapp (WA) short message application. All Bhabinkamtibmas have WA because they are used in fast reporting of every activity that has been carried out.

Based on the explanation of planning in accordance with Article 8 Perkap number 21 of 2007 concerning Binluh, it was carried out quite well but there were still shortcomings such as coordination with surrounding officials, readiness of officers who understood hoax material and placement of 1 Bhabinkamtibmas 1 village which was still lacking.

B. Practice

Article 9 Perkap 21 of 2007 concerning Binluh explains at the stage of implementation that must be carried out by Bhabinkamtibmas officers, namely:

The first factor, the factor of introducing yourself has been fulfilled because based on the results of observations to the Kebumen Police Department Bhabinkamtibmas

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when attending activities in the village and conducting counseling always introduce themselves.

The second factor, based on the results of an interview with Bhabinkamtibmas Sruweng Sector Police that in conducting counseling to prevent the spread of hoaxes, Bhabinkamtibmas was not equipped with sufficient knowledge about the applicable legal rules that can ensnare the perpetrators of hoax spreaders.

The third factor, in delivering hoax prevention counseling, sometimes Bhabinkamtibmas conveys a message in Javanese, namely everyday language used in Central Java, especially in the Kebumen region and sometimes interspersed with humor.

The fourth factor, as technology develops so that conditions in the era of technological sophistication make communication facilities also develop, one of which is internet technology. The majority of Kebumen people have been able to use the internet but are not equipped with good media understanding skills. It will be easily affected by hoaxes because most hoaxes circulate through the internet.

The fifth factor, props used when conducting counseling through WA are WA and android mobile. Whereas to conduct counseling directly can use a projector or made Kamtibmas messages in the form of images or videos, so that the public can better understand than just in the form of talks.

The sixth factor, the mastery of the audience is one of the capabilities that must be possessed by officers providing counseling to the community. Based on observations to the Bhabinkamtibmas Kebumen Police Station, that the ability to master the audience is still lacking, the indicators are from the material delivered by Bhabinkamtibmas, only a few responses from the community responded to messages from Bhabinkamtibmas. This is because the Bhabinkamtibmas flight hours are not many because of the busyness that Bhabinkamtibmas has in Kebumen Police Station and the minimum number of members of Bhabinkamtibmas Kebumen who have followed Dikjur.

The Seventh factor, in carrying out counseling the time required is quite long and based on observations there are complaints from the community against members of Bhabinkamtibmas who like not being on time with the education schedule that has been made. Bhabinkamtibmas does not often do this counseling because Bhabinkamtibmas is busy with concurrent work.

The eighth factor, in the implementation of counseling, Bhabinkamtibmas always takes the time to provide an opportunity for the audience to give questions. Although in its implementation only a few people responded according to the observations made in Kalirejo Village.

Obtained based on the above that in the implementation factor can be done quite well, but there are still obstacles in terms of mastery of the material, the mastery of the audience and the efficient use of time.

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C. Control

Analysis and evaluation of guidance and counseling activities carried out through four stages, *the first stage* is the monitoring phase, starting from the activity, during the process and after the activity with the goal objectives are achieved. Every Bhabinkamtibmas activity is supervised by the National Police Chief and the Community Binit Work Unit. If the Kapolsek and Kanmas Binmas do not have an activity, they can directly monitor the activities of Bhabinkamtibmas by participating in the activity.

The second stage is the recording stage, the recording stage has been done well. The recording phase is carried out by the Community Service Unit by collecting all the activities that have been carried out by Bhabinkamtibmas. Recording activities also function as accountability reports. *The third step* in controlling is evaluating the implementation of the Bhabinkamtibmas report. If Bhabinkamtibmas which is required to carry out eating activities will be given a reward by Kasat Binmas. The following statement Kasat Binmas.

The fourth step, the end of the series of analysis and evaluation activities is reporting. Reporting the results of analysis and evaluation by Kasat Binmas to the leadership is given in the form of Sat Binmas monthly financial accountability reports obtained from each police station report to Kebumen Police. Bhabinkamtibmas report is made by Bhabinkamtibmas itself in accordance with the activities carried out by adjusting the previous activity plan. Bhabinkamtibmas reports are reported every month to the Binmas Community Office and will be forwarded to the Binmas Community Headquarters as a matter of accountability to the leadership.

II. INDICATORS OF SUCCESSFUL IMPLEMENTATION OF HOAX PREVENTION COUNSELING BASED ON NATIONAL POLICE REGULATION NO. 3 OF 2015

To measure the results of implementing hoax prevention counseling, articles 19, 20, 21, 22 of Perkap number 3 of 2015 on Community Policing (*Pemolisian Masyarakat*) are used as guidelines for analysis, as follows:

a. Indicators of success of Community Policing, seen from the aspect of the performance of Community Policing
b. Indicators of success of community policing, seen from the aspects of Polmas and Bhabinkamtibmas
c. Indicators of success are seen from the aspect of society
d. The indicator of the success of the Community Policing is seen from the aspect of the relationship between the Police and the Community

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Table 1. Indicators of Community Policing Success Based on Perkap Number 3 of 2015

No	Article	Indicator	Fulfilled
1	2	3	4
1	19	Increased intensity of communication between the Community Policemen with Bhabinkamtibmas and the community;	✓
2	19	increased relationship intimacy Polmas bearer with Bhabinkamtibmas with the community;	-
3	19	increasing public trust in the National Police;	-
4	19	the increasing intensity of communication forum activities between the National Police and the community;	✓
5	19	increased sensitivity / awareness of the community towards Kamtibmas problems in their environment;	✓
6	19	increased information / advice from the public about the National Police accountability for the implementation of Polri's duties;	✓
7	19	increased public obedience to the law;	✓
8	19	increased public participation in providing Kamtibmas information, early warning and events;	✓
9	19	increasing the ability of the community to eliminate the root of the problem;	-
10	19	increasing the existence and functioning of problem solving mechanisms by the police and the community;	-
11	20	awareness that the community as stakeholders must be served;	-
12	20	increased sense of duty of duty to the community	✓
13	20	increasing the spirit of serving and protecting the community as a professional obligation;	✓
14	20	increased readiness and willingness to accept complaints / complaints from the public;	✓
15	20	increased speed of responding to complaints / complaints / public reports;	✓
16	20	increased speed approaching the scene;	✓
17	20	increased readiness to provide assistance that is needed by the community;	✓
18	20	increased ability to solve problems, conflicts / disputes between citizens;	-

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No	Article	Indicator	Fulfilled
1	2	3	4
19	20	increased intensity of official visits to residents	✓
20	21	Polmas and Bhabinkamtibmas members are easily contacted by the community;	✓
21	21	Complaints / report posts / counters are easy to find by the public;	-
22	21	the complaint mechanism is easy, fast and straightforward;	✓
23	21	response / response to complaints quickly / immediately obtained by the community;	-
24	21	increasing public trust in the National Police;	-
25	21	increasing the ability of FKPM to find, identify the root of the problem, and solve it;	-
26	21	increasing community independence in overcoming problems in their environment;	-
27	21	reduced community dependence on the National Police	-
28	21	increased community support in providing information and thoughts.	✓
29	22	increased communication intensity Polmas and Bhabinkamtibmas with the community;	✓
30	22	increasing intensity of FKPM activities at the Police and Community Partnership Center or other places;	-
31	22	the increasing intensity of cooperative activities between Community Policing and Bhabinkamtibmas and the community	✓
32	22	increased openness in provide information;	✓
33	22	increased deep togetherness problem solving; and	-
34	22	increased intensity of cooperation and participation of stakeholders.	✓

Source: Perkap Number 3 of 2015, edited by Author

Based on the data on Table 1, it can be seen that the implementation of counseling by Bhabinkamtibmas in preventing the spread of hoaxes in order to create a safe and peaceful election has not been optimal in article number 3 of 2015 because there are still 14 indicators from total 34 that have not been met.

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III. IMPLEMENTATION OF COUNSELING BASED ON CAMPBELL'S PERFORMANCE THEORY

To bring up a good implementation of counseling, the author will bridge the discussion by using the theory of performance from Campbell in Jex and Britt (2008: 99). Mastery of tasks as conveyed by Campbell in his performance theory, there are 8 (eight) main components that must be owned by every officer in carrying out his work. The eight components of the performance include observable behaviors carried out by individuals in the work of officers who are relevant to the goals of the organization. Performance or often referred to as performance is the capital of the police organization that must be owned by all members, including Bhabinkamtibmas.

a. Job specific task proficiency is the extent to which an individual can do the main tasks of his job.
b. Non-job specific task proficiency is the degree to which the individual does a number of specific tasks.
c. Written-oral communication task is the extent to which individual skills in writing and communicating.
d. Demonstrating effort is the extent to which individuals show extra effort to carry out their tasks consistently.
e. Maintaining personal discipline is an individual's effort not to do negative things at work.
f. Facilitating peer and team performance.
g. Supervision is the ability to influence colleagues or subordinates to improve performance through interpersonal interactions.
h. Management administration

Table 2. Conclusions Counseling Based on Performance Theory

No	Indicator	Not Fulfilled	Fulfilled
1	Job specific task proficiency	✓	
2	Non-job specific task proficiency		✓
3	Written-oral communication task	✓	
4	Demonstrating effort	✓	
5	Maintaining personal discipline		✓
6	Facilitating peer and team performance		✓
7	Supervision		✓
8	Management administration		✓

The implementation of counseling by Bhabinkamtibmas in preventing the spread of hoax was analyzed according to the Binluh management concept based on articles 8, 9, 10, and 11 of Police Chief Regulation number 21 of 2007 as well as articles 19, 20, 21, and 22 of Police Chief Regulation number 3 of 2015 there were still deficiencies, namely the absence of the readiness of Bhabinkamtibmas officers in

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conducting counseling related to the spread of hoaxes before the election, is not yet optimal in controlling the audience, and the lack of coordination of Bhabinkamtibmas with stakeholders, and figures resulting in the community being less able to analyze the spread of hoax news ahead of the election.

The implementation of counseling by Bhabinkamtibmas is closely related to the task of partnership and problem solving. So that the task of counseling Bhabinkamtibmas is more optimal then it is discussed based on Campbell's Performance theory. Based on Campbell's performance component, it was found that members of Bhabinkamtibmas were still not fulfilled in terms of Job Specific task proficiency, Written-oral communication task, and Demonstrating effort.

FACTORS THAT INFLUENCE EXTENSION BY BHABINKAMTIBMAS

According to Soekanto (2014: 7). Law enforcement is not merely the implementation of legislation. Despite the reality in Indonesia the tendency is this, so that the notion of law enforcement is so popular. In addition, there is a strong tendency to interpret law enforcement as implementing judges' decisions. It should be noted, however, that these rather narrow opinions have weaknesses. If the implementation of the law or the judges' decisions in fact disturbs peace in the association of life.

In fact, the law upheld in Indonesia is still widely violated, especially the rise of hoaxes circulating at Kebumen Police Station. Based on this Soekanto (2014: 8) argues that the main problem of law enforcement lies in the factors that influence it. These factors are neutral, so they have positive and negative impacts. These factors are:

a. The legal factor itself
b. Law enforcement factors, namely those who form and apply the law
c. Factors of facilities or facilities that support law enforcement
d. Community factors, namely the environment in which the law applies or is applied
e. Cultural Factors, namely as the work, creation and taste based on human initiative in the association of life

The following will be analyzed factors of law enforcement in counseling against the prevention of the spread of hoax by Bhabikamtibas at Kebumen Police Station.

I. LEGAL FACTOR

In this study, what is meant by legal factors to ensnare hoaxes is to use Article 28 paragraph 1 of the ITE Law, Articles 14 and 15 of Law number 1 of 1946 of the Criminal Code. The explanation will be described one by one as follows:

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Article 28 paragraph 1 of the ITE Law has not been able to formulate precisely the meaning of hoaxes and it is difficult to capture hoaxes with that article. The reason is that the element "that causes consumer harm" is an element that has material offenses. This means that consumer losses in electronic transactions are prohibited from intentionally and without the right to spread false and misleading news, so there must be material losses such as online fraud that results in financial losses. In the three cases of hoaxes that occurred in Kebumen Police Station although not reported to the level of Investigation but based on the news and the results of the interview. that the three hoax cases were both Terrorist DPO, 8.2 SR Quake and Tsunami, and Video about Fish Flooding in Wadas Lintang Kebumen Reservoir, not a single case of hoaxes can be snared with this article.

Explanation of article 14 paragraph 2 of Law number 1 of 1946 concerning the Criminal Code is more relevant to ensnare the perpetrators of hoax spreaders. Based on all cases of hoaxes that occurred in the Kebumen police area, all elements in article 14 paragraph 2 of the Criminal Code of 1946 can be fulfilled as a result of false news in accordance with article 14 paragraph 2 of the Criminal Code of 1946 namely "causing disturbance in society" is a formal offense that can fulfilled only due to public unrest due to hoaxes circulating in the community. From the above statement it can be concluded that the handling of hoaxes by law enforcement still faces difficulties because there is no article that clearly defines this hoax problem.

From the explanation above it can be seen that there is no concrete legal formulation to ensnare the perpetrators of hoax spreaders. This will result in inhibition of counseling conducted related to hoax prevention because Bhabinkamtibmas cannot inform the public about the effects of jerah to people who do the hoax besides there is no training to Bhabinkamtibmas related to hoax knowledge. This is very worrying because the Kebumen people generally do not have a high level of education so that knowledge about hoaxes is still lacking and prone to Kebumen people easily believe in hoax news. Hoax is mostly done through social media, so that in the ITE Law there must be an update to the legal formulation for hoaxes.

II. LAW ENFORCEMENT FACTOR

Human resources have an important influence in supporting the success of an effort to prevent the spread of hoaxes. To provide a quality counseling requires skilled human resources, able to communicate well, fully understand that in this context, especially about preventing the spread of hoaxes, and being able to master the audience.

Personnel factor is one of the factors that influence the delivery of hoax prevention messages. Analysis of the quantity and quality factors of personnel. The quantity of personnel is the strength or the real number of Bhabinkamtibmas Kebumen police personnel, while the quality of personnel is the ability possessed by each Bhabinkamtibmas member in carrying out counseling in preventing the spread of hoaxes.

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Judging from the total number of Bhabinkamtibmas as a whole, there are 95 members, that number is still far from the number of villages and villages in Kebumen Police Station, which are 11 villages and 449 villages. This is why the 1 village 1 Bhabinkamtibmas program is not yet running, there are still many Bhabinkamtibmas that have more than one target village.

The next personnel issue is about the quality of personnel, especially Bhabinkamtibmas at Kebumen Police Station. It can be seen from Bhabinkamtibmas general education that there are 26 personnel who have obtained a bachelor's degree (S1) while there are still 69 personnel who have only graduated from high school. This indicates that members are not interested in improving the quality of their education.

Another factor is also due to the ability of Bhabinkamtibmas to use information and communication technology and the lack of multimedia capabilities possessed by Bhabinkamtibmas. This is evidenced by the lack of counseling through the WA application that uses picture or video messages.

III. LAW ENFORCEMENT FACILITIES FACTOR

Supporting facilities or facilities include budget support, facilities and infrastructure as well as the methods used. Budget support is a factor that plays an important role in the implementation of a police activity. An activity will run well if the needs can be met by the available budget.

Even though the budget is still lacking, according to Kasat Binmas this does not matter because Bhabinkamtibmas also has the support of the surrounding community in carrying out its extension work. Then the facility and infrastructure factor in counseling, Bhabinkamtibas does not fully have the equipment that must be owned by a Bhabinkamtibmas in carrying out its duties, in accordance with article 30 of the National Police Chief Regulation number 3 of 2015

IV. COMMUNITY FACTOR

In implementing counseling by Bhabinkamtibmas to prevent hoaxes must know the intended target. In this study the target is society because of factors within the community that will affect the implementation of counseling. People prefer to make a decision that minimizes their cognitive effort and maximizes confidence (Chen et al., 1999). Dismissing an issue without serious consideration can be a result of reasoning to avoid wasting cognitive effort and minimizing cognitive dissonance. Past research argues that individuals process new information when they have a minimal level of resources to be interested in, such as knowledge (Petty and Cacioppo, 1986), attitude (Krishna, 2017), and ability (Chaiken, 1980).

In terms of Kebumen community education is still relatively low, only 2.3% of the people who have obtained a bachelor's degree (S1). This can result in low media literacy capabilities and can easily be provoked and help spread hoaxes. Then the lack of knowledge of the Kebumen community about hoaxes, so prone to become victims of hoax news.

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Low level of education is not really a problem because the willingness to know about hoaxes is quite high. Based on the author's observations during the FGD activities during the study, it was seen that Kebumen people who were FGD participants seemed very enthusiastic about the hoax material presented by the speakers, this was evident from the many FGD participants who wanted to ask questions. Therefore, community enthusiasm can be a supporting factor in the counseling of Bhabinkamtibmas in preventing the spread of hoaxes at Kebumen Police Station.

V. CULTURAL FACTOR

The culture that exists in a community sphere is very influential with the law enforcement applied in that society. The social conditions in the Kebumen police station greatly influenced the spread of hoaxes in the Kebumen region. In the Kebumen region, the use of mobile phones is evenly distributed in all circles plus a low level of education further increases the likelihood of spreading hoaxes in Kebumen plus the Indonesian culture that is easy to believe in 'he said'.

The factors that influence the implementation of counseling by Bhabinkamtibmas in preventing the spread of hoax are analyzed using law enforcement theory, with the results of the analysis as follows: Supporting factors are legal factors, facilities/community factors, and community factors, as follows article 28 paragraph 1 of ITE Law and article 14, 15 Law number 1 of 1946 became the basis in ensnaring perpetrators of hoax spreaders, budget and facilities support, as well as public enthusiasm to understand about hoaxes. However, there are deficiencies in defining the effect of hoaxes on legislation which makes it difficult for law enforcers to ensnare hoaxers, the number of Bhabinkamtibmas which is still lacking so that the Bhabinkamtibmas program has not been fulfilled, the lack of Bhabinkamtibmas knowledge about hoaxes, and the consumptive culture of Kebumen and easy to believe in the culture 'he said'. Therefore, based on law enforcement theory, the inhibiting factors are legal factors (legal formulation), law enforcement factors and cultural factors

CONCLUSION

The results of the study found that there have been three cases of hoaxes in the Kebumen police area. The implementation of counseling by Bhabinkamtibmas in preventing the spread of hoaxes was not optimal because there were still shortages at each stage of the activity and there were still deficiencies in terms of Bhabinkamtibmas officers' knowledge about hoaxes, the ability to establish partnerships, and communication skills. The inhibiting factors are legal factors (legal formulation), law enforcement factors, and cultural factors, while supporting factors are legal factors (foundation), facility / facility factors, and community factors. Based on the results of the study, the authors suggest firmness to ensnare the hoax case,

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coordinate with the cyber patrol task force, prioritize counseling to the grassroots, create a WA group containing all stakeholders, public lectures on hoaxes, mandatory base on Binmas, rejuvenation of Bhabinkamtibmas, appoint Tomas as the 'representative' 'Bhabinkamtibmas, increasing innovation in creative activities, optimizing sarpras, and holding a Da'i Kamtibmas competition.

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RESEARCH ARTICLE

THE IMPLEMENTATION OF DISASTER MANAGEMENT AND LEGAL PROTECTION FOR DISASTER RELIEF VOLUNTEERS (CASE OF CENTRAL JAVA PROVINCE, INDONESIA)

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ABSTRACT

Regulation of the Head (Perka) of the National Disaster Management Agency (BNPB) Number 17 of 2011 concerning the Disaster Management Voluntary Guidelines which in addition to being a volunteer guideline also regulates voluntary obligations and rights. Of the three volunteer rights contained in the Perka, there is one volunteer right that is not explained in detail, namely the volunteer's right to get legal protection in the implementation of disaster management tasks. This study uses a qualitative research approach, a type of juridical-sociological research, the focus of research on legal protection for disaster relief volunteers in carrying out disaster management tasks, research locations in the Regional Disaster Management Agency (BPBD) of Central Java Province, primary and secondary data sources, and uses interactive analysis models. The implementation of disaster management in Central Java Province BPBD and the form of legal protection for disaster relief volunteers in the implementation of disaster management tasks in Central Java Province BPBD. The implementation of disaster management tasks in the Central Java Province BPBD is guided by three stages, namely the pre-disaster stage, the emergency response stage, and the post-disaster stage. While the form of legal protection for disaster relief volunteers in the implementation of disaster management tasks in BPBD Central Java Province in the form of physical, psychological, and mental health insurance during carrying out disaster management activities.
Keyword: *Protection; Disaster Management; Volunteer; Legal Protection*

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INTRODUCTION

Indonesia is a country with a large population. Indonesia is a country that is prone to disasters, at the same time Indonesia has great human resource potential, which can be empowered in the face of emergencies and in disaster risk reduction efforts. Natural disasters are also a threat that cannot be predicted by all countries. Every country, both poor countries, developing countries and developed countries can also face the threat of disaster (Herningtyas, 2014). Natural disasters have an impact high fatalities in the world, especially in vulnerable groups, one of them with disabilities (Novalita, 2018). Disaster Management in Indonesia is regulated in Law Number 24 Year 2007, the law stipulates that the government and regional governments are responsible for carrying out disaster management.

The researcher made Central Java Province the focus of this research. Central Java Province is the focus of this study because based on the Disaster Risk Index Data (IRBI) issued by the National Disaster Management Agency (BNPB) in 2013, Central Java Province has a score of 158 with a high ratio class. From these data shows that Central Java Province has a high potential for disaster. The high potential of the disaster makes Central Java Province which is divided into 35 regencies and cities and has a population of approximately 32,000,000 people, indicating that in addition to having high disaster potential, Central Java Province also has great potential for disaster relief volunteers. Individual preparedness is inseparable from the role of government in efforts to improve community preparedness (Utomo, Muryani, & Nugraha, 2018). This is evidenced by the many voluntary organizations in Central Java which include Central Java SARDA (Central Java Regional SAR), Central Java Muhammadiyah Disaster Management Center, Central Java TAGANA (Disaster Preparedness), UBALOKA (Scout Aid Unit) in Java Central and many other voluntary organizations.

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The volunteers must first understand their rights and obligations. These matters are contained in the Head of Regulation (Perka) of the National Disaster Management Agency No. 17 of 2011 concerning Guidelines for Disaster Volunteer Management. The regulation included the role of volunteers in disaster management, volunteer data collection, volunteer training, volunteer deployment, and monitoring and evaluation. The disaster relief volunteer in this party is defined as a person or group of people who have the ability and concern to work voluntarily and sincerely in disaster management efforts. The regulation was made so that the involvement of stakeholders could be directed, coordinated, and protected by their legal rights. The regulation states that the rights of volunteers include obtaining recognition and identification of volunteers for disaster management, getting capacity building related to disaster management, and getting legal protection in the implementation of disaster management tasks. However, in the regulation there is no clause that clearly discusses what legal protection volunteers obtain in carrying out their disaster management tasks (Arifin, 2020; Arifin & Lestari, 2019).

METHOD

This research uses legal research with a qualitative legal research approach. The definition of legal qualitative research is research that is actually a research procedure that produces descriptive data, i.e. what is stated by the respondent in writing or verbally, and real behavior. The thing that is studied and studied is a whole object of research, as long as it concerns humans. Thus, by using a qualitative approach, a researcher primarily aims to understand or comprehend the symptoms being examined (Soekanto, 2012; Arifin, Waspiah, & Latifiani, 2019).

This type of research is sociological-juridical. The focus of research on the implementation of disaster management tasks is based on the Central Java Province Regional Regulation No. 11 of 2009 concerning the Implementation of Disaster Management in Central Java Province and the form of legal protection for disaster relief volunteers in the implementation of disaster management tasks in the Regional Disaster Management Agency (BPBD) of Central Java Province. The data source uses primary and secondary data sources with data collection techniques in the form of library studies, interviews, observations, and documentation. Data validity with data triangulation techniques and data analysis using interactive analysis models.

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IMPLEMENTATION OF DISASTER MANAGEMENT TASKS IN CENTRAL JAVA PROVINCE

The implementation of disaster management tasks in the Regional Disaster Management Agency (BPBD) of Central Java Province is regulated in the Central Java Provincial Regulation No. 11/2009 concerning the Implementation of Disaster Management in Central Java Province. BPBD is a Regional Disaster Management Agency that is engaged in Disaster Management (PB) in the Region, which is meant by the Region in this case namely the Provincial Government and Regency and City Governments. While the Central Java Province BPBD is a Disaster Management Agency / Agency that operates in the Central Java Provincial Government, the basis of its initial formation was based on the Minister of Home Affairs Regulation No. 46 of 2008, and strengthened by the Head of BNPB (Perka) Regulation No. 3 of 2008 concerning Guidance for Establishment Regional Disaster Management Agency, Regional Regulation Number 10 of 2008, Regional Regulation Number 101 of 2008, and Regional Regulation Number 11 of 2009 concerning Disaster Management in Central Java Province.

To anticipate the potential and high occurrence of disasters in Central Java, the Provincial Government of Central Java has issued several regulations in the field of disaster management, including:

1. Regional Regulation (Perda) of Central Java Province Number 10 of 2008 concerning Organizations and Work Procedures of Other Regional Institutions of Central Java Province;
2. Regional Regulation Number 11 of 2009 concerning Implementation of Disaster Management in the Central Java Region;
3. Central Java Governor Regulation (Pergub) Number 101 of 2008 concerning the Explanation of the Main Tasks, Functions and Work Procedures of the Secretariat of the Regional Disaster Management Agency (BPBD) of Central Java Province;
4. Decree of the Governor of Central Java Number 120/42/2010 concerning the Establishment of the Regional Disaster Management Steering Element for the Central Java Province 2010-2015.

The implementation of disaster management has been guided by the three main stages of disaster management, as stated on Art. 33 Law No. 24 of 2007 concerning Disaster Management, namely:

1. Pre-disaster stages;
2. Stages at the time of the disaster (emergency response), and;
3. Stages after a disaster.

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Implementation of the three main stages of the implementation of disaster management in its journey there are still many obstacles encountered so that it has not yet maximized what has become the ideals of the mandate of Law Number 24 Year 2007 and the wishes of the community. Each of these stages disaster relief volunteers are always involved.

Disaster Management Volunteers, hereinafter referred to as volunteers, are a person or group of people, who have the ability and concern in disaster management who work sincerely for disaster management activities (Perka BNPB No. 1 of 2011). Volunteers work based on Pancasila and the 1945 Constitution. Volunteers also have work principles in their duties, namely: fast and precise, priority, coordination, efficient and efficient, transparency, accountability, partnerships, empowerment, non-discrimination, not spreading religion, gender equality, and respect for local wisdom.

To be able to realize its performance well, disaster management volunteers have five *darma* (actions) called the *Panca Darma* Disaster Management Volunteers in disaster management efforts as stipulated on Chapter 1 Perka BNPB No. 1 of 2011 concerning Guide for Volunteer of Disaster Management Task, namely:

1. Independent, during the assignment of disaster management, volunteers must be able to take care of themselves and not bother or burden others,
2. Professional, disaster management volunteers must be able to work professionally according to their capacity and competence,
3. Solidarity, disaster management volunteers must be able to apply and uphold the values of solidarity and social solidarity,
4. Synergy, disaster management volunteers must be able to work together and work well together and support each other as a team to realize comprehensive and integrated services in accordance with applicable mechanisms and regulations, and
5. Accountable, disaster management volunteers must be able to demonstrate accountability for their performance, which can be ethically and legally accountable.

Furthermore, Chapter II Perka BNPB No. 1 of 2011, emphasized that when disaster does not occur, volunteers can play a role in disaster risk reduction or mitigation and training activities. Disaster risk reduction or mitigation activities include organizing joint trainings with the community, providing information to the community, providing information to increase community awareness in the context of disaster risk reduction, and increasing community awareness. The Chapter III also highlighted that while the intended training includes basic/advanced management training, disaster technical training, rehearsal and disaster simulation.

During an emergency response, volunteers can assist in the rapid assessment of the coverage of the affected area, the number of victims and damage, the need for

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resources, the availability of resources as well as the prediction of future situation development; search, rescue and evacuate residents affected by the disaster; provision of public kitchens; fulfillment of basic needs in the form of clean water, clothing, food, and health services including environmental health; provision of temporary shelter (*huntara*); protection of vulnerable groups by giving priority to services; emergency repairs / restoration for the smooth supply of basic needs to disaster victims; provision of information systems for handling emergencies; psychosocial assistance for disaster victims; other activities related to social, cultural and religious affairs; and other activities related to emergencies. Post-disaster situations volunteers can assist in the collection and management of damage and loss data in the housing, infrastructure, social, economic and cross-sector sectors. Volunteers can also participate in physical and non-physical rehabilitation-reconstruction activities during the early recovery period (Aji, Wiyatno, Arifin, & Kamal, 2020).

The deployment of volunteers is carried out in two stages: the preparation and deployment stages. There are two things to do when preparing for deployment, before deployment, and administrative equipment and supporting facilities for the assignment. Pre-deployment preparations are carried out by giving a brief description of the disaster area, the impact of the disaster, a map of the disaster location, the route of the trip or post, the evacuation route, the current situation, the length of time of the assignment, and the parties to be contacted for coordination; division of tasks according to their competence; completing the assignment facilities and infrastructure; volunteer health checking; periodic reporting of activities delivered to the commander; coordination and communication with related parties in the field by voluntary parent organizations; and evaluating the development of the situation every day with other volunteers or carrying out other humanitarian activities.

Administrative completeness that must be brought by volunteers is assignment letter, individual identification card, and Volunteer Member Card. During the emergency response, volunteers are provided with personal protective equipment (PPE) according to the type of disaster and the area of duty, and the completeness of the team as needed. Volunteers must also bring their own daily personal supplies.

The deployment is carried out after the preparatory phase is carried out. Mobilizing Regency / City and Provincial level volunteers with Provincial / District / City BPBD provides information to volunteer parent organizations about the needs of volunteers to be deployed / assigned in disaster management according to the needs at the disaster location. Provincial / district / city level supervisory institutions assign volunteers according to the criteria / skills and quantity needed at the disaster site. The guiding institution will immediately coordinate with user institutions / agencies and / or BPBDs that require volunteer support in relation to location, burden / job description and length of assignment. Control of activities in the field, from departure

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to the location of the assignment to repatriation, is always monitored by the supervisory agency. Each volunteer assigned must be responsible for carrying out their duties and submit reports in accordance with applicable regulations. The assignment of volunteers with the cooperation of institutions / agencies and other organizations must be through official letters. If deemed necessary, the assignment of volunteers can be ratified through a Letter of Agreement between the relevant institutions.

The volunteer mobilization mechanism is carried out through the community/ institution/agency in the disaster location in coordination with the regional BPBD regarding requests for volunteer support. BPBD submits / corresponds to the parent volunteer organization regarding the needs of the number of volunteers and details of the skills needed to be deployed to the disaster site. Furthermore, the parent volunteer organization verifies the needs of volunteers and completes administration on request. The parent volunteer organization hands over volunteers through the BPBD and / or directly through the Emergency Response Commander/Field Coordinator. Emergency Response Commander/Field Coordinator mobilizes volunteers at the disaster site based on the needs at the disaster site. The end of the volunteer task is adjusted to the request of the emergency response command, but it is also possible to provide support after an emergency situation. At the end of the task can be given guidance that can be done in the form of psychosocial program activities, dialogue or discussion, and health checks. Volunteers are required to make a report on the implementation of the task and submit it to the guiding institution and other relevant parties.

Form of Legal Protection for Voluntary Disaster Management in Central Java Province

Volunteer disaster management is technically under the Regency/City Government, while the Regional Government is limited to facilitating. Facilitating what is interpreted here is limited to mobilizing and controlling, not yet to the technical aspects of how volunteers' rights and obligations are and related to matters related to risk and so on. Whereas technical matters as mentioned earlier in the form of rights and obligations of volunteers and related risks and so on, each is attached to the Regency/City of Government but it is necessary to remember again that each Regency /City has different abilities.

Head of Regulation (Perka) of the National Disaster Management Agency No. 17 of 2011 concerning the Guidelines for Voluntary Disaster Management is mentioned about the rights and obligations of volunteers but in its implementation the Regional Government has no authority because the volunteers are owned by the Regency / City. The Regional Government is only limited as a coordinator not to form, but only to empower and facilitate in the form of providing training in collaboration with other agencies / institutions. Providing these trainings is important for volunteers because disaster relief volunteers need to have the skills or special skills needed in disaster management. When talking about the legal protection of volunteers who are

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volunteer rights that are in Perka BNPB Number 17 of 2011, we also talk about certification which shows that the volunteers have the skills to be able to participate in operational activities in disaster management tasks (Personal Interview, Zainuddin, 2017).

By law volunteers are social organizations. Until now in Central Java Province, there are no regulations, either Regional Regulations, Governor Regulations or other similar regulations that can actually support volunteers, and until now the existence of volunteers is independent. Although independent when in the field as Law Number 24 of 2007 concerning Disaster Management, that anyone who is in a disaster location must obey and comply with Government Regulation No. 21 of 2008 concerning the Implementation of Disaster Management that is regulated by the Regional / Regency / City Government. The issuance of the Head of the Regulation (Perka) of the National Disaster Management Agency No. 17 of 2011 concerning the Guidelines for Volunteer Disaster Management still raises doubts regarding the extent of the Head Regulation (Perka) of the National Disaster Management Agency whose status is at the ministerial level compared to other regulations which are both issued by the minister or ministerial level (Personal Interview, Purwito, 2017).

When an accident happens to volunteers in the implementation of disaster management the Regional Government continues to facilitate but has not been clearly regulated in a regulation, facilitating here is also only a form of concern. The Provincial Government is actually still difficult to form regulations that technically govern volunteers, because to be a volunteer is a group or individual initiative and must not sue. Even though in the field, when volunteers work for humanity, their existence will be guaranteed / protected by disaster management organizers, namely the Regional / Regency/City Government where the disaster is limited to being allowed to be involved in disaster activities.

The form of voluntary legal protection which is a volunteer right that is in Perka BNPB Number 17 of 2011 is in the form of physical and psychological health insurance during carrying out disaster management activities and life safety guarantees during carrying out disaster management activities from its development agency or the agency that assigns it.

CONCLUSION

Based on the results of research and discussion, it can be concluded that the implementation of disaster management tasks in the Regional Disaster Management Agency (BPBD) of Central Java Province is guided by three main stages, namely the pre-disaster stage, the stage during a disaster (emergency response), and the post-

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disaster stage. The pre-disaster phase includes situations where no disaster occurs and situations where there is a potential for disaster to occur. The stage at the time of the disaster (emergency response) which includes a rapid and precise assessment of the location, damage, and resources; determination of the status of a disaster emergency; rescue and evacuation of affected communities; fulfillment of basic needs; protection of vulnerable groups; and immediate recovery of vital infrastructure and facilities. The form of legal protection for volunteers is in the form of physical and psychological health insurance during carrying out disaster management activities and life safety guarantee during carrying out disaster management activities from its development agency or the agency that assigns it. The implementation of voluntary legal protection does not yet have a regulation that regulates technically and can be used as a legal basis. When an accident happens to volunteers in the implementation of disaster management, the organizer of disaster management in this case the local government, still facilitates, even though it has not been clearly stipulated in a regulation. Facilitating here is also only a form of care. Regional governments are actually still difficult to form regulations that technically govern volunteers, because to be a volunteer is a group or individual initiative and must not sue. Even though in the field, when volunteers work for humanity, their existence will be guaranteed / protected by disaster management organizers, namely the Regional / Regency / City Government where the disaster is limited to being allowed to be involved in disaster activities.

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RESEARCH ARTICLE

EFFECTIVENESS OF TREATMENT AND RECOVERY OF DOMESTIC VIOLENCE VICTIMS ON SEMARANG REGENCY

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ABSTRACT

Housekeeping is the smallest community of a society. Household a happy, safe, and secure into everyone's dream. Wholeness and harmony of a household can be impaired if the attitude, behavior, and self-control cannot be controlled. Ultimately can occur domestic violence causing insecurity or injustice against people who are within the scope of the household. From the result of the violence, the victim should be restored to rise physical and psychological conditions. Inhibiting factors is a recovery of victims of domestic violence is that most of the victims do not want to restore condition, efforts to resolve it provides socialization, convincing victims of domestic violence to want to restore, to supervise the victims have been recovered. Supporting factors is the facility is being used in the recovery process is adequate, the victim does not charge at all during the recovery process. In conclusion, the service process and the recovery of victims of domestic violence conducted by the relevant institutions have been equally effective and in accordance with the legislation in force.

Keyword: *Effectiveness; Implementation; Recovery; Treatment; Domestic Violence*

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INTRODUCTION

Domestic violence involves violent and/or controlling behavior that is intentional and perpetrated by an individual towards a current or former intimate partner. This form of violence has been a persistent and significant problem in Canada and the US. Although men can be victimized by this violence, women have been disproportionally represented as victims, as they are almost four times more likely than men to experience domestic violence (Reif and Jaffe 2019).

Patients may present with both physical and mental disorders resulting from the abuse, as stress from the trauma can lead to years of health problems, depression and anxiety. Unfortunately, many clinicians lack the skills and understanding to identify domestic violence at the onset of treatment, posing a considerable danger to the patient. The doctor may be treating a patient for somatic complaints and depression, yet the victim may not discuss domestic violence until months later, if at all (Buel 2002).

In the United States, approximately one in six children have witnessed domestic violence (DV) in their lifetimes, and more than one in five have witnessed other assaults in their families. This type of violence exposure has serious implications for youth, increasing the risk for a range of problems including mental illness, substance use, delinquency, and academic and learning challenges. Police often serve as first responders to domestic violence incidents. As such, they are in a unique position to identify children exposed to trauma and potentially reduce its deleterious effects. Increasingly, cities and municipalities are attempting to incorporate police officers in a more coordinated response to DV, one in which police roles shift from punitive (e.g., investigation and arrest) to advocacy (e.g., assessing victim and family safety and facilitating connection to additional services) (Stevens et al. 2019; Andhini & Arifin 2019; Setyaningrum & Arifin 2019; Juliana & Arifin 2019).

Domestic violence (DV) is an increasing, complex global public health concern (Ruddle, Pina, and Vasquez 2017). Psychopathology is a common consequence of childhood abuse, as well as an independent risk factor for child abuse potential

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(Anderson et al. 2018). This situation of domestic violence is usually caused by family members or intimate partners and frequently within the house (Cobos-Cali et al. 2018). Violence and the fear of violence are emerging as an important risk factor contributing to the vulnerability to human immunodeficiency virus (HIV) infection for women (Patrikar et al. 2012). The recognition of domestic violence as a social and political issue has contributed to the progressive identification of a serious situation, considered in 2002 by the World Health Organization (WHO) as a public health problem with associated consequences which are devastating to the health and well-being of those who suffer it and to the development of the child, family, community and society as a whole (Coutinho et al. 2015).

In contrast to the common strategies employed in interventions in the United States of America (USA), Scourfield (1998) emphasizes that domestic violence intervention programs in the United Kingdom (UK) are more likely to involve theoretical approaches based on cognitive behavior, psychodynamics and feminism. Domestic violence intervention programs' models mostly include cognitive-behavioral therapy, feminist therapy, the Duluth model, motivational interviewing, individual and psychodynamic counseling (Erum, Dam, and Deyn 2019).

METHOD

The method is essentially a procedure in solving a problem and to gain scientific knowledge, the work of a scientist will be different from the work of a layman. Research is an attempt to find the truth or to better provide truth. In this thesis, the research method used is qualitative research methods. The data collection techniques in this research are the study of literature. After the data is collected then it is processed and tested for its validity using triangulation techniques to draw conclusions.

EFFECTIVENESS OF TREATMENT AND RECOVERY OF DOMESTIC VIOLENCE VICTIMS ON SEMARANG REGENCY

The implementation of recovery of victims of domestic violence carried out in Semarang Regency by the Semarang District Social Service, the Semarang Regency Family Planning and Women's Empowerment Agency, and the Semarang Police Resort are carried out in accordance with applicable laws and regulations. This recovery process has procedures that must be implemented including reporting to one of the agencies authorized to carry out the recovery of victims of domestic violence. In 2015 the number of victims of domestic violence according to BKBPP was 100 people and according to the Semarang Police Resort there were 13 people, in the January-September 2016 period the number of victims of domestic violence recorded by BKBPP

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was 65 people and according to the Semarang Police Resort in 2016, there were 10 people.

To find out whether the implementation of recovery of victims of domestic violence has been going well and effectively, it can be seen from the following table data, among others:

Table. 1 Data on Implementation of Recovery for Victims of Domestic Violence

No.	Government Agencies	Male	Female	Amount
1	Polres Semarang	0	4	4
2	RSUD Ungaran	9	7	15
3	RSUD Ambarawa	15	11	26
4	Badan KBPP	0	4	4
5	Others	2	13	15
TOTAL NUMBERS OF VICTIMS				65

Shelters are now seen as a standard source of emergency protection from domestic violence, provided by governments and charities. Shelters also provide a crucial base for women and children to access support services and develop long-term strategies for escaping abusive relationships (Prenzler and Fardell 2017).

As noted above, many domestic violence shelters deny access to services to women with active substance use disorders. Among those that allow women with substance use disorders to access resources, programs vary in the treatment options available to women (Schumacher and Holt 2012). A violent episode can be a single act, or a series of violent acts that may persist over a period of minutes, hours, or days. A violent episode may involve single or multiple types of violence (e.g. physical violence, sexual violence, psychological or emotional abuse, or all three types together) (Fanslow 2017; Muntamah, Latifiani, & Arifin 2019; Kemala Dewi & Arifin 2019). Domestic violence is the most common violence to which women are subjected; unlike the situation for men, who are more likely to be assaulted by a stranger or acquaintance. Often, various types of violence coexist within a marital relationship. The woman may be a victim of physical, sexual, verbal or psychological abuse (Boughima and Benyaich 2012).

Many studies have demonstrated the importance of children exposed to domestic violence in developing behavioral, emotional, and cognitive difficulties (Chan and Wong 2019).

Violence against the spouse affects the person and usually causes external injuries needing treatment, and leaves internal or mental injuries remaining, which may not be visibly apparent throughout the victim's life. It also affects family members, especially young children or teenagers who are severely affected mentally, making them emotionally repressed, aggressive, roguish, and they become inattentive students. Domestic violence causes divorces, children run away from home and become homeless and eventually social problems. These events in turn greatly affect the country not only socially but also economically, especially in terms of medical treatment, social welfare, counseling services for victims of domestic violence, and the

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implementation of preventive measures, and such violence also causes children to learn and absorb it (Laeheem 2017).

From the table data above it can be seen that the number of victims of domestic violence handled and reported by the Semarang Police to BKBPP were 4 people consisting of 0 men and 4 women, Ungaran Regional Hospital as many as 15 people consisting of 9 men and 7 female, Ambarawa Regional Hospital as many as 26 people consisting of 15 men and 11 women, BKBPP as many as 4 people consisting of 0 men and 4 women, and another as many as 15 people consisting of 2 men and 13 women. The number that has been handled by BKBPP through P2TP2A Unit in the January-September 2016 period is 43 people and 22 people have not been handled.

Table. 2 Data on Recovery of Victims of Domestic Violence according to BKBPP in Semarang Regency Period 2015

No.	Districts	Male	Female	Amount
1	Ambarawa	14	18	32
2	Brancak	0	1	1
3	Bandungan	4	14	18
4	Banyubiru	4	8	12
5	Bawen	2	11	13
6	Bergas	1	7	8
7	Bringin	1	2	3
8	Getasan	0	2	2
9	Jambu	0	4	4
10	Kaliwungu	0	0	0
11	Pabelan	0	0	0
12	Pringapus	1	8	9
13	Sumowono	1	3	4
14	Suruh	1	3	4
15	Susukan	0	1	1
16	Tengaran	0	1	1
17	Tuntang	7	3	10
18	Ungaran Barat	9	29	38
19	Ungaran Timur	6	22	28
	TOTAL NUMBERS OF VICTIMS			100
	Number of cases resolved: 100			

It may be necessary to have different intervention methods according to the participants' cognitive developmental levels. Participant Cera, for example, was 10 years old and in the formal operational period. She could express her thinking verbally and be thus able to discover positive psychological resources through conversation with the therapist and verbalize her experiences in sessions (Kang 2017).

According to the Turkish law titled "Law to Protect Family and Prevent Violence against Women number 6284," domestic violence is defined as every instance of physical, sexual, psychological, and economic violence occurring between

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family members or between other people presumed to be family members regardless of whether the victim and perpetrator of domestic violence live in the same home. In particular, the law defines violence against women as violent behavior (as defined previously) that is executed because of a woman's gender or behavior that violates human rights by discriminating based on gender (Özçakar et al. 2016).

From the table data above it can be seen that the number of victims of domestic violence reported to the KBPP Agency and handled by the KBPP Agency in the period of 2015 were 100 people consisting of 32 Ambarawa Districts (14 Men and 18 Women), Bancak District 1 People (1 Woman), Bandungan District 18 People (4 Men and 14 Women), Banyubiru District 12 People (4 Men and 8 Women), Bawen District 13 People (1 Man and 12 Women), Bergas District (1 male and 7 female), Bringin sub-district 3 people (1 male and 7 female), Getasan sub-district 1 person (1 female), Jambu sub-district 4 people (4 female), Pringapus sub-district 9 people (1 male- male and 8 female), Sumowono sub-district 4 people (1 male and 3 female), Suruh sub-district (1 male and 3 female), Susukan sub-district 1 person (1 female), Tengaran sub-district 1 person (1 female), Tuntang District 9 people (7 men and 2 women), Ungaran District Ba rat 38 people (9 men and 29 women), Kecamatan Ungaran Timur 28 people (6 men and 22 women).

So the performance of the Semarang Regency Social Service, the Semarang Regency Family Planning and Women's Empowerment Agency, and the Semarang District Police in carrying out the process of recovering victims of domestic violence in the January - September 2016 and 2015 periods can be said to be effective (right on target) because they have met elements of effectiveness, namely quantity, quality and time that have been achieved. For example, in the January - September 2016 period of 65 domestic violence victims reported to the Semarang Regency KBPP Agency 43 have been successfully recovered and returned to the place of origin of the victims and 22 others are still in the process of recovery. successfully recovered 100 victims of domestic violence from 100 cases reported to the KBPP Agency, so it can be seen that the performance of the Semarang District Social Service, the Family Planning and Women's Empowerment Agency and the Semarang Police have been effective (on target) and efficient.

Victims are accompanied by a staff member from the police in order to make a proper follow up of the case. The victims of domestic violence don't pay anything for health care services. Mediation: Some cases of domestic violence are solved through mediation whereby some perpetrators commit themselves that they won't commit the same act (Mukashema 2014).

Considering optimizing support for diverse survivors, the DV community recently has focused on the inter-relationship between gender norms, socioeconomic status, race, culture, and immigration disparities. Often referred to as an "intersectionality framework", using an intersectional approach can give a voice to marginalized women, challenge stereotypes of the "typical" DV survivor, and highlight the need for culturally-tailored resources. In response to this less monolithic framework of viewing DV survivors' experiences, culturally-specific DV agencies have been emerging over the past 10–20 years. Staff at these agencies provide culturally-

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tailored expertise to DV survivors who belong to marginalized, isolated, or otherwise hard to reach groups (Ragavan et al. 2018).

According to the World Health Organization violence is the intentional use of physical force or power, threatened or actual, against oneself, another person or a group or community, which either results in or has a high likelihood to cause injury, death, psychological harm, development disorder or deprivation. Domestic violence (DV) is a complex and common social phenomenon that takes place in the private domain: among couples or family members (Sánchez-Guzmán et al. 2017). Domestic violence against women is a widespread phenomenon worldwide, affecting one out of three women aged 15 and over (La Mattina 2017)

The Social Service in carrying out its function and role as the organizer of recovery of victims of domestic violence has performed its function properly, which is obliged to provide counseling to the reporting corps, then after receiving the report and providing counseling and interviewing the victim is offered whether he wants to proceed to the law or prefer to do mediation and peace if the victim prefers to take legal action then the victim will be accompanied by a social worker to report to the Semarang Police if the victim chooses peacefully then the victim will be found with a perpetrator of domestic violence to mediate. The risk for domestic violence assault has been studied longer than the risk for recidivism, so it is not surprising that less is known about the risk for post-treatment recidivism. However, clinical treatment issues have motivated much of the recent research, and clinicians and policymakers have become more concerned with the effectiveness of the interventions. Research has concentrated on treatment response (e.g. The Family Planning and Empowerment Agency through the P2TP2A Unit has the following functions and roles to accompany victims to the hospital to conduct a Visum Et Repertum and first treatment, after which the victim is accompanied to report the incident to the Semarang District Police. After conducting treatment at the hospital and making a report at the Semarang police station, the victim will be asked if he wants to continue to the legal route or prefer the mediation path, if the victim chooses the mediation path and prefers to return to his family, the victim will be charged Rp. 500,000, - if the distance of the house is far, if the distance of the house is close then the victim is not given a fee. If the victim feels scared to return to her house, the victim by members of the P2TP2A BKBPP unit is escorted to the Wira Adhi Karya shelter to recover her condition. All costs start from conducting a Visum, covering all costs of care for victims of domestic violence to the cost of returning the victims of domestic violence.engaging in physical violence against one's partner after treatment) (Sartin, Hansen, and Huss 2006).

The Family Planning and Empowerment Agency through the P2TP2A Unit has the following functions and roles to accompany victims to the hospital to conduct a Visum Et Repertum and first treatment, after which the victim is accompanied to report the incident to the Semarang District Police. After conducting treatment at the hospital and making a report at the Semarang police station, the victim will be asked if he wants to continue to the legal route or prefer the mediation path, if the victim chooses the mediation path and prefers to return to his family, the victim will be charged Rp. 500,000, - if the distance of the house is far if the distance of the house is close then the victim is not given a fee. If the victim feels scared to return to her house,

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the victim by members of the P2TP2A BKBPP unit is escorted to the Wira Adhi Karya shelter to recover her condition. All costs start from conducting a Visum, covering all costs of care for victims of domestic violence to the cost of returning the victims of domestic violence. Physical assaults by men against their female romantic partners also referred to as intimate partner violence (IPV), represent an important social problem. Intimate partner violence results in serious physical injuries and psychological distress for its victims (Schumacher, Fals-Stewart, and Leonard 2003).

] demonstrated that yogic breathing alone and in combination with the act of giving testimony, reduced partner violence survivors' depressive symptoms more than the control condition (Clark et al. 2014). The subjects were included in the protocol and were referred to different treatment centers to receive psychotherapy, not to take part specifically in experimental design (Tarquinio et al. 2012). Witnessing violence is a key form of CV with detrimental effects on physical and mental health. To protect children from transgenerational cycles of violence, early intervention is necessary. Psychosocial intervention can include better self-care, functional coping strategies (Riedl et al. 2019).

OBSTACLES TO THE IMPLEMENTATION OF RECOVERY OF VICTIMS OF DOMESTIC VIOLENCE AND EFFORTS TO OVERCOME THEM

A child or adolescent who has experienced direct victimization of abuse is more likely to exhibit internalized symptoms (An et al. 2017). Specifically, the aim was to determine if DV-exposed children disproportionately attend to angry faces compared to non-exposed children and whether this bias in attention was associated with child social-emotional problems. The results were intriguing. Young children with a history of DV-exposure, compared to those without, showed equal attention to the non-face stimulus they were assigned to find (i.e., a cartoon hippo); however, they had a significantly and substantially lower duration of fixation on sad and neutral faces. Anger and happiness were the emotions for which DV-exposed children's fixations were equivalent to those of non -exposed children (Mastorakos and Scott 2019).

Domestic violence can be classified according to the actions into three types as follows. Type 1 is physical violence, which refers to the use of force or a tool as a weapon to hurt the victim such as pushing, slapping, hitting, punching, beating, jerking, squeezing the neck, throwing thing at, and injuring severely with a weapon or a sharp object, etc. Type 2 is mental violence, which refers to any action or ignoring to act which causes the victim sorrow or losing rights or freedoms by doing it verbally or through gestures and action such as verbal despising, satirizing, scolding, bawling, yelling, embarrassing, being indifferent, threatening, showing anger, etc. Type 3 is sexual violence, which refers to the incident when a husband abuses his wife, a father

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abuses his children, an elder relative such as a brother, an uncle, a grandfather abuses his younger relatives, etc. (Laeheem 2016).

In the implementation of the recovery of victims of domestic violence, there are obstacles experienced when carrying out the process of recovery of victims that is that victims usually do not want the case to be processed through legal channels because the victim feels afraid, besides the victim also feels afraid if his condition is restored at the shelter.

CONCLUSION

The implementation and cooperation in the recovery of victims of domestic violence carried out by the Semarang District Social Service, the Family Planning and Empowerment Agency for Women and the Semarang District Police to their victims have been effective and tried as best they can as actions to restore the conditions of victims of domestic violence, as stated in Article 2 Government Regulation No. 4 of 2006 concerning the Implementation and Cooperation for the Recovery of Victims of Domestic Violence, But even so, there are still a number of things that victims feel have not met the standards. For example, in terms of ease in terms of reporting that there has been violence in the household and the difficulty of eliminating trauma that has arisen as a result of acts of violence committed against victims. In addition, there are still often people who do not want to report related to acts of violence in the household.

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RESEARCH ARTICLE

LAW REFORM IN NIGERIA: A HISTORICAL PERSPECTIVE[1]

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ABSTRACT

The paper is intended to analyze and describe the legal reform in Nigeria from historical perspective. This Country, Nigeria, has a long and complicated history of its legal system. Law and legislation in Nigeria is affected by some internal and external factors, such as culture, and globalization. this paper seeks to appraise the history of law reform in Nigeria with comparative analysis of other jurisdictions, evaluate the current state of legislation in Nigeria, highlight the challenges and obstacles that have imperiled law reform in Nigeria and articulate relevant remedial measures as the solution for these age-long problems.

Keyword: *Law Reform; Nigeria; Historical Perspective; Comparative*

[1] Adapted from the text a Paper delivered at the Training of Nigerian Law Reform Commission Lawyers on July 20 – 21, 2017 at the Commission's Office, Abuja

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INTRODUCTION

> ***Change and improvement cannot be affected without legislation. Legislation will be much improved if it has a law reform background or input which brings with it a high level of thoroughness. Without this, some laws may begin to manifest defects and become liable to amendment soon after coming into force.***

Professor C. O. Okonkwo, SAN
July 16 – 17, 2012 *in Abuja*

Law is an inevitable instrument that enables a State to carry out its activities and its desired ends. It is the body of laws in its totality that characterise the State as the supreme organ or authority under whose power and influence every person or organ within its sovereign jurisdiction are made subject to. Hence, supremacy of the Constitution and rule of law become the compelling dictum of virtually all democracies and even undemocratic entities.

In essence, law regulates and controls the affairs of man within a given society. As aptly reasoned by Kefas Magaji and P. C. Okorie:

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> Law refers to a system of rules which a particular country or community recognizes as regulating the actions of its members and which it may enforce by the imposition of penalties. It is a system of rules that govern a society with the intention of maintaining social order, upholding justice and peaceful co-existence (Magji & Okorie 2017).

B. Nwabueze lend support to the above stance in his combination of law as an attribute of state power in these words:

> In more succinct language, the state denotes power and force exercised "in the name of law"; it connotes a legal order, a body of laws that regulates, conditions and qualifies the exercise of power backed by force within a given community (Nwabueze 2010).

It follows that the 1999 Constitution of the Federal Republic of Nigeria was in sync with the above cited postulates when it provides vide section 4 (2) that:

> (2) The National Assembly shall have power to make laws for the peace, order and good government of the Federation or any part thereof with respect to any matter included in the Exclusive Legislative List set out in Part I of the Second Schedule to this Constitution.

Every society or human community grows and in the course of that, the laws of the land follow the dynamic changes and attendant innovation and update. The long title to the Nigerian Law Reform Commission Act, Cap. N118, Laws of the Federation of Nigeria, 2004 captured this universal reality as:

> An Act to set up a Law Reform Commission for Nigeria to undertake the progressive development and reform of substantive and procedural law applicable in Nigeria by way of codification, elimination of anomalous or obsolete laws and general simplification of the law in accordance with general directions issued by the Government, from time to time and for matters connected therewith.

It is in the context of this core mandate of the Law Reform Commission that this paper seeks to appraise the history of law reform in Nigeria with comparative analysis

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of other jurisdictions, evaluate the current state of legislation in Nigeria, highlight the challenges and obstacles that have imperiled law reform in Nigeria and articulate relevant remedial measures as the solution for these age-long problems.

DEFINITION OF TERMS

This subject matter calls for definition, clarification and highlight of key terms which are as follows:

I. CODIFICATION

Black's Law Dictionary has it as:

> The process of compiling, arranging, and systematizing the laws of a given jurisdiction, or of a discrete branch of the law, into an ordered code. 2. The code that results from this process (Gardner 2016).

Despite the above definition, codification of law is a term that is open to many qualification and description to many people. As was aptly remarked by M. Sayers:

> Codification means different things to different people. At its simplest, it may be no more than the reduction to statutory rules of a relatively confined area of common law. If the area is small, the result may be a relatively simple set of statutory provisions. The Occupiers' Liability Act 1957 C31 (UK) is often regarded as a prime example. But for many codifications is a more ambitious, and inevitably less attainable dream. For them, it represents the desire to reduce the whole body of the law, or very large tracts of it, to a simple set of clearly expressed principles (Okonkwo 2012).

We must advert our minds to the Roman legacy through the Code of Justinian of 529AD, which codified all existing legislation from the time of Emperor Hadrian, 117 – 138AD. It was chosen as the baseline with modification necessary to "purge the errors and contradictions, to retrench whatever was obsolete or superfluous", retaining only such laws as were "wise and salutary and best adopted to the practice of the tribunals and the use of the people" (Nwabueze 2017).

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Codification entails a diligent derivation or taking out of all laws within a particular subject matter and condensing same into a single Act (Code) in order to attain predictability, simplicity and certainty within a legal regime. In this wise, the Criminal Code Act, Occupiers Liability Act of 1957 and the Company and Allied Matters Act, become readily available examples.

II. CONSOLIDATION OF LAWS

Consolidate means to combine, amalgate, assembly or unify into one mass or body. Therefore, it is the act of combining two or more separate laws on the same subject into a single statute. Consolidation goes further to restructure the words of a law with the view to make same shorter, clearer and more accessible.

It bears the same connotation with codification but differs in the sense that it advances into editing and restructuring of the words of the statutes for clearer and better usage. Law revision can be adjudged as consolidation of laws.

III. LAW REVIEW

This is a preliminary step in readiness for a law revision or law reform exercise. It involves a diligent comprehensive research and prudent analysis and assessment of the existing laws with the view of identifying areas of the laws that require reform or revision.

Law Review will entail holistic review and analysis of books, articles, journals and other materials by learned scholars. Thus, it will help to expose problems and short-comings in the existing legislations and proffer lasting possible solutions.

If we planned and proactively executed, workshops and seminars by stakeholders and learned specialists in all fields of law will serve this purpose prior to a law reform or revision exercise.

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LAW REFORM IN NIGERIA

I. LAW REFORM

This involves a progressive improvement in the existing law in order to meet the changing needs of a society. It is simply means the dynamic attunement of the existing laws of a society in line with its growth and development. Law Reform also includes the introduction of entirely new legislations in a legal system as required by the technological and development trend of the society. As aptly affirmed by Wikipedia:

> Law reform or Legal reform is the process of examining existing laws, and advocating and implementing changes in a legal system, usually with the aim of enhancing justice or efficiency.
>
> Intimately related are law reform bodies or law commissions, which are organizations set up to facilitate law reform. Law reform bodies carry out research and recommend ways to simplify and modernize the law. Many law reform bodies are statutory corporations set up by governments, although they are usually independent from government control, providing intellectual Independence to actually reflect and report on how the law should progress.
>
> Law reform activities can include preparation and presentation of cases in court in order to change the common law; lobbying of government officials in order to change legislation; and research or writing that helps to establish an empirical basis for other law reform activities.

It is pertinent to note, that law reform must be anchored by a legislation. Thus, involving a substantive legislative change.

II. LAW REVISION

The underlying purpose of a law revision, is to update the set of statues in force in a legal system at a particular date, usually within a period of ten years. Hence, its focus is to incorporate all amendments and adaptations made to the statutes since the last

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revision exercise and also eliminate all repealed, obsolete, spent and other unnecessary matters. H. M. Marshall's definition is instructive that:

> The purpose of a statute law revision (in some countries described as a "reprint") is to prepare and provide for public use an up-to-date set of the statutes in force in a particular territory at a particular date, incorporating all amendments and adaptations made thereto since the previous Revision and eliminating therefrom all repealed, obsolete, spent and other unnecessary matters. This type of law revision must be distinguished from the process of law reform which involves the making of substantive legislative changes in the statute and other law of a territory with a view to its improvement and modernization.

Our position in Nigeria is that law revision is authorized and governed by specific statute through an ad-hoc committee under a Chairman of the Law Revision Committee. It is carried out within intervals of ten to fifteen years. In this wise, there 1948, 1958, 1990 and 2001 – for laws of the Federation of Nigeria 2004 and consequent revision of the 2004 in 2010.

The law requires the enactment of a specific legislation by the National Assembly to bring the new statutes into force. Law revision is not law reform because the law revision committee has no authority to reform laws. Where the law revision committee encounters a law reform subject, it should refer same to the National Assembly for appropriate enactment. The (Laws of the Federation of Nigeria) Act, 2007 which authenticated LFN 2004 served this saving measure for the 2004 exercise which had no force of law until the 2007 enactment.

CONCLUSION

This paper concludes that law reform in Nigeria has a long history and its own problems. Some changes and improvements of laws in Nigeria based on the special legislations, however, the legislation in fact does not reflect some people opinion. The underlying purposes of a law revision is to update the set of statues in force in a legal system at a certain date, usually within a period of ten years. Hence, its focus is to incorporate all amendments and adaptations made to the statutes since the last revision exercise and also eliminate all repealed, obsolete, spent and other unnecessary matters

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RESEARCH ARTICLE

PARLIAMENTARY THRESHOLD AND POLITICAL RIGHTS LIMITATION

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ABSTRACT

Parliamentary threshold or political party threshold to occupy the people's representatives in parliament is a provision that has been regulated in the law. Article 414 paragraph (1) of Law Number 7 of 2017 concerning General Elections regulates the existence of a parliamentary threshold. This means that the parliamentary threshold is legal. Especially based on legal considerations of the Constitutional Court in the Constitutional Court Decision Number 3 / PUU-VII / 2009 and Constitutional Court Decision Number 20/PUU-XVI/2018, the parliamentary threshold is an open legal policy so that it can be said to be constitutional. But in reality, the application of the parliamentary threshold limits political rights. The limitation of political rights occurs to participants and voters in the General Election.

Keyword: *Parliamentary Threshold; General Election; Political Rights*

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INTRODUCTION

Indonesia is a democratic country based on the 1945 Constitution. Article 1 paragraph (2) of the 1945 Constitution states that sovereignty is in the hands of the people and is carried out according to the Constitution. Then Article 1 paragraph (3) states that the State of Indonesia is a state of law. Article 1 paragraph (2) of the 1945 Constitution deals with democracy and paragraph (3) relates to the rule of law. This means that these two verses can be said to be a democratic rule of law. One of the consequences of implementing a democratic rule of law is one of which is to carry out general elections or elections based on the law. This condition has been carried out in Indonesia by holding elections every five years according to the mandate of Article 22E of the 1945 Constitution (Muhtada & Diniyanto 2018: 83-91).

In addition to holding elections as a manifestation of a democratic rule of law. Indonesia also guarantees human rights for all Indonesian citizens. The guarantee is even stated directly in the constitution, the 1945 Constitution. The existence of guarantees of human rights by the state has indeed made the country fulfill the indicator as a state of law according to Julius Stahl (Muhtada & Diniyanto 2018: 89). These conditions are normative and in practice there are problems when they have entered the operational level. Parliamentary ownership implemented in Indonesia through regulations on general elections has in fact come face to face with guarantees of human rights (Arifin & Lestari 2019). Parliamentary threshold is one of the concepts of simplification of political parties through the election system. But in reality, the parliamentary threshold can actually threaten human rights, especially related to political rights restrictions. This research will discuss related to parliamentary threshold and restrictions on political rights.

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METHOD

This research uses normative legal research and analyze the issue related to parliamentary threshold and restrictions on political rights from various laws and regulations in Indonesia and some legal theories. The problems analyzed on this paper are concerning (1) what is the regulation on parliamentary threshold in Indonesia? and (2) how relevant is the parliamentary conference with restrictions on political rights?

REGULATION OF PARLIAMENTARY THRESHOLD IN INDONESIA

Arrangements related to parliamentary threshold are made in Law Number 7 of 2017 concerning General Elections. Article 414 paragraph (1) of Law Number 7 of 2017 concerning General Elections states that Election Contesting Political Parties must meet the threshold of vote acquisition of at least 4% (four percent) of the total number of valid votes nationally to be included in the determination of seats for DPR members. This means that normatively and based on the decision of the Constitutional Court Number 20 / PUU-XVI / 2018 there are actually no problems including from the perspective of the constitution in which there is a regulation of political rights. However, empirically or in reality on the ground, it cannot be ascertained whether the parliamentary threshold is not contrary to political rights, especially the political rights of participants and voters in the General Election.

Therefore, it is necessary to study more closely related to the parliamentary threshold based on an analysis of political rights of participants and voters in the General Election which is strengthened by experience in the field and theories about political rights. Field experience regarding the application of the parliamentary threshold is not easy to prove that the parliamentary threshold violates the political rights of participants and voters in the General Election. Still by looking at the data on the implementation of parliamentary threshold in Indonesia during the three times of the General Elections, namely in 2009, 2014 and 2019, it can be said that the parliamentary threshold successfully eliminated participants in the General Election, namely political parties to send legislative candidates in parliament (Hakim 2018; Rakhmatulloh 2014; Adelia 2018: 146-159; Farisa 2019).

The 2009 General Election, out of the 38 political parties participating in the General Election, the parliamentary threshold was able to eliminate 29 political

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parties participating in the General Election to put the legislative candidates in parliament. The 2014 General Election consisting of 12 political parties participating in the General Election. Parliamentary threshold succeeded in tackling two political parties from being able to sit in parliament. The current general election is 2019 with 16 political parties participating in the General Election. Parliamentary threshold succeeded in overthrowing 3 political parties not to sit in parliament. Even the application of the parliamentary threshold in the 2019 General Election was able to issue one incumbent political party in parliament not to sit in parliament again (Hakim 2018; Adelia 2018: 146-159; Rakhmatulloh 2014; Farisa 2019).

The empirical experience is very interesting if analyzed from the perspective of the political rights of election participants. Political parties that have a voice in the community are apparently unable to penetrate the parliamentary threshold so that they cannot position legislative candidates in parliament. Even though every political party that participates in the General Election always gets votes. In fact, there are political parties that have a voice almost close to the parliamentary threshold. This means that there are voices from the community that are wasted in vain. For example, the Perindo Party, which this year gained 2.67% of the vote, is equivalent to 3,738,320 votes. Such a large vote must in fact be removed (discarded) when determining the members of the House of Representatives in parliament. Imagine if six political parties that did not pass the parliamentary threshold were merged. There are about more than 10 million votes wasted because they cannot be included in the determination of members of the House of Representatives (Farisa 2019).

This means that more than ten million people who participated in the General Election yesterday did not have a political party in the parliament. The aspirations of the people intended to be conveyed to the chosen political parties could not be realized. Because the political parties chosen does not pass the parliamentary threshold. This context clearly causes losses for participants and voters in the General Election. First, losses for participants in the General Election in this case political parties. Political parties that do not pass the parliamentary threshold are disadvantaged because they cannot bring aspirations to parliament from the constituents who have voted. Then, the constituency votes that have been obtained by political parties with hard work will also be lost in vain. That was because the political party did not pass the parliamentary threshold.

Second, losses for voters in the General Election in this case or the public. People who vote for political parties but do not pass the parliamentary threshold are clearly disadvantaged. Losses obtained include:

1. People's voice is wasted because the party chosen does not pass the parliamentary threshold.

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2. The public cannot channel their aspirations in parliament according to their wishes based on the political party program.
3. The community is disadvantaged because they cannot position legislative candidates in the House of Representatives. Though the candidate has a vote equal to one seat in the House of Representatives. Because political parties that are vehicles do not pass the parliamentary threshold, the legislative candidate also cannot sit on the House of Representatives. This is clearly detrimental to participants in the General Election, namely voters as constituents who choose and hope for the candidates and the intended legislative candidates.

The experience of applying parliamentary threshold in the field which in reality caused losses for participants and voters in the General Election. Based on political rights, it clearly violates the political rights of participants and voters in the General Election. The basis of the analysis that the parliamentary threshold violates political rights other than based on experience is the 1945 Constitution. Article 28C paragraph (2) of the 1945 Constitution states that every person has the right to advance himself in fighting for his collective rights to develop his community, nation and state. The context advancing itself, fighting for the collective right to develop society, nation and state is directly related to the General Election.

The purpose of the community to vote in the General Election is to convey aspirations such as advancing themselves and fighting for their rights (to choose) in order to develop society, nation and state. If voters cannot make this happen because the political parties and / or elected legislative candidates do not qualify for parliament because of the parliamentary threshold, the parliamentary threshold can be said to have violated Article 28C paragraph (2) of the 1945 Constitution. Theoretically it is clear that the parliamentary threshold that can frustrate political parties and / or candidates for legislative members sitting in parliament is in violation of Article 28C paragraph (2) of the 1945 Constitution. Facts on the ground also show that political parties and / or legislative candidates did not qualify for parliament because of the parliamentary threshold. Even though many legislative candidates have the votes equivalent to one seat in parliament. However, due to the parliamentary threshold they must be eliminated from the determination to sit in parliament.

Such conditions based on field facts and theories in the constitution have concluded that the Constitutional Court's decision on the parliamentary threshold does not conflict with the 1945 Constitution is not an absolute truth. Even if it is studied more deeply to the conditions of the field and related to the existing theories in the constitution. Parliamentary threshold has apparently violated the constitution in particular Article 28C (2) of the 1945 Constitution in which there are political rights of participants and voters in the General Election.

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RELEVANCE OF PARLIAMENTARY THRESHOLD WITH RESTRICTIONS ON POLITICAL RIGHTS

The next analysis that needs to be examined is the existence of a parliamentary threshold in Law Number 7 of 2017 concerning General Elections. Identification related to the existence of a parliamentary threshold in Law Number 7 of 2017 concerning General Elections is to determine the extent to which the parliamentary threshold correlates with political rights. Given the parliamentary threshold is closely related to General Election which is nothing but a political system. The question is whether the existence of a parliamentary threshold in Law Number 7 of 2017 concerning General Elections does not limit political rights especially the political rights of General Election participants?

These questions must be answered to provide assurance that the regulation and application of the parliamentary threshold does not conflict with the political rights of participants in the General Election. Normatively and visibly, the parliamentary threshold can be said not to conflict and does not limit the political rights of participants in the General Election. The basis of the statement is the legal consideration of the Constitutional Court in the Constitutional Court Decision Number 20 / PUU-XVI / 2018 as mentioned earlier that the parliamentary threshold is an open legal policy and constitutional as long as it does not conflict with people's sovereignty, political rights and rationality.

Unfortunately, in the ruling the Constitutional Court does not provide definitions or clarity related to what political rights should not be challenged by the parliamentary threshold. The Constitutional Court only gives general matters which must not be violated by the parliamentary threshold. There is no clarity regarding what kind of political rights not to be violated by the parliamentary threshold raises more severe questions. The previous Constitutional Court ruling namely Constitutional Court Decision Number 3 / PUU-VII / 2009 related to the parliamentary threshold also did not provide clarity about political rights that should not be violated by the parliamentary threshold.

One of the legal considerations in the Constitutional Court Decision Number 3/PUU-VII/2009 is that the parliamentary threshold can be made to provide restrictions as long as it is still in accordance with the constitution. While the Constitutional Court stated that the parliamentary threshold does not conflict with the constitution. This means that the political rights that have been regulated in the constitution according to the Constitutional Court are not violated or limited by the existence of a parliamentary threshold. The following is one of the judges'

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considerations in Decision Number 3 / PUU-VII / 2009 (in *Bahasa Indonesia* as original judgment):

> *"Menimbang bahwa dengan demikian dapat disimpulkan bahwa lembaga legislatif dapat menentukan ambang batas sebagai legal policy bagi eksistensi Partai Politik baik berbentuk ET maupun PT. Kebijakan seperti ini diperbolehkan oleh konstitusi sebagai politik penyederhanaan kepartaian karena pada hakikatnya adanya Undang-Undang tentang Sistem Kepartaian atau Undang-Undang Politik yang terkait memang dimaksudkan untuk membuat pembatasan-pembatasan sebatas yang dibenarkan oleh konstitusi. Mengenai berapa besarnya angka ambang batas adalah menjadi kewenangan pembentuk Undang-Undang untuk menentukannya tanpa boleh dicampuri oleh Mahkamah selama tidak bertentangan dengan hak politik, kedaulatan rakyat, dan rasionalitas. Dengan demikian pula, menurut Mahkamah, ketentuan mengenai adanya PT seperti yang diatur dalam Pasal 202 ayat (1) UU 10/2008 tidak melanggar konstitusi karena ketentuan Undang-Undang a quo telah memberi peluang bagi setiap warga negara untuk membentuk partai politik tetapi sekaligus diseleksi dan dibatasi secara rasional melalui ketentuan PT untuk dapat memiliki wakil di DPR. Di mana pun di dunia ini konstitusi selalu memberi kewenangan kepada pembentuk Undang-Undang untuk menentukan batasan-batasan dalam Undang-Undang bagi pelaksanaan hak-hak politik rakyat"*.

Legal considerations and decisions of the Constitutional Court related to the parliamentary threshold actually does not describe what political rights should not be challenged by the parliamentary threshold. The Constitutional Court is limited to justifying the position of the parliamentary threshold that does not conflict with the constitution automatically does not conflict with political rights. Considering that political rights are regulated in the constitution, the 1945 Constitution. The next question is had the mandate of the Constitutional Court's decision been carried out that the parliamentary threshold does not limit political rights?

The Constitutional Court's decision may be considered correct, but has the Constitutional Court's decision related to the parliamentary threshold been implemented and does the empirical level of the application of the parliamentary

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threshold really does not limit political rights? The question will be answered by the presence or absence of restrictions on political rights in the parliamentary threshold in Law Number 7 of 2017 concerning General Elections.

It cannot be assumed that in reality based on facts in the field and theories that exist in the constitution. It is stated that the parliamentary threshold is contrary to Article 28C paragraph (2) of the 1945 Constitution is a matter that needs to be further studied and debated. But the facts on the ground which are proven by historical data have provided an illustration that there are losses of political rights and even constitutional rights for General Election participants due to the parliamentary threshold. This means that the parliamentary threshold really limits political rights, especially participants and voters in the General Election. The question is the extent of the provisions on limiting political rights in the parliamentary threshold. If referring to the previous description, it can be said that the limitation of political rights contained in the parliamentary threshold is to target the participants and voters in the General Election.

Furthermore, the losses incurred by participants and voters in the General Election due to the existence of parliamentary threshold are not just one loss but more than one. The disadvantages for participants in the General Election are political parties that do not pass the parliamentary threshold, namely (1) cannot bring the aspirations of the constituents who have elected them and (2) the loss of votes of constituents who have voted. These two losses are the political rights of political parties. Absorption and aspirations of the community are the rights of political parties as a buffer of democracy. Regarding the loss of votes for political parties is clearly a loss of political rights for political parties. Political parties are entitled to get votes from the public and there should not be any instrument that removes the votes. Given the vote is the most basic political rights.

Then the losses for voters in the General Election. People as voters who have the right to vote are clearly disadvantaged by the existence of a parliamentary threshold. People who are disadvantaged by the existence of a parliamentary threshold are people who elect political parties and / or candidates for legislative members but do not qualify because of the parliamentary threshold. Losses obtained by the community in the presence of such things as:

1. The loss of people's votes in vain because for voters who vote for political parties with gains below the parliamentary threshold.
2. voters cannot channel their aspirations in parliament according to their wishes based on the political party program because it is constrained by the parliamentary threshold.
3. the community is disadvantaged because they cannot position candidates for the legislative members in the House of Representatives. Even if the votes of

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the elected legislative candidates are equal to one of the seats in the parliament. However, due to the existence of a parliamentary threshold, political parties do not qualify, so automatically candidates for legislative members from political parties also do not qualify.

The losses suffered by participants and voters in the General Election due to the existence of the parliamentary threshold are actually restrictions on political rights carried out by the parliamentary threshold. Considering that this time the parliamentary threshold is regulated in Act Number 7 of 2017 concerning General Elections, the limitation of political rights in the parliamentary threshold is in Act Number 7 of 2017 concerning General Elections. This means that Law Number 7 of 2017 concerning General Elections is involved in limiting the political rights of participants and voters.

The analysis is not based on opinion but based on facts on the ground and supported by the theories contained in the 1945 Constitution. The results of the analysis were contrary to the decision of the Constitutional Court regarding the parliamentary threshold. Considering the Constitutional Court's decision regarding the parliamentary threshold is final and binding. In fact, there are no more legal efforts to eliminate the parliamentary threshold that clearly violates the political rights of participants and voters in the General Election. Based on instructions from the Constitutional Court in legal considerations in the Constitutional Court's decision regarding the parliamentary threshold. The Constitutional Court stated that the parliamentary threshold is an open legal policy.

This means that the parliamentary threshold is an absolute policy that can be regulated by legislators in this case the House of Representatives and the Government. This condition is a gap to eliminate the parliamentary threshold in the General Election system in Indonesia. The number of losses suffered by participants and voters in the General Election due to the parliamentary threshold. It is time for the parliamentary threshold to be abolished. Political efforts are a way to eliminate the existence of a parliamentary threshold. Lawmakers must be aware that the parliamentary threshold brings harm to the political rights of participants and voters in the General Election. Therefore, legislators must immediately eliminate the existence of parliamentary threshold.

The loss of the parliamentary threshold signals the loss of provisions for limiting political rights caused by the parliamentary threshold. The absence of a parliamentary threshold can cause guarantees of the political rights of participants and voters in the General Election will remain alive. The question is that if the parliamentary threshold is removed, can the legal politics of the parliamentary threshold as described previously be realized? Given the parliamentary threshold legal politics are very important for the government system in Indonesia.

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This question has successfully confronted political rights and the stability of the government system. Conditions like this are certainly very difficult to remember both are very important. But as a country that is consistent with the implementation of the constitution, the state must choose whether it is more concerned with political rights or the government system. Referring to the Preamble of the 1945 Constitution, in fact the most important thing to be prioritized is political rights. The initial sentence of the Preamble of the 1945 Constitution which states that actually Independence is the right of all nations means that political rights are the main compared to the government system. Independence for all nations is impossible if people are not sovereign and independent. Therefore, the sovereignty of the people or the independence of each individual must be realized first. The sovereignty and independence of political rights is one part of the realization of people's sovereignty and individual independence.

This means that political rights are the most important in a country. Without political rights, surely it will be difficult to realize the independence of the country and the people. Likewise with the government system in a country. Without sovereign political rights, it will be difficult to create a stable and democratic system of government. A government system that is not based on the foundation of freedom of political rights gives birth to an authoritarian system of government. Although the government system uses parliament or presidential and even semi. If it is not preceded by a sovereign political right for the people, then the system of government will tend to be authoritarian.

This can be seen in various countries that are authoritarian and implement all governance. The country succeeded normatively and even constitutionally run the government system. However, because in that country there is no sovereignty of political rights owned by the people, the government system that is run tends to be authoritarian. Therefore, in the context of the Indonesian State, popular sovereignty and political rights are fundamental and must be carried out first. If this has been successfully implemented and realized, then the formulation of the format of the government system and even the strengthening of the government system can be done quickly.

Strong foundations in a country will produce strong pillars. Political rights are one of the foundations in a country. This is clearly won in the Second Value of Pancasila which states that humanity is just and civilized. The interpretation of fair and civilized humanity is also included in the sovereignty of the people in political and state rights which must treat justice fairly and civilized. There should be no discrimination against political rights between the people of Indonesia. Then the government system can be said as one of the pillars of the country. Therefore, it needs to be reiterated that political rights must be obtained from the government system.

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This means that eliminating losses due to the parliamentary threshold must take precedence over realizing the political policy of the parliamentary threshold.

CONCLUSION

The existence of parliamentary threshold in General Election turns out to create a dilemma. Parliamentary threshold regulated in Article 414 paragraph (1) of Law Number 7 of 2017 concerning General Elections is indeed legal and constitutional. But in reality, the implementation of the parliamentary threshold actually has a negative impact on participants and voters. The negative impact is the limitation of political rights in the General Election. The limitation of political rights causes losses for participants and voters. The limitation of political rights in question can also be said to be contrary to Article 28C paragraph (2) of the 1945 Constitution.

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RESEARCH ARTICLE

THE ROLE OF THE NUSANTARA TASK FORCE IN PREVENTING POLITICAL VULNERABILITY IN THE PATI POLICE JURISDICTION

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ABSTRACT

Political insecurity ahead of the 2019 presidential and vice-presidential election candidates often arises in the Pati Police jurisdiction. The establishment of this task force aims to minimize the occurrence of various political vulnerabilities ahead of the presidential and vice=presidential elections so as not to develop into social conflict. The purpose of this study is to analyze the problems of political vulnerability that existed during the 2019 Presidential Election in the Pati Police jurisdiction, describe and explain the role of the Nusantara Task Force in preventing the occurrence of problems of political vulnerability that existed during the 2019 Presidential Election in the Pati Police area, and analyze the factors influencing the implementation of the Task Force of the Archipelago in preventing the occurrence of problems of political insecurity that existed during the 2019 Presidential Election in the Pati Police jurisdiction. Theories used in this research are the Role Theory and Voter Behavior Theory. The concept used is the Nusantara Task Force Concept. The laws and regulations in this study are Law No. 2 of 2002 concerning the National Police and the Law. No. 7 of 2017 concerning General Elections, as well as National Police Chief Sprin No. Sprin / 40 / I / 2018 Date January 8, 2018 About the Establishment of the Task Force Nusantara.

Keywords: *Nusantara Task Force; Prevention; Political Vulnerability; 2019 Presidential Election*

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INTRODUCTION

The implementation of general elections (hereinafter referred as Elections), both Legislative Elections, Presidential Elections or Regional Head Elections are always colored by various political vulnerabilities. This happened because each contestant tried to win the attention of the public so that he was elected in the election period. This political vulnerability varies, ranging from negative campaign actions aimed at bringing down the opposing party, black campaigns, hate speeches, hoax information dissemination and various potential occurrence of Kamtibmas disruption caused by the ideological conditions of the community.

Moreover, in this region many members of HTI even though currently passive, the existence of one of the bases of the former G 30 /PKI which is currently ex G 30S/PKI is active in the YPKP (Victim of Murder Victims Research Foundation) 65.

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This problem has always been a figure that worrying and frightening because this can have potential as something that does not support the implementation of the democratic party in Indonesia.

This concern was strongly felt by the Pati regency government which found various problems in the implementation of a democratic party in the Pati region, one of which was the finding of many people who preferred not to exercise their relatively large voting rights, which is more than 25% of the total public voters in Pilkada in Pati Regency.

This can occur because of the various perceptions that can shake his imagination in organizing a democratic party in the Pati region, as a result he has a doubtful attitude or feels psychological terror that resulted in him reluctant to engage more deeply in the political problem, this is also supported by the assumption of the findings of the number of people who prefer not to use their voting rights which present the number of people who do not support the Pati regency government in the future, this is considered to worry the Pati regency government and be a disruptive factor in the administration of Pati regency policy in the future.

Based on the study of documents from the data collected in Pati Regency KPU, related to the implementation of the election of regional heads and deputy regional heads (Pilkada) of Pati Regency, it was found the list of permanent voters in Pati Regency was 697,437 people. The results of other studies found that people who used their voting rights were 519,675 people or 74.512% and those who did not exercise their voting rights were 177,762 people or 25.487%. The existence of the people who do not exercise their right to vote is also considered to be able to eliminate the legitimacy of the leadership of the Pati regency government which subsequently is able to lead to conditions that are not conducive to other political insecurities in the efforts of Pati regency development as well as other implementation of government activities. This happens because the political participation of the people related to the implementation of the elections is a very important form of democracy and can influence the formulation, making and decision making, as well as the implementation of the Pati regency government policy in the future.

The emergence of the above problems can further influence the socio-economic conditions of the community, the psychological condition of the community, the Kamtibmas condition to the political conditions in the Pati Police Precinct. These problems can have a negative impact on society during the reign of the elected regional head. These assumptions arise based on the potential for disruption in the administration of government bureaucracy which has attention in this direction will be divided, so that the focus of the Government is not only in the implementation of

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the Government bureaucracy but also focuses on solving various problems that arise in the implementation of the bureaucratic process, especially when in the administration democratic party in the region.

To overcome Kamtibmas's disturbances both as a psychological terror in the community and tangible disturbances, Pati Pati Police has carried out various pre-emptive, preventive and repressive strategies so that people in the Pati Police jurisdiction feel peace, security and public order. One form of preemtive strategy in the policy of overcoming the problem of social and political vulnerability.

Pati Police through the formation of the Nusantara task force have made efforts to provide guidance and counseling to the citizens of Pati Regency so that they remain calm in the face of the current situation. The other functions of the Nusantara task force in supporting Pilkada in Pati Regency are also being prepared to be aware of various threats to Kamtibmas disruption during the campaign period and during the Pati Regency Regional Election, as well as to anticipate various Kamtibmas disruptions that exist in the administration of Pati Regency Election by taking preventive, preemptive and repressive actions . However, the results of the formation of the Nusantara Task Force were not fully optimal in suppressing the presence of Abstentions in this region, which could be due to the inability of the Nusantara task force to influence the community so that they were actively involved in organizing the democratic party.

Seeing these problems, the Pati District Police must further enhance the role of the Nusantara task force so that in the implementation of the elections it is free from various socio-political insecurity issues, so that the Nusantara task force can prevent and avoid various problems both sectoral egos of one group or other Kamtibmas disruption aimed at disrupting democratic process held in this region. The increase in the role of the Nusantara task force in preventing various socio-political tensions during the Regional Election is also expected to prevent black campaigns and money politics, avoid conflict and political violence, prevent the domination of the elites playing in the elections, and prevent, overcome and stop political mobilization, so that the Nusantara task force can restore people's position as a central figure in creating popular sovereignty.

METHOD

The research literature used as a reference in conducting this research includes, *first*, Rian Sacipto, 2018. The Existence of the National Police in Law Enforcement of

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Election Crimes Welcoming the Indonesian Democracy Party 2019. National Seminar on Law at Semarang State University Volume 4 Number 2 of 2018, 366-385.

This research is motivated by the problem of the large number of violations in the holding of elections and various crime problems committed by supporters and from political parties, both directly and indirectly to political contestants. The purpose of this study is to explain the role of the National Police in creating quality elections.

The research method was carried out through a field research method with a qualitative approach. The results of this research include the efforts of the National Police in creating quality, honest and fair Elections carried out in collaboration with the Prosecutors' Office, KPU and Bawaslu in analyzing, filtering and categorizing an act of criminal violation or Election administration.

Second, Binov Handitya. 2018. The Role of the Integrated Law Enforcement Center (Gakkumdu) in Enforcing Election Crime. National Seminar of Law Semarang State University Volume 4 Number 2 of 2018, 348-365

Research conducted by Binov (2018) is motivated by the problem of the rise of money politics practices in each election period, the cause is none other than the lack of public awareness of elections that can make a vehicle for the enforcement of people's sovereignty. The purpose of this study is to explain the role of the Gakkumdu Center in the enforcement of election crime. This research was conducted with a qualitative approach and using field research methods. The results of this study, among others, explained the legal basis in carrying out the role of the Gakkumdu Center as in Article 486 paragraph (1) of Law No. 7 of 2017 concerning General Elections, which explicitly explains that the Gakkumdu Center was formed to equalize the role in the act of election criminal acts from several elements such as the National Police, the Attorney General's Office, KPU and Bawaslu which all of these functions have the same vision and mission namely suppressing the occurrence of Election criminal acts in the upcoming 2019 Presidential Election.

Based on the background explanation above, the formulation of the problem in this study is how is the role of the Nusantara task force in preventing political insecurity in the Pati Police jurisdiction? Based on the formulation of the problem, the main issues in this study include:

1. Problems of political insecurity that existed during the 2019 Presidential Election in the Pati Police jurisdiction.

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2. The role of the Nusantara Task Force in preventing the occurrence of problems of political insecurity that existed during the 2019 Presidential Election in the Pati Police jurisdiction.
3. Factors influencing the implementation of the Task Force of the Archipelago in preventing the occurrence of problems of political insecurity that existed during the 2019 Presidential Election in the Pati Police jurisdiction.

CONCEPTUAL THEORY

The conceptual literature that will be used in this study consists of several theories and concepts as follows:

I. ROLE THEORY

The role (role) is a dynamic process of status (status). If a person exercises his rights and obligations according to his position, he carries out a role. The difference between position and role is in the interest of science. Both cannot be separated because one depends on the other and vice versa (Soekanto, 2009: 212).

II. VOTER BEHAVIOR THEORY

Voters who became king in the implementation of the democratic party became the main goal of the contestants to support and vote for the contestants. A person who is declared as a voter in an Election is a person who has been registered as a voter participant by an official registering voters. When viewed from political and ideological institutions, the Voters can be in the form of constituents and society in general. The voters referred to in the constituency are a group of people who feel represented by certain ideologies that are manifested in political institutions such as political parties and a leader (KPU Ponorogo, No Year: 48).

According to Surbakti (1997 in KPU Ponorogo, No Year: 48), voter behavior is the activity of voting by individuals who are closely related to the decision-making activities to vote or not to vote (to vote or not to vote) in an election. Based on this explanation, it is understood that the behavior of voters can vote and determine who will be elected as the Regional Head and Deputy Regional Head in a direct election, which is shown by the behavior of the community in electing candidates for Regional Head and Deputy Regional Head candidates.

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The decision to provide support and votes will not occur if there is not a high enough voter loyalty to the prospective leader. Vice versa, voters will not vote if they think that a party or prospective leader is not loyal and is not consistent with the promises and expectations they have given.

Voter behavior is also laden with ideology between voters and political parties or election contestants. Each contestant carries an ideology that interacts with each other. During the election campaign period, crystallization and grouping emerged between the ideologies brought by the contestants. The public will classify themselves to contestants who have the same ideology taken with those they profess while also distancing themselves from ideologies that are opposite them (KPU Ponorogo, Without Years: 48). Voter behavior can also be analyzed with three approaches, namely:

1. Sociological Approach

This approach is used to explain the voting behavior of the British people, who refer to the sociological approach as a social determinism approach. This approach basically explains that social characteristics and social groupings have a significant influence in determining the behavior of a voter. Social characteristics (such as work, education, etc.) and sociological characteristics or background (such as religion, region, gender, age, etc.) are important factors in determining political choices (Andrew A. Abeyta, 2019).

In short, social groupings such as age (young and old); gender (male); religion and the like are considered to have a quite decisive role in forming formal social groupings such as one's membership in religious organizations, professional organizations: as well as informal groupings such as family, friendship or other small groups, which is something very vital in understanding one's political behavior, because these groups have a major role in shaping one's attitudes, perceptions and orientation (KPU Ponorogo, No Year: 52).

2. Psychological Approach

Psychological approach is a phenomenon that was fully developed by the people of the United States through the Survey Research Center at the University of Michigan. Therefore, this approach is also referred to as the Michigan School. The main pioneer of this approach is Angust Campbell. This approach uses and develops psychological concepts, especially the concept of socialization and attitudes to explain voter behavior. Socialization variables and attitudes cannot be related to voting behavior if there is a socialization process. Therefore, according to this

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approach it is actually socialization that determines a person's (political) voting behavior.

Adherents of this approach explain a person's attitude - as a reflection of one's personality - is a quite decisive variable in influencing one's political behavior. Therefore, the psychological approach emphasizes on three psychological aspects as the main study, namely emotional ties in a political party, orientation to issues and orientation to candidates (KPU Ponorogo, No Year: 54).

3. Rational Approach

The use of a rational approach in explaining voter behavior by political scientists is actually adapted from economics. They see an analogy between the market (economy) and voting behavior (politics). If economically the community can act rationally, that is, to reduce costs as little as possible to obtain the maximum profit, then even in political behavior the community will be able to act rationally, namely to vote for the OPP which is considered to bring the maximum profit and reduce losses (KPU Ponorogo, No Year: 55). Voter Orientation can also be divided into two, namely:

a. Policy-Problem Solving Orientation

When voters judge a contestant from the lens of "policy-problem-solving" the most important thing for them is the extent to which contestants are able to offer work programs or solutions to an existing problem. Voters will tend to objectively vote for political parties or contestants who have sensitivity to national (regional) problems and clarity of political party work programs or election contestants whose unclear policy direction will tend to be unselected (KPU Ponorogo, No Year: 56).

b. Orientation of Ideology

Voters who tend to prioritize the ideology of a party or contestant, will prioritize the bonding "ideology" of a party or contestant, will emphasize aspects of subjectivity such as the closeness of values, culture, norms, emotions and psychographics. The closer the similarity of parties or election contestants, this type of voters will tend to vote to the party or contestant (KPU Ponorogo, Without Year: 57).

III. TYPE OF VOTERS

1. Rational Voter

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The ability of these so-called high voters has a high orientation towards Policy-Problem-Solving and is low oriented towards ideological factors. Voters in this case prioritize the ability of political parties or candidates participating in the election with their work program, they see the work program through the performance of parties or contestants in the past, and the program offer offered by the candidate or political party in solving various problems that are happening. This type of voter has a characteristic that is not so concerned with ideology ties to a political party or a contestant. The most important thing for this type of voter is what can (and has) been done by a party or an election contestant (KPU Ponorogo, No Year: 58).

2. Critical Voter

The process to become a type of voter can occur through 2 things:

a. This type of voter makes the ideological value as a foothold to determine which party or contestant the election will side with and then they will criticize the policy that will or has been done.
b. It could also be the other way around where voters are interested first in the work program offered by a party / contestant and then try to understand the values and understandings behind the making of a policy. This type of voters are critical voters, meaning they will always analyze the links between the ideological party system and the policies made (KPU Ponorogo, No Year: 59).

3. Traditional Voter

This type of voter has a very high ideological orientation and does not really see the policy of a political party or a contestant as something important in decision making. Traditional voters prioritize the socio-cultural closeness, values, origins, understanding and religion as a measure to choose a political party or contestant election. Policies such as those related to economic issues, welfare, education, etc., are considered as second priority. Voters of this type are very easy to mobilize during the campaign period, voters of this type have a very high loyalty. They consider what is said by an election contestant or political party which is a truth that can not be negotiable (KPU Ponorogo, Without Years: 60).

4. Skepsis Voter

This type of voter does not have a high enough ideological orientation with a political party or election contestant, nor does this voter make a policy an important matter. Even if they participate in elections, they usually do it randomly. They believe

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that whoever wins in the election, the results are the same, there are no significant changes that can be divided for regional / state conditions (KPU Ponorogo, No Year: 61).

IV. THE CONCEPT OF THE NUSANTARA TASK FORCE

The Nusantara task force is a task force formed by the National Police Chief in accordance with the National Police Chief Order No: SPRIN / 40 / I / 2018 regarding the formation of the National Satgas in charge of minimizing the occurrence of provocative issues related to Primordialism (SARA) issues so as not to develop into social conflicts in the implementation of simultaneous local elections in in order to maintain the unity and integrity of the nation through two approaches, namely the soft approach (through the implementation of intelligence, community service and public relations tasks) and the hard approach (through proportional and professional law enforcement) in order to maintain the unity and integrity of the Indonesian nation, with the aim of carrying out its tasks aimed at an activity, person / group, and certain place / location.

The formation of the Nusantara task force is one of the implementations of the leadership's policy in anticipating vulnerabilities that occurred during the elections, which are based on Law No. 2 of 2002 concerning the Indonesian National Police, and several other laws and regulations (Polri, 2018: 3)

GENERAL DESCRIPTION OF POLITICAL VULNERABILITY IN THE SELECTION OF THE 2019 PRESIDENT IN THE PATI POLICE

Pati Regency has held the General Election of DPRD Members (Pileg) directly four times, namely in 1999, 2004, 2009 and 2014. The 1999 legislative election was a direct legislative conducted by Pati Regency. The 1999 legislative election was attended by 48 parties. The 1999 Legislative Election was won by PDIP with an absolute victory for all districts in Pati Regency with 326,580 votes and 21 seats. The party with the most votes gained was the PKB with 133,006 votes and won 9 seats.

The implementation of the second Pileg Pati in 2004 was attended by 24 parties. This 2004 legislative election produced 9 parties that won seats in the DPRD. The 2004 DPRD Member Election was again won by the PDIP which again won an absolute election in all districts with a total vote of 214,996 and won 16 seats. The

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second party that gained the most votes was PKB with 123,395 and managed to get 9 seats.

Pati's third pileg was held in 2009, which was participated by 44 political parties. The 2009 legislative election was won again by the PDIP with 141,547 votes won absolutely in all districts, so that PDIP won 12 seats in the Pati Regency DPRD. Then followed by the Democratic Party with 95,590 votes and managed to get 8 seats. 2014 legislative election was the fourth legislative election for Pati Regency, which was participated by 12 parties. Based on the vote acquisition data, PDIP returned to the party that gained the most votes in the 2014 legislative election. However, in the 2014 legislative election, PDIP did not win absolutely for all districts. PDIP competes fiercely with the Gerindra Party. So that the acquisition of the final results for the PDIP and Gerindra Party is not far adrift, namely 117,664 and 112,599 by getting the same number of seats in the DPRD which is as many as 8 seats.

Based on the above legislative election data, it can be concluded that PDIP is the party that won the majority of votes in Pati Regency, as evidenced by the implementation of four legislative elections, PDIP always gained the most votes, even three times the legislative elections namely 1999, 2004 and 2009 PDIP won absolutely in all districts.

The political parties participating in the Legislative Election were able to carry their cadres. This shows that the political parties are competitive. The political parties also showed that they had carried out the function of political recruitment well and prepared their cadres who had the competence to compete with cadres from other political parties.

In addition to holding the Legislative Election, Pati regency has also held Regional Elections and Deputy Regional Heads four times, namely in 2006, 2011, 2012 and 2017 Re-election which was the first direct Pemilukada in Pati Regency, as well as the regional elections that made Pati Regency a public spotlight at the national level. That is because the participation rate of Pati Regency voters is only 44.3 percent. Based on data obtained by Kompas Research and Development, voter turnout in the 2006 General Election was 51.8 percent. Looking at these data, the participation rate of Pati Regency, which ranges between 44 percent, makes Pati Regency the title of the region with the lowest political participation in Central Java. This causes disruption to the government bureaucracy because the results of the post-conflict local election do not represent all the aspirations of the people of Pati Regency.

In addition, the 2006 post-conflict local election also led to demonstrations from Pati District residents who are members of a group calling themselves the Concerned Pilkada Concerned Communities (Gampil), with at least 5,000 members. The

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demonstration was carried out because all pairs of candidates for regent proposed were claimed by the masses to be involved in legal issues. The 2006 post-conflict local election was attended by four candidate pairs, namely Tasiman-Kartina Sukowati, Kotot Kusmanto-Arsyad, Sudjoko-Sunandar and Slamet Warsito-Anik Syahuri.

The Pati Regency KPU and Central Java KPU claimed that they were not authorized to cancel the post-conflict local election. The authorized party to postpone or cancel the post-conflict local election implementation process is with the Minister of the Interior by considering the input of the Central KPU. Cancellation of post-conflict local elections can be done if special things happen such as natural disasters, while the legal case against all pairs of candidates for regent and deputy regent of Pati regency is only based on the allegations of the community.

The 2006 post-conflict local election was won by the pair Tasiman-Kartina Sukowati with a total vote of 195,599 or 46.44 percent. The Tasiman-Kartina Sukowati couple who are promoted by the Democratic Party and PDIP get the highest votes in each district except Kayen District.

The current condition of politics in the Pati Police jurisdiction can also be explained by the holding of the 2019 Presidential Election. Facing the upcoming elections on April 17, 2019, various potential Kamtibmas disruptions exist in the Pati Police jurisdiction. Some potential Kamtibmas disruptions that were successfully identified in the holding of the General Election, especially the 2019 Presidential Election by ICW, which explained some potential Kamtibmas disruptions that are almost in all regions of Indonesia originated from these problems:

1. The case of candidate buying or nominating buying and selling practices that occur between elected candidates and political parties
2. The existence of dynastic political problems that occur in certain areas
3. Presence of names of problematic candidates such as ex-convicts or suspected corruption
4. The existence of a single candidate in several areas
5. The emergence of campaign problems that have relatively high costs due to an increase in the contribution of campaign funds, and the effect of granting permits to selected candidates to provide goods with a maximum price of Rp 25,000.00 to the DPT (permanent voter list).
6. Problems with buying and selling business licenses, buying and selling positions and bribery practices for government projects,
7. There are problems with the politicization of government programs such as grants, social assistance, village assistance, and other prone to providing budget assistance for political party campaigns.

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8. Bureaucracy politicization of state officials such as bureaucrats, ASN, teachers to Polri / TNI institutions
9. The existence of political vulnerability that is applied in buying and selling votes
10. There are problems with manipulation of source reports and use of campaign funds
11. The existence of bribery practices to the election organizers
12. There are cases of corruption for the collection of campaign capital obtained through the sale and purchase of business licenses, buying and selling of office permits to the issue of corruption in the use of certain development budgets. (Results of Document Studies in the 2018 ICW Report, February 28, 2019)

Based on the observations of researchers, it is known that the potential for successfully identified conflicts that exist in almost every region, especially in the Pati Police jurisdiction, during the 2019 Presidential Election, it is known that the potential for conflict comes from various problems as follows:

1. The existence of conflict triggering factors originating from defense candidates, which can be done through abuse of office through the practice of bureaucratic politicization.
2. The emergence of conflict caused by the potential for politicization of the bureaucracy, by involving ASN, Polri and the TNI in the General Election.
3. The emergence of conflict caused by the practice of money politics
4. The emergence of conflict caused by an error in the implementation of data recapitulation
5. The emergence of conflict caused by the presence of KPUD alignments at the district level and the attitude of the Election Supervisory Body that is not fair
6. The emergence of conflicts caused by violations of election criminal offenses, such as the issue of SARA, Hoax, Black Campaign, Hate Speech, etc.

Other potential Kamtibmas disturbances in the Pati Police jurisdiction, which were discovered by researchers from the results of the document study in the General Election Hazard Index Report established by the Election Supervisory Body in 2019. problems with changes in the Permanent Voters' List, violations in the implementation of the campaign, potential disruption of logistical distribution problems (sending selected ballots), potential errors in the voting process and counting errors related to the results of vote counting, as well as dispute problems in the voter list updating stage Still based on the aspects of suffrage and the number of voter participation, where based on further search results, this Pati district has a conflict vulnerability level of 39.29% which is in the medium category.

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Based on the results of a document study on the Basic Intelligence Pati Pati in 2018, it is known that the potential disruption of Kamtibmas in the Pati Police jurisdiction which can also turn into political vulnerability can be identified by:

1. The existence of study groups suspected of being sympathizers or supporting acts of terrorism aimed at establishing an Indonesian state based on Islamic law / caliphate. These study groups will likely continue to grow, they will form new networks by carrying out activities that can recruit the general public.
2. The existence of Ex. G 30S / PKI through the YPKP (Victim of Murder Victims Research Foundation) 65 including in the jurisdiction of Pati Police, who want to fight for their rights back through legal efforts to rehabilitate their good name. This is a latent danger of communism which is feared that communist teachings could develop again in the territory of the Republic of Indonesia.
3. The prediction of someone who is a former HTI (Hizb ut-Tahrir Indonesia) community organization, who has a different ideology and is in conflict with Pancasila and the 1945 Constitution, namely those who will form a state based on the Caliphate. Even though the government has officially dissolved it, it does not rule out that they will metamorphose to form a new organization considering that the HTI mass organization has management and membership in the Pati Police Precinct.
4. The existence of certain parties is possible to take advantage of issues of religious intolerance for the interests of the Pilkada or the Election as happened in the DKI Jakarta Pilgub in 2017 so that it has the potential to cause disruption of Kamtibmas which will affect the national Kamtibmas situation.
5. An increase in political party funds from Rp. 108, - to Rp. 1.000, - / valid votes received by the party in the last election aimed at improving political education and accommodating the aspirations of the people. The increase in data is prone to fraud by certain elements.
6. The existence of substantial village fund assistance sourced from the APBN regulated and managed by the village aims at village development with a priority to improve the welfare of rural communities and the quality of human life and poverty reduction. However, the community does not yet have the skills in managing these funds so that this is prone to criminal acts of corruption / misuse of village funds committed by related parties.

The observations show that the implementation of the 2019 Presidential Election in the Pati Police jurisdiction was colored with the vulnerability of Kamtibmas disturbance which could also be a political vulnerability which among others also stemmed from competition between each of the supporters of the Presidential

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Candidate. This social insecurity can emerge as a political insecurity because of the various actions of these sympathizers. One example of the sympathetic competition over the support teams is the result of competition which then results in election violations and political insecurity that manifests in various issues such as the issue of suffrage, violations in the campaign, problems in the implementation of the ballot, many adjudication actions that occur stated objections related to the results of votes in the General Election, and other problems.

ANALYSIS OF THE ROLE OF THE SATGAS NUSANTARA IN PREVENTION OF POLITICAL VULNERABILITY IN THE ELECTION OF THE 2019 PRESIDENT IN THE PATI REGION

Based on the observations of researchers, the high potential for political vulnerability that occurred in the Pati Police area before the 2019 Election period can be prevented if the community also has an understanding of the content of political education, so that every individual community will be free from exploitation resulting from the existence of political vulnerability. However, it feels very difficult to do due to the lack of public understanding of the meaning of the election, thus the community only believes that the election is identical to the problems of negative campaigns, hoaxes, hate speeches and even money politics.

To overcome these potential Kamtibmas disturbances, according to the results of interviews conducted with Pati Pati Wakasgas Archipelago Pati, explained that so far Pati Police have made various efforts to prevent the occurrence of political insecurity because of their knowledge of political insecurity as well as the occurrence of hate speeches on social media or even developing ones in the community it is very difficult to be revealed which could be due to the condition of the community covering up the problem.

Based on further explanations, it is also known that to prevent the occurrence of political vulnerability in the jurisdiction of Pati formed the Task Force of the Archipelago which is intended to keep Pati in the legal area of Pati remain safe from various potential political vulnerabilities during the Election.

Based on the results of the study of documents, it is known that the basis of the implementation of the task force of the Nusantara Task Force is Law Number 2 of 2002 concerning the Indonesian National Police, Law Number 10 of 2016 concerning

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the Second Amendment to Law Number 1 concerning Election of Governors, Regents and Mayor Becomes Law, Law Number 19 Year 2016 Regarding Amendments to Law Number 11 Year 2008 Regarding Information and Electronic Transactions, Law Number 40 Year 2008 Regarding the Elimination of Discrimination, Race and Ethnicity, Work Plan of the Police Chief in 2018 , KUHP, Kirka Intelligence, and Sprin Kapolri No .: Sprin / 40 / I / 2018 Dated January 8, 2018 Concerning the Establishment of the Nusantara Task Force.

The implementation of these tasks is in accordance with the roles as explained in the theory of roles that can carry out their rights and obligations in accordance with their position in the community as mandated by the state to him (Soekanto, 2009: 212). In carrying out the role of the Task Force of the Archipelago, he carried out this task in accordance with the functions of the National Police whose task was to maintain public order and security in order to maintain a safe, secure and peaceful social structure in the face of the 2019 elections. In accordance with the theory of that role, the role of the Task Force in the effort to prevent Political vulnerability in the Pati Police jurisdiction carries out various activities as follows:

1. Conduct early detection activities
2. Identifying the problem
3. Mapping the problem
4. Carrying out action to mobilize community guards or experts who cause Kamtibmas disturbance
5. To provide guidance to community and community leaders
6. Doing social activities
7. Doing opinion counters and narrative counters as well
8. Perform *Lidik* and *Sidik* activities (investigation).

With the role of the Nusantara task force members, it can be applied to the public in detail that the implementation of these tasks is in accordance with the Pati Police Resort in preventing political insecurity during the 2019 Elections, where with this role, the Nusantara task force can also provide an explanation of the social position in the economy, education, government and also science among the many categories to describe the implementation of the tasks carried out by members of the Nusantara Task Force, so as to produce behavior in which people change their attitudes and behavior to match social norms existing, and in many cases which can then be internalized into every social role, whether related to the rights, obligations, expectations, behavior and also norms of a person to face and fulfill a situation that exists in the community.

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FACTORS AFFECTING THE IMPLEMENTATION OF THE ROLE OF THE SATGAS NUSANTARA IN PREVENTION OF POLITICAL VULNERABILITY IN THE ELECTION OF THE 2019 PRESIDENT IN THE PATI POLICE REGION

In carrying out the role of the Task Force of the Archipelago to prevent the occurrence of problems of political insecurity that existed during the 2019 Presidential Election in the Pati area, there are several factors that influence it. Based on the results of the study, it was found that the implementation of the prevention of political insecurity during the General Election in the Pati Police jurisdiction organized by members of the Nusantara task force was influenced by factors originating from:

I. INTERNAL FACTORS

Internal factors influence the Task Force of the Nusantara in the implementation of preventing the occurrence of political insecurity during the General Election in the Pati Police jurisdiction. Internally there are several factors that influence the success of the Nusantara task force in the implementation of preventing the occurrence of political insecurity during the General Election in the jurisdiction of Pati Polres including from the knowledge and capabilities of the Pati Polres Task Force personnel on Pati issues regarding the triggers for political insecurity and the negative impact of the problem that can directly disrupt the security and order conditions of the community and the holding of the upcoming 2019 Election, so that the moment of the Election can be constrained and not held properly.

Based on the writer's observation, the obstacle encountered by members of the Pati Police Task Force in preventing the occurrence of political insecurity lies not only in the ability of the Nusantara task force personnel, but also comes from the problem of knowledge of the Nusantara task force personnel regarding their legal review of various rules in Election violations, especially the law that prohibits them, their criminal threats, their negative impact on the welfare of the community directly on the implementation of the General Elections marked by various problems of disorderly Kamtibmas in the political field, as well as the negative impact of political insecurity on the future of the community. As a result of members 'lack of

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understanding of these elements, this will certainly hinder members of the Task Force Nusantara in convincing the public to jointly carry out preventive actions against political insecurity in the Pati Polres' jurisdiction.

Another problem that exists from Nusantara task force personnel is originating from the limited members of the personnel, which based on the results of document studies it is known that Nusantara task force members in the Pati Police jurisdiction only have 51 members, of course this is a problem. in making efforts to prevent the occurrence of political insecurity that exists in all villages in the Pati Police legal area. But the problem of limited knowledge and ability as well as the number of Nusantara task force personnel in the Pati Police jurisdiction, which is in the effort to prevent the occurrence of political insecurity in the Pati Police jurisdiction, is helped by the policy of the Kapolres which requires all its members to provide assistance in carrying out the task of the Nusantara task force namely together to prevent the existence of political vulnerability in the Pati Police jurisdiction.

Other facilities used for the implementation of efforts to prevent the occurrence of political insecurity during the Election in the Pati Police jurisdiction are also obtained from the provision of facilities from various institutions or other institutions. This can be observed in activities that have an element to urge the public so that they do not become victims of exploitation of various things that are forms of election violations, such as haox, black campaign, hate speech delivered on local radios owned by certain stakeholders , and the National Police can broadcast it based on the support of facilities from these stakeholders so that efforts to prevent political insecurity during the General Election in the Pati Police jurisdiction can be carried out properly.

II. EXTERNAL FACTORS

External factors affect the Task Force of the Archipelago in the implementation of preventing the occurrence of political insecurity during the General Election in the Pati Police jurisdiction. In addition to internal factors as explained above, there are several other factors (external factors) that affect the success of efforts to prevent political vulnerability during the Election in Pati Pati's jurisdiction. These factors stem from the social conditions of the community in the Pati Police jurisdiction. Based on the observations of researchers, the social conditions of the community in the Pati Police jurisdiction influence the success in preventing political insecurity during the Election in the Pati Police jurisdiction.

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Based on the observations of researchers, it is known that other factors that influence the success in preventing the occurrence of political vulnerability during the Election in the jurisdiction of Pati Police also come from the condition of the relationship between Pati Police with the community, and other agencies. or other agencies. With this good relationship, the public, public agencies will easily accept invitations from Pati Police to take certain actions such as preventing political insecurity in this election

This explanation is also in accordance with what was conveyed by members of the community in the Pati Police jurisdiction who also stated that they would work together to secure the implementation of this election from various potential disruption of Kamtibmas, both from personal attacks on the occurrence of money politics practices, as well as from various threats the other

Based on the results of research on the factors that influence the Nusantara task force in preventing political insecurity during the General Election in the Pati Police area, it is found that these factors originate from internal factors derived from the number of Nusantara task force personnel, the ability and knowledge of the Nusantara task force Pati Police, Pati Kapolres policy, availability of infrastructure facilities and budget support from the Kapolres personally, the accuracy of the choice of methods for preventing political vulnerability and the good ability of members to establish good relations between Pati Polres members and community leaders, stakeholders and all levels of society in the jurisdiction Pati Police. In addition to these internal factors, the implementation of the prevention of political vulnerability is also influenced by external factors originating from the social and cultural conditions of the community in the Pati Police jurisdiction, and advances in information technology that can be put to good use by the wider community.

CONCLUSION

Based on the results and discussion above it can be concluded that the description of political insecurity during the 2019 Presidential Election in Pati Police area comes from the behavior of voters or sympathizers from each party or supporters of each presidential candidate, which is then easily politicized by the interests of certain parties or persons in order to bring down the opposing parties thus making the political conditions in the Pati Police jurisdiction heat up. The Role of the Task Force of the Archipelago in preventing political insecurity during the 2019 Presidential Election in the jurisdiction of Pati Police in accordance with the Sprin Kapolri No .: Sprin / 40 / I / 2018 Dated January 8, 2018 About the Establishment of the Task Force

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of the Archipelago which was carried out by carrying out early detection actions, identification problems, mapping problems, carrying out actions to mobilize community guards or experts who cause Kamtibmas disruption, conducting guidance to community and community leaders, conducting social activities and conducting counter opinions and counter narratives and conducting investigations and investigations, the Task Force of the Archipelago also had to prepare Operation Mantap Brata namely to ensure the readiness of security in all Pati areas, which subsequently is aimed at preventing political insecurity in the face of the 2019 Elections both from the presidential and legislative elections.

Factors influencing the implementation of the Task Force of the Archipelago in preventing political insecurity during the 2019 Presidential Election in the jurisdiction of Pati Polres are divided into two, namely: Factors supporting the role of the Task Force in preventing political vulnerability during the 2019 Presidential Election were clear rules of law, and the availability of infrastructure that could be used by the Task Force in preventing political vulnerability in the region. The inhibiting factors of the Nusantara task force's role in preventing political insecurity during the 2019 Presidential Election came from the limited number of personnel, the limited knowledge of members regarding various potential political vulnerabilities, the absence of a specific budget for the operations of the Nusantara task force and the existence of conditions that were easily provoked by parties who were not to be responsible.

SUGGESTION

In connection with the findings and discussion concluded in the sub-chapter above, suggestions that can be given by researchers related to the problem of this study can be used to increase the role of the National Task Force in preventing political insecurity during the 2019 Elections in the Pati Police jurisdiction:

1. Making an integrated performance planning both by the regional government and the National Police, which can then provide operational assistance for securing the area in order to prevent political vulnerability carried out by the Nusantara task force so that the problem of personnel limitations can be properly addressed
2. Implement a reward and punishment system to all Pati Police members, who actively provide assistance to the Task Force Nusantara in efforts to prevent the occurrence of political insecurity in the Pati Police jurisdiction.
3. Carry out coaching to members of the Task Force Nusantara, which can be done through providing skills training or providing political education so that members

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have extensive knowledge about politics, the potential for security disturbances in the political field as well as various legal rules regarding violations of election criminal offenses as well as efforts prevention so that members of the Task Force Nusantara can be more active in detecting the potential for political vulnerability in the Pati Police jurisdiction.

4. Collaborating with various community leaders to carry out activities to prevent potential political vulnerabilities in the Pati Police area.
5. Make public service advertisements on electronic media, print media, and social media that contain appeals to the public regarding peaceful elections

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RESEARCH ARTICLE

URGENCY OF WAQF LAND REGISTRATION IN THE CONTEXT OF INDONESIAN LAND REFORM

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ABSTRACT

Land registration ordered by Government through Law Number 41 Year 2004 about waqf aims to make society to be discipline in implementing of waqf practices. Beside the public order, the registration of waqf land has a positive urgency for waqf land. Either the urgency of waqf land registration normatively, sociologically, or juridically. However, the fact shows that the enforcement indications are still minimal. This fact is due to the lack of Nadzir and Wakif (who donates property) understanding about the urgency of waqf land registration. They assume that waqf land that has already recorded administratively by government institution has already registered. While the provisions of agrarian law (lands) are not the case. The interpretation of new land registration is listed in Article Paragraph 1 of Government Regulation Number 24 Year 1997 which requires legal force through the ratification of authority official registration, because it will be used as evidence data. The implementation of land registration will produce evidence sign of land called certificate.

Keywords: *Urgency; Certification; Waqf; Land Certification*

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INTRODUCTION

The existing of Law Number 41 Year 2004 about waqf and completed with Government Regulation Number 42 Year 2006 about the implementation of Law Number 41 of 2004 about waqf marks the management practices of Waqf develop quickly. It means that, in Indonesian, people interest in donating assets increases with time. According to the statistic from the Islamic Community Guidelines of the Ministry of Religion Republic Indonesia reached 353.646 with an area of 49.026 HA or equivalent to 490.260.000 m^2 (siwak.kemenag.go.id). This land spreads in various regions throughout Indonesia with different point and level with the highest position of Java Island. West Java occupies in the top position with 70.815 points, Central Java is in the second position with 96.331 points, and East Java with 64.016 points.

The emerging of Law Number 41 of 2004 about waqf basically used as community guideline or administrative basis on waqf management so that it is useful productively (Budiman, 2015: 16). The key role of waqf management not only put on Nazir and solid work team ability to maximize the waqf potential. However, administrative obedience as regulated in Law is the basic capital that must be implemented first (Hasmi, 1987: 19).

This condition can be interpreted that every waqf land management must be based on applicable regulations. However, in the reality, from the number of 353.646, as already revealed by Indonesian Waqf Agency (BMI) there were 148.447 waqf land points have not certificate yet. It is because they do not register their waqf lands (siwak.kemenag.go.id).

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The majority of the general public is still confused in understanding the meaning of waqf land registration. According to him, if a plot of land has been recorded administratively by government institution, they assume that their land has already registered. While the provision of agrarian law (lands) is not in the case. The explanation of new land registration is contained in the Article 1 Paragraph 1 of Government Regulation Number 24 Year 1997. Implementing of land registration in modern society is a state task carried out by the Government for people's interest, in providing legal assurance in land sector. Some of its activities in the form of land physical data collection whose rights are registered, can be assigned to the private sector. But, to obtain the legal force, the results require the legalization of an authorized registration official, because it will be used as evidence data (Harsono, 2008: 72).

The implementation of land registration will produce land evidence called certificate. It is the realization of the objectives of the LoGA. The obligation to conduct that registration, principally charged to the government and its implementation carried out in stages, region by region based on consideration of the availability of the registration basic map (Sumardjono, 2001: 181).

There is an indication that land registration process in the Regional Leadership of Muhammadiyah Semarang has not all followed the provisions of Law Number 41 of 2004 about waqf and other Regulation of implementing about waqf. This can be seen from the lack of concerning by the Leadership of Muhammadiyah Semarang to manage and administer waqf lands, it means that Leadership of Muhammadiyah Semarang only accept people who come to donate, but Leadership of Muhammadiyah Semarang did not provide directives previously that should be done by people in order to give motivation to them to donate the land, including the procedure for registering waqf land. In addition, there is a lack of understanding of waqf managers (Nazhir) in managing waqf land.

That's fact can occur because some of people who do not know, understand, obey the provision regulation of waqf well. Public ignorance of a statutory regulation especially Law Number 41 Year 2004 about Waqf, may be caused by the luck of waqf land socialization to public.

Seeing this phenomenon concerning the waqf land which is not registered must be evaluated on how people can obey the applicable law. As in way not to complicate in administration matter. However, the question is, will the people obey or disobedient in obeying the applicable waqf Law? This condition must be answered by knowing in advance why the waqf land is not registered and how the legal implication for the waqf land itself.

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As intended that the purpose of recording waqf land so that the existence of waqf land can be protected and supervised from prohibited practices in Law. The Article 40 of Law about waqf states that waqf property that has already donated, it is prohibited used as assurance, confiscated, granted, sold, bequeathed, exchanged, and transferred in the form of other rights transfer.

METHOD

This research uses a qualitative research approach. Qualitative research is a research that focuses on the general principles which underline the manifestation of phenomenon in human life, or patterns of analysis of the socio-cultural by using culture and society concerned to obtain overview of the prevailing patterns. The basis of qualitative approach emphasizes the human behavior pattern, as seen from "*frame of references*" of the subjects themselves, so individual as central subject need to be understood and it is as a unit analysis and place them as part of the whole (Holistic) (Ashshofa, 2010: 21). While, the type of this research is juridical-sociological research. Juridical-sociological legal research is a research that examines law aspects and it is compared with social aspect or social phenomena in society. It is due to the law cannot be separated from social condition that exist in society (Wignjosoebroto, 2009:133). The focus includes discovering why the urgency of waqf land registration in Perspective of Law Number 40 of 2004 about waqf by taking a research location at Regional Leadership of Muhammadiyah Semarang. The main data source in qualitative research is data source that collected directly through respondents or informants including interview with the regional leadership of Muhammadiyah as Nazhir who manage the waqf land and waqif as the land giver to be donated. Data analysis techniques used is an interactive model that is conducted by means of data collection, data reduction, data presentation, and data verification (Miles dan Huberman on Rachman, 2012: 200-201).

URGENCY OF WAQF LAND REGISTRATION

Actually, the existing of the regulation about waqf is inseparable from people interest. It is due to the waqf regulations are showed as a guideline for society in implementing the waqf practices, such as: registration, management, and supervision of waqf property. In addition, the existing waqf regulations are expected to provide strong

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legal basis, particularly the existence of legal assurance to *nazhir*, waqif and waqf allotment. The question is, how can Nazhir manage the waqf lands?

The answer of that question is by registering the waqf land to the authority institution. Without the existing of the land waqf registration, a nazhir cannot manage the land waqf because he has not carried out waqf pledge. The land waqf registration is one of the most basic things in practicing of waqf. The waqf will not be valid if it is not registered. A nazhir will not be able to manage waqf if he has not carried out waqf land registration. Registration is opening door in implementing the management and supervision of waqf land administratively.

The land registration is conducting based on simple, safe, affordable, up-to-date and open-ended principles. The principles underlying something happens and it is the basis of an activity, this is also applied on the land registration. Therefore, in the land registration there are principles that must be the basis for conducting land registration. In Article 2 of Government Regulation Number 24 of 1997 states that land registration conducted based on simple principle. The Government Regulation Number 42 Year 2006 Article 12 Paragraph 1 stated that Nazhir must administer, manage, develop, supervise, and protect the waqf property. Therefore, land waqf and religious assets are very urgent to be certified. To obtain waqf land certificate also must register the land waqf formerly. The procedures of the waqf land registration are described chronologically as follow (Nurdin, 2015: 8-9):

a. Individual/ Organization/Corporation who donate their own land (as candidate of waqif) are required to come by themselves in front of the waqf pledge certificate maker official (PPAIW) to conduct the waqf pledge.
b. Before the waqf pledging, the candidate of waqif submits the letters to PPAIW formerly. The letters are as follows:
    1) Certificate or evidence sign of land ownership.
    2) Statement letter from the candidate of waqif regarding the land ownership truth and it is not in the lawsuit and force filled by the Village Head and local sub-district head.
    3) Land registration certificate
    4) Permission letter from The Regent or The Mayor c.q. Land office of local district, it is mainly in the urban planning and master plan city context.
c. PPAIW examines the documents and its requirements whether they have fulfilled the extrication of land rights (to be donated), examined witnesses and legalized nazhir formation.
d. In front of PPAIW and two witnesses, waqif pledged or said that waqf desire to the Nazhir which had been validated. The waqf pledge was pronounced

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clearly, firmly, and appeared in written form (W.1 form). Whereas for those who could not pronounce it (dumb), so they could express their desire with a gesture and then fill in the blank of W.1. If the waqif cannot meet with the official of waqf pledge certificate maker (PPAIW), so the waqif can make written pledge with the approval of Religion Ministry in the area of waqf land and then the certificate or the document is read in front of Nazhir after getting approval from the Religion Ministry. Furthermore, the signing of waqf pledge (W.1 form)

e. PPAIW made the waqf pledge certificate (W.2 form) in triplicate with material according to the applicable provisions and then made copies of the waqf pledge certificate (W.2.a) in four copies. The latest one month after the waqf pledge certificate was made and each sheet sent to the BPN and others, with the distribution regulation, among others:
   1) The waqf Pledge Certificate
      a) The first sheet saved by PPAIW
      b) The second sheet as the attachment of application letter for waqf land registration to the Waqf Office at The District (W.7)
      c) The third sheet for the local Religion Court
   2) The Waqf pledge certification copies
      a) The first sheet for waqif
      b) The second sheet for nazhir
      c) The third to Local Religion Department Office
      d) The fourth sheet for the local Village Head

After the procedures of waqf land registration, then waqif is considered to be administratively valid and nazhir can conduct his role in managing the waqf land. Basically, the registration of waqf land is very urgent. The urgency of waqf land registration generally provides the protection to the waqf land assets in order to maintain its existence. It means that the urgency of the waqf land registration in order to the waqf land protected by the certificate the result that there is no administrative mall or practice mall in the practicing of waqf land management. Therefore, the land which had been registered must be recorded to obtain the waqf land certificate. There are three points of urgency in waqf land registration namely normative, sociological, and juridical.

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I. NORMATIVE URGENCY OF WAQF LAND REGISTRATION

Normative urgency can be seen in Law which requires to conduct the assets of waqf land registration. The waqf land registration also includes the process of the waqf land certificate publishing as legal and strong evidence of waqf land. The validity of waqf certificate is very important. Minimally, by having waqf land certificate can provides ownership of a legality and legal force to the parties whose identities mentioned in the waqf land certificate. The waqf land registration and certification can prevent disputes and become strong evidence.

This situation illustrates that a certificate is interpreted as a document which is beyonD the control of the waqf land registration administration system. It means that waqf land certificate is a document or an archive of land registration authority that proves the waqf land. Due to the waqf certificate is the final result of the waqf land registration in the certificate itself contains a history of ownership of waqf land. Transferring rights process then carried out by certificate. The registration of Land deed Official (PPAT) where the waqf land registration gives a status to the owner of waqf land to a legal Nazhir and his name is listed in the certificate. Then Nazhir the owner of the waqf land certificate as the holder of ownership rights upon the waqf land. The institution that regulate and manage the land issues are carried out by the Land Office called The National Land Agency (BPN) which is established through Presidential Decree Number 26 Year 1988. The National Land Agency (BPN) has the task of carrying out measurements, and mapping and registering land in an effort to provide certainty of rights in the land sector.

From the instructions stated in the article concerning the instruction of waqf land registration, it can be seen that the purpose of waqf land registration is to provide the legal status toward the land. A legal status used as proof that waqf land has implemented and fulfilled administrative requirements so that waqf land is legally valid to be managed properly. It means that the urgency of waqf land registration has legal assurance.

Legal assurance is one of the most important that must be achieved because of it, so it will achieve the orderliness and regularity of society. The assurance itself essentially is the main goal of the law. The expectation to obtain guarantee of legal assurance of waqf land certainly must be registered indeed in accordance with the Law Number 5 of 1960 about Agrarian Principal.

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The legal assurance of waqf Pledge is a guarantee that a legal event has occurred. Among the manifestations of legal assurance is the existence documentary evidence (written evidence) in an authentic certificate. Legal assurance in the land legal is very important particularly regarding the ownership of land rights evidence. In the Article of Law number 5 of 1960 about Agrarian Principle states as follows:

1. To certify the legal assurance, land registration is carried out by the Government throughout Republic of Indonesia territory according to the provisions regulated by the Government Regulation.
2. The registration referred to the article paragraph (1), include:
    a. Measuring, Mapping, and accounting land; and
    b. Land rights registration and transfer. Giving the applicable certificate as the solid proof.
3. Land registration is carried out by considering the state and society conditions, socio-economic traffic requirement and the implementation possibility, according to considerations of the Agrarian Ministry
4. In the regulation of Government is regulated the costs involved with the land registration referred to paragraph (1) above, provided that poor people are freed from costs financing.

The certify of legal assurance as the normative urgency of land registration includes:

1. The assurance of right status listed

    Right status is a status attached to the land. It means that by registering the waqf land, it will be able to be known the right status which is registered. Whether the satutus of the lands are Ownership Right, Business Use Right, Building Use Right, Use Right, Mortgage Right, Ownership Right on Flats or Waqf land.

2. The assurance of right subject

    Through the registration of waqf , subject of the land can be known. It means that land registration will be known the holder of the right land. This is very important, either the holder of the right land is individual (Indonesian or foreigner domiciled in Indonesia), a group of people jointly hold the right land, or public legal entity .

3. The assurance of right object

    Article 16 of Law Number 41 Year 2004 about Waqf states that waqf property consist of immovable and movable property. Land as the immoveable property must be clearly objected. The purpose of land includes the locations, land boundary, and land area measurement. Therefore, through land

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registration, it will be known the location, land boundary, land area measurement clearly. The certainty of object such waqf land measurement used as waqf land legality, the clarity of waqf land location also used as the effort in managing the waqf land.

II. SOCIOLOGICAL URGENCY OF WAQF LAND REGISTRATION

Sociological foundation illustrates that the behavior instructed in a regulation established aims to complete the society's need in various aspects. The urgency of waqf land registration shown sociologically that in order to waqf land has legal status. This aims to avoid the feasibility of conflict that will occur in the future (Supriadi, 2007: 135).

One of the issues and the implications of waqf management are arising conflict between waqf certificate with inheritance law that cannot eliminated where the process of settlement requires a deep examination. Therefore, to avoid that matter, it is necessary to control the waqf regulated in Presidential Instruction Number 1 of 1991 about Islamic Law Compilation, Law Number 41 Year 2004 about waqf, Government Regulation Number 42 Year 2006 about Waqf.

Waqf land ownership which has already regulated to publish the waqf land. However, there are people do not carry out it, such still many people who do not register their waqf land, consequently they do not have legal status which can cause conflict in the future. As in Muhammadiyah Leadership (PDM) Semarang which has already identified by researcher has not registered and certified yet. This condition be able to arise various problems in the future. For example: the owner of waqf land inheritor states that his parents do not inherit the land.

Generally, waqf property that is not registered cause the waqf land do not recorded properly and will result disputes when the waqif has passed away, because between *waqif* and *nazhir* do not have document that strengthen the position of both parties. If it occurs, then there is no authority party who act as an intermediary of clear and strong data authentic. The waqf land also often withdrawed back by inheritor who deviate from waqf pledge, Inheritors deny the waqf pledge and they do not give known by their parents. Inheritor often discuss the evidence sign both authentically and under-hand their parents (waqif) truly have already inherited their right land to Nazhir.

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This explanation strengthens that waqf land registration sociologically is very urgent. Therefore, in implementing of waqf it is not enough to rely on trust to Nazhir for managing waqf land. It also needs to carry out some procedures regarding registration and certified of waqf land. Waqf land registration also includes the publishing of waqf land certificate as a strong evidence. The strength of the use waqf land certificate enactment is very important, at least the existence of waqf land certificate provides legal entity to the owner and to the Nazhir whose name are listed in waqf land certificate. The publishing of waqf land certificate can prevent land disputes because it is protected from arbitrary action by anyone including inheritor who try to withdraw waqf land back. The giving of waqf land certificate is intended to prevent land disputes (Mustafa, 1988: 54).

The consequence toward waqf land which already certified is a land that has legal assurance and protection, it can minimize conflict that will occur against waqf land. Sociological urgency of waqf land registration also requires role of the National Land Agency (BPN) in registering waqf land based on the task that The national Land Agency of Republic Indonesia in order to cope the disputes, conflict and land case to realize land policies for justice and welfare of society. The management of assessing and handling land case is a mean to resolve the disputes, conflict and land case as well as minimize the potential of arising land cases.

III. JURIDICAL URGENCY OF WAQF LAND REGISTRATION

The urgency of waqf land registration juridically explains that registration of land used to supervise the existence of waqf land from prohibited practices in the Law number 41 of 2004 about waqf. According to Law Number 41 of 2004 about waqf, the properties that can be donated consist of immovable and movable properties. Land is immovable property that can be donated. Land which already donated cannot be sold or guaranteed by the parties to the other parties as regulated in Law of waqf.

In Law article 40 Number 41 of 2004 about waqf states that properties which already donated are prohibited to be guaranteed, seizure, given, endowed, or transferred in the other right transfer form. That certainty is excepted if the land which already donated is used for public interest in accordance with general spatial plan (PUPR) based on the provisions of applicable Law regulation and it is not against to Islamic law. This transformation includes the public interest with how many people can use and access the infrastructure, but it is also related to the benefits

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of infrastructure for societies welfare and progress (Muhtada & Suhadi, 2019: 69). In addition of these expectations, waqf land may not be treated as already prohibited by the Law. The practices are the goal of urgency of waqf land registration juridically which explain that waqf land registration is shown to get supervision from related parties from prohibited practices by the law.

Supervising in waqf practice is absolute thing to do. During this time, the waqf practices in various waqf institutions by Nazhir receive less serious supervision. It results abandoned waqf land even it can cause the waqf land lost. Thus, seeing these waqf practices increasingly advance, the supervision role of waqf land cannot be ignored.

There are two forms of waqf land supervisions, namely local supervision by society and a competent government. The supervision of society carried out by waqf property council or social organization in accordance with administrative and financial feasibility standard the provisions of which are taken from applicable standard in the market. The supervision of society can be in the forms of *nazhir*, *wakif*, or community in general.

In addition, this supervision can be called more effective than supervision carried out by the government, because it is local, particularly for each waqf property regarding to people who have the rights on waqf land with its objectives directly.

Whereas, the government supervision is a form of periodic external supervision. Administratively, Government supervision of waqf land supervise waqf financial and administration by certain standard and production taken from administration supervision company that have similar activities. Financial supervision from Government also work in accordance with the principles of external supervision conducted by financial auditor and regulatory examiner. The ministry of waqf who conduct two forms of supervision both in term of financial or administrative matters to the waqf manager from private party must use a competent specialized institution and based on scientific facts from institution activities working with the market system (Hasanah, 2012: 76).

Government supervision conducted by The Ministry of Religion and Indonesian Waqf Board. The ministry of waqf which conducts these two forms of supervisions both in term of financial and administrative matters to the waqf manager from private party must use a competent specialized institution and based on scientific facts from institution's activities working with the market system.

The two forms of these supervision include both administrative and financial aspect simultaneously, either from the procedure of waqf land registration until distribution of the result from the waqf management or the allocation of waqf assets.

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Supervision of society or government aim in order to waqf land can be managed and well-developed and be able to participate in supporting societies welfare. In addition, the most important thing in supervising is prevent the prohibited practices by the Law.

The urgency of waqf land registration juridically is supervise to the waqf land assets. Waqf land supervision is regulated in Article 63 of Law number 41 of 2004 about waqf. In that Article explains that supervision of waqf management by The Ministry of Religion by involving Indonesian Waqf Board (BWI) in terms of coaching and heeding advice and considering Indonesian Ulema Council (MUI) so that the objectives and function of waqf implementation can be achieved. The Ministry of Religion by involving Indonesian Waqf Board can work together with social organizations, experts, international agencies and other parties deemed necessary for coaching to waqf management. Whereas, in the waqf management supervision, The Ministry of Religion can use public accountants.

Furthermore, in Article 65 in Law Number 41 of 2004 about waqf states that in conducting supervision, the Ministry may use public accountant. More detailed in the Article 56 of Government Regulation Number 42 Year 2006 explains that supervision of waqf land can be active or passive. Supervision carried out by the government actively by examining the Nadzir or waqf land managers at least once a year. While the passive supervisor, the Government carried out by observing on various report which conveyed by Nadzir in accordance with waqf management. In this case, societies also have rights to report on waqf management by Nazhir to the Government. The Government can apply independent public accountant services in examining of waqf land supervision. Basically, waqf land supervision requires the participation of some stockholder involved. The contribute participation not only involve certain people, but also involve poor group, such as people who follow contribution (Dani, Rodiyah, Indah, & Waspiah, 2018: 3).

CONCLUSION

Based on the result of this research on the urgency of waqf land registration in Law Perspective Number 41 Year 2004 about waqf by the Regional Leadership of Muhammadiyah Semarang, from the result and the explanation of research can be concluded as follows:

1. Normative urgency of waqf land registration gives legal assurance. Legal assurance used to understand the certainty of right list includes right changes,

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right subject which include landowner and right object which include the location and wide land. Subject certainty of land will determine the content of waqf pledge certificate and waqf land certificate.

2. Sociological urgency of waqf land registration used in order to waqf land has legal status. It aims to prevent disputes feasibility that will occur in the future. One of issues and the implications of waqf management that often arise is the existence of conflict against waqf certificate with inherit law which cannot be lost which the process of settlement requires deep examination. Therefore, to avoid that matter needs to conduct the publishing of waqf land that is regulated in Presidential Instruction Number 1 about waqf, Government Regulation Number 42 Year 2006 about waqf.
3. Juridical urgency of waqf land registration states that juridically land registration used to supervise the existence of land from prohibited practices in Law Number 41 Year 2004 about waqf, that properties which already donated consist of immovable and movable properties. Land is immovable property that can be donated. The land which already donated may not be sold or guaranteed by anyone to the other parties which is regulated in Law of waqf land.

SUGGESTION

Related to the research conducted, Author provides suggestions to be used as input and consideration matter that are useful for interested parties, among others:

1. A *nazhir* should conduct his duty in managing waqf administration, include the most important thing is to register waqf land to the authority institution, thus waqf land has legal entity.
2. A waqif, someone who donate his properties to be donated for religion need and public welfare. As a state of law, any legal action must agree with Law. Therefore, waqif needs to learn more about waqf procedures.

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RESEARCH ARTICLE

THE PROHIBITION OF *SAMPIR* MARRIAGE IN THE PERSPECTIVE OF *MASLAHAH MURSALAH*

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ABSTRACT

Sampir marriages are marriages between men and women separated from the road, these marriages are prohibited according to the adat community of *Kenteng* Village, *Toroh* District, *Grobogan* Regency. This study aims to, *first*, describe the prohibition of "*sampir*" marriage from the perspective of "*maslahah mursalah*", *second*, develop knowledge in terms of Indonesian marriage law, *third*, provide understanding to the village community in the village regarding the "prohibition of marriage of the sampir" perspective "*maslahah mursalah*". This research is an empirical study, or it can also be called field research that examines the tradition of prohibiting marriage in *Kenteng* Village, *Toroh* Sub-District, *Grobogan* Regency. This research includes empirical research. Data collection by observation, interview, and documentation. The author uses a qualitative method of deductive thinking in analyzing this problem, namely the process of approach that departs from general truth about a phenomenon or theory and generates that truth on an event that is characterized by the same phenomenon concerned. Overview of Islamic Law on the tradition of prohibiting marriages of sampir in *Kenteng* Village, *Toroh* Sub-District, *Grobogan* Regency, through the Maṣlaḥah approach, it is a mistake that the tradition contains an element of shirk because the community believes that sampir marriage will bring disaster to the perpetrators, the community always associates the disaster that befell the marriages of the sampir perpetrators. mate sampir.

Keywords: *Maṣlaḥah Mursalah; Prohibition of Sampir Marriage; Tradition*

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INTRODUCTION

Islam views that humans and all creatures in the universe are the creation of Allah SWT Humans are created by God complete with partners who instinctively have an interest in the opposite sex. To realize this attraction into a true relationship, one must go through marriage (Masudah 2010).

Hindu-Buddhist teachings are still embedded in Javanese culture and some people still believe in the traditions or cultural systems of traditional societies. People who break the tradition, it means leaving the existing systems. After the religion of Islam came, then the principle of their law was replaced by rules or texts based on the *Qur'an* and the *Sunnah* (Isro'i 2012).

The village of *Kenteng* has many traditions that are inherited from ancestors which are still preserved. For example, marital problems, many things must be met when they want to do marriage, including avoiding a marriage that has become the trust of the people of *Kenteng Village*. The prohibition of marriage which is still believed by the people of *Kenteng* Village is a ban on marriage. A marriage is a marriage between a man and a woman whose house is separated by a road in an alley. Such marriages are believed by the community to bring loggers/calamities to the perpetrators (Suhardi 2018).

The people of *Kenteng* Village say that tradition was inherited by the ancestors and the people still believe because there are many incidents that are not good after the marriages of the *sampir* (Suhardi 2018). Islam itself does not teach that Islam considers that if someone gets a disaster because something is ṭiyarah (predicting bad

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luck because of seeing something). The people of *Kenteng* Village are mostly just following the belief that the ban on marriage is based on information from parents, neighbors and closest people (Sofwan 2018).

Mujiono (2018) as a community leader in *Kenteng* Village revealed that there is a value to the benefit behind the prohibition of marriage in *sampir* in *Kenteng*, *Toroh*, *Grobogan*, although in Islam there is no prohibition to marry marriage. He explained that the prohibition of marrying marriage meant that it was an effort to create a harmonious and happy family. Based on the phenomenon and the reality of the tradition of prohibiting marriage in *Kenteng*, the author is interested in conducting research on the belief in marriage ban with the title "the prohibition of *sampir* marriage in the perspective of *maslahah mursalah*.

METHOD

This research is an empirical study, or it can also be called field research that examines the tradition of prohibiting marriage in *Kenteng* Village, *Toroh* District, *Grobogan* Regency. In this study, the main data source used is information from the source (primary data), supplemented by secondary and tertiary data. Data collection was carried out in three ways, namely observation, interviews and documentation. The author uses qualitative methods with deductive thinking in analyzing this problem, which is the process of approach that departs from general truth about a phenomenon or theory and generalizes that truth on a particular event or data that is characterized by the same phenomenon concerned (Nasir 2016).

FACTORS ENCOURAGING THE PROHIBITION OF SAMPIR MARRIAGE IN KENTENG VILLAGE, TOROH, GROBOGAN

The ban on *sampir* marriage is a legacy from the Javanese ancestors, especially in the *Kenteng* Village, wherein the *Kenteng* Village community the prohibition of marriage is seen as a myth that can lead to something undesirable if the prohibition is violated so that it becomes a sacred myth, meaning that the marriage ban becomes a necessity in the practice of one's life or even a group in the *Kenteng* Village community (Sofwan 2018).

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The reason for the prohibition of marriage is in the view of the people of *Kenteng* Village because the marriage is analogous to two people walking who will collide, turn away (reject) which makes them unable to unite, so they do not have the courage to do marriages. If this marriage is carried out it will incur disasters and misery for the bride and groom in the ark of life (Yusuf 2019).

Regarding the impact of marriage, Suhardi said: "Usually if they get married, their household will not be harmonious, there are often problems (quarreling) that end in divorce, difficult fortune, one dies, or his parents die." According to Muhamad Sofwan as a figure *Kenteng* Village community, he said, "It is said of parents, due to the marriage of *sampir* many are not strong, meaning that if there is no ill divorce if no one will die later." Regarding this ban, Muhamad Sofwan said that he himself was the perpetrators of the marriage mate and his wife was sick to death, but he did not believe that the disaster that happened to him was a result of the marriage of the mire. Muhammad Sofwan believes that the disaster that befell him was purely the will of God (Suhardi 2018).

The author also conducts an interview with "T" as the perpetrator of the marriage mate. The author asks "I'm sorry, if I may know what calamity has happened to you since you married a marriage? He answered, "Divorced". Previously the author asked "Do you" T "believe that people who do marriages on the side will get a disaster? he answered, "Yes, believe". Mr "T" claimed to have a marital marriage because it was arranged by an older person and he did not want to fight the parents. "T" also claimed that before marriage he did not know about the ban. He knew the prohibition shortly after his divorce with his wife (Personal Interview, 2018).

Based on the results of the writer's interview with the people of *Kenteng* Village, there are at least 5 (five) *sampir* marriages that have been affected, but the writer can only interview 2 (two) people because the other actors do not want to be interviewed because they feel this is a disgrace, The 5 (five) people are "T" (divorced from his wife), Muhamad Sofwan (his wife died), "Sahli" (divorced), Harwati (Divorced), Yanto (parents died).

According to Yusuf (2018) that trusting the prohibition of marital marriage is permissible because it is an estimate/belief, but do not let these estimates be put forward to defeat his belief in God, he also stressed that the community is more committed to the Koran and Hadith as guidelines for human life. Furthermore, he explained about believing in marrying *sampir*, "So old-fashioned parents did not allow or forbid married marriage. But prohibiting does not mean haram, (but) prohibiting (because) culture." According to Muhammad Yusuf personally, the prohibition does not mean haram according to religion because Islam implicitly does not regulate

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prohibition of marriage to marriage, but the belief is haram in the *adat* community of *Kenteng* Village. He asserted as follows:

> *If there is a problem with calamity, a child who does not get married will get a disaster, and those who marry will not get a disaster. The problem of the disaster had nothing to do with mating. because the calamity is a trial, the trial is the essence from God, the trial is included in the test of life. So, the ones who marry the sampir don't get any disaster, those who don't marry the sampir get lots of disasters too. Because when a disaster happens, everyone gets a disaster, so not everyone gets a disaster. It's just that there has been a person who marries the sampir then gets a disaster, because what is known is the marriages of the sampir, not from God.*

Talking about tradition or tradition is closely related to the daily life of the local community. Observing the traditions of Javanese people, that is, people who are well-known for their traditions or hereditary habits is an effort that is closely related to the development of mental and spiritual fields to live their daily lives because the ancestors of the Javanese always decrease the natural knowledge that they obtain to their children, grandchildren and his relatives. The natural knowledge gained by these ancestors eventually transformed into customs or habits that we often encounter in our daily lives (Syaifudin 2017: 70-71).

Suhardi (2018) as the traditional leader of the *Kenteng* Village community said that the ban on *sampir* marriage in principle is an effort to create a harmonious family. Like Mr. Suhardi, Mujiono (2018) explained:

> *(Sampir marital trust) is indeed a hereditary belief. Family people want to create a sakinah family, mawadah wa rahmah. With married marriage done, if there is a problem (between husband and wife), parents are worried that both parties will find out, and usually, the parents sometimes intervene and defend their children and it is feared that it will cause disunity/divorce due to the marriage of the sampir. Because if a family whose house is close together, if there is a problem let alone their parents interfere with*

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their affairs (husband and wife), then the problem is worried that it will even get bigger so that it carries on until the children and grandchildren and so on.

Social relationships that are built with individuals must be pleasant, peaceful, friendly and show unity and unity, in other words, the relationship must be characterized by a spirit of togetherness, harmony, harmony, calm and peace. Such relationships are like an ideal relationship of friendship or family without disputes and disputes. The spirit of life that unites in purpose while instilling a sense of caring, mutual help, and mutual cooperation. This is a communal life imbued with the spirit of the Javanese people that embodies refinement, cooperation, mutual acceptance, non-discrimination and willingness to compromise (Syaifudin 2017: 74).

Based on these data, the authors draw conclusions about the factors prohibiting *sampir* marriage in *Kenteng* Village as follows:

a) The community still believes that the marriage of *sampir* can bring disaster to the perpetrators.
b) The community considers that if the perpetrators of mating have a disaster, the disaster is directly linked to the act of marrying the mates.
c) there are witnesses and perpetrators of mating sampir who directly know the calamity that befell the perpetrators of mating sampir.
d) the spread of the tradition of prohibiting marital marriage is hereditary.
e) lack of public knowledge about religious knowledge, especially related to the myth of the traditional belief in prohibiting marriage.
f) The public's perception that there is a value of the benefit in the tradition of prohibiting marriage.

REVIEW OF MASLAHAH MURSALAH AGAINST THE PROHIBITION OF SAMPIR MARRIAGE IN KENTENG

Marriage is a method chosen by Allah SWT as a way for His creatures to multiply and preserve their lives. According to Law No. 1 of 1974 Marriage is an inner and outer bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the Godhead of the Almighty (Aulia 2011: 76; Putri & Arifin 2019; Muntamah, Latifiani, & Arifin 2019). When viewed from

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its purpose, Marriage is an important event in the history of human life, marriage will unite men and women who previously had no ties to become a *sakinah*, *mawadah* and *rahmah* family (Aulia 2011; Muntamah, Latifiani, & Arifin 2019).

In Javanese tradition marriage is a sacred event, therefore the consideration of accepting a prospective son-in-law must not be arbitrary and must be based on seeds, quality, and weight (Isro'i 2012: 21-22). Referring to some of the notes above, when the tradition of prohibiting marriage of marriage is viewed from an Islamic perspective, the authors quote the following theories and rules:

مَا تَعَارَفَهُ النَّاسُ وَأُسَارُوْا عَلَيْهِ مِنْ قَوْلٍ اَوْ تَرْكٍ وَيُسَمَّى الْعَدَةَ.

> *Something that has been known to humans and they make it as a tradition, both in the form of words, actions or attitudes leaving the urf is also called customs* (Waid 2014: 150).

Based on the theory and rules above, it can be said that the prohibition of marriage is a custom or tradition that has benefits in it, this is indicated by several things, namely:

1) The ban on sampir marriage has been trusted, practiced, happened repeatedly, maintained by the people of *Kenteng* Village continuously, if the act is only done once, then the act fails to be predicated as a tradition.
2) The prohibition of marrying sampir has been known by the people of Desa *Kenteng* and most people practice this practice.
3) The prohibition of marriage in marriage prevents ongoing problems in social life. This is due to problems that arise in the household because the houses of both parties are very close together so that it allows the parents to interfere who tend to defend their respective children. It is feared that this problem will make it even greater until divorce arises and the problem is carried from generation to generation until the children and grandchildren so that bad relationships arise in social life.
4) The ban on sampir marriage is an effort to form a peaceful, pleasant, friendly life and show unity and unity, in other words, this prohibition is to create community relations with a spirit of togetherness, harmony, harmony, calm and peace. This is a communal life imbued with the spirit of the Javanese people that embodies refinement, cooperation, mutual acceptance, non-discrimination and willingness to compromise.

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When viewed in terms of quality and benefit, the ban on *sampir* marriage is included in the *Maṣlaḥah al-ururiyyah*, the meaning of *maṣlaṣah al-ḍaruriyyah* is the benefit associated with the basic needs of mankind in the world and the hereafter. The ban on *sampir* marriage is included in this scope because the ban on *sampir* marriage is in the form of provisions relating to basic human needs (principle) to carry out life and care for offspring, therefore this prohibition cannot be categorized as *maṣlaḥah al-ḥajiyah* (benefit in the form of relief to maintain and maintain basic human needs, such as cooperation in agriculture, etc.) and *maṣlaḥah al-taḥsiniyyah* (benefits in the form of freedom that can complement previous benefits such as eating nutritious food, dressing well, etc.) (Zahrah 2005: 424).

Maslahat in the *maslahah dharuriyyah islamiyyah* refers to the five preservation of maintaining religion, soul, intellect and descent, wealth (Ilyas 2014).

1. Maintaining Religion

   Islamic Sharia was revealed in order to maintain the *maqasyid al-khamsah / kulliyah al-khamsah*. Religion is the most important level of the *maqasyid*, because religion is the spirit, the others are only branches. Branches will not be able to stand, except by preserving religion. There are three important points relating to the maintenance of this religion, first, that religion is *fitrah*, then man must have religion whether his religion is right or wrong, if he comes out of his *fitrah*, then there will be anomalies and deviations, but what is meant by religion here is religion correct. Second, concerning the maintenance of religious media. Preserving religion is the most important *maqasyid* and it is not possible that this great intention is wasted, turned around and changed, because if it is so, then other intentions are wasted. This is the same as a society that has no leader (Ilyas 2014: 18).

   The maintenance of religion in its application to *ḍaruriyyah* can be exemplified in the following cases: the commandment of man by Allah SWT to perform prayers and perform zakat and various other religious orders aimed at the benefit. Vice versa relating to the prevention of things that can lead to its absence, such as the order to do jihad, and the determination of the punishment for apostates, because this will be able to come to the interpretation of the existence of religion. (*dar'ul mafasid*) (Ilyas 2014: 18).

2. Nurturing the Soul

   Islamic Sharia is very concerned with preserving the soul, then between the law stipulates it as an important benefit and rejects the things that are *mafsadat*, because if the life is wasted, the believer disappears, and in turn

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disappear will lead to the loss of religion, what is meant by the soul here is the soul maintained, as for other souls such as the lives of people who are fought, then he is not a soul maintained by the Shari'a, because he is an enemy of Islam (Ilyas 2014: 19).

The scholars agreed to say that the purpose of the Shari'a was revealed by Allah to preserve the human soul. They gave an example of the rules of Shari'a that were revealed by Allah with regard to this matter, namely: in the manner of killing without justified reasons of the Shari'a, the obligation of *qishas* to be punished accordingly, prohibited from committing suicide, may not kill children for fear of poverty and many others. All of that is in order to preserve the soul and ensure the continuity of human life and it is related to *maṣlaḥah ḍaruriyyah* (Ilyas 2014).

3. Maintain Reason

The purpose of maintaining the mind is to keep the mind from being damaged, which results in the *mukallaf* not having any use in society, even becoming a source of disaster. Imam Syatibi gave an example of preserving reason by prohibiting humans from drinking *khamar*. Because *khamar* can damage the mind, and in turn can damage the others, including damaging religion. It can be believed that people whose minds are broken open wide opportunities to commit crimes and damage all the strata of the benefits that exist, both *dharuri*, pilgrimage, tahsini, and *mukammilat*. For the preservation of reason from damage, it can be done by guaranteeing freedom of thought, study, and so on (Ilyas 2014).

4. Heredity / Honor

Abdul Wahhab Khallaf states that caring for offspring is a basic necessity for human benefit. Caring for offspring is a form of caring for human sustainability and fostering the mentality of generations to create a sense of friendship and unity among humans. To realize that purpose, a properly organized marriage institution is needed, as well as preventing acts that damage oneself and offspring, such as adultery and so on (Ilyas 2014).

5. Maintaining Assets

Maintenance of assets is done by preventing acts that tarnish property, such as theft, robbery and many other crimes against other assets, and must also be maintained by distributing them properly and properly for the sustainability of the assets, so humans are instructed to try and work in accordance with the power they have (Ilyas 2014).

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When viewed from the level of the order of the *dharurat*, the tradition of prohibiting marriages from marriage occupies the preservation of offspring (النسل حفض), related to this matter, it needs to be seen that:

a. The people of *Kenteng* Village still believe that it is related to the myth of the prohibition of marriage to marriage, so it is clearly forbidden for the law to believe that there is a power other than God so that it is polytheistic (Sofwan).
b. Islam does not forbid to marry *sampir* but the custom of the people of *Kenteng* Village forbids to marry *sampir*, therefore it is clear that the custom is contrary to Islamic law by restricting humans to get married.
c. It is possible to believe that there is a benefit in the tradition of prohibiting marriages of *sampir* that is to realize a happy life, but this benefit is contrary to the main principle in *maqasyid as-sharia* which is to maintain religion that Islam does not forbid married marriage, so that reason must be set aside because maintaining religion must be prioritized rather than raising offspring.
d. Community beliefs about the tradition of prohibiting marriage of marriage are preserved if it is preserved so that this belief will live continuously so that there is a bad view among the people of *Kenteng*.
e. The people of *Kenteng* Village are also not allowed to associate the calamity that befell the marriages of the *sampir* as a result of the behavior of the *sampir* marriages, because everyone must experience unlimited calamity whether he is a practicing mating or not.

Based on this the authors quote the rules of *fiqhiyah* as follows:

درء المفاسد مقدم على جلب المصالح

"*Refusing mafsadah takes precedence over reaching Maṣlaḥah* (Jazuli 2017: 29)."

Based on these rules when *maslahat* and *mafsadat* face each other, it is generally preferred to reject the *mafsadat* because *sharia*'s attention to guarding the prohibition is higher than keeping the commandments. When viewed in terms of the benefits and interpretations of the tradition of prohibiting marriages of marriage, then this trust must be set aside by having to always hold fast to the Koran and the Hadith because the accident came purely because of God's will not because of the act of marrying marriage, besides believing that the perpetrators of marriage *sampir* will get a disaster including *tiyarah* and that includes something that is forbidden (Ihsan 2004: 87).

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The benefit in the tradition of prohibiting marriage of *sampir* is hereby ruled out because the majority of the community still believes in the tradition of prohibiting marriage of *sampir* with all the consequences arising and the tradition of prohibiting marriage of the *sampir* occupies the level of raising offspring (*ḥifḍ al-nasl*). contrary to the principle of safeguarding religion (*ḥif-al-din*), because the concept of prohibiting marital marriage is contrary to the concept of Shari'a that already exists in Islam at the level of ḍaruriyyah *khomsah*, therefore preserving religion by practicing religion in accordance with the Koran hadith statement that Islam does not forbid people to marry *sampir* and there is an element of shirk in the tradition, it must be prioritized rather than guarding offspring.

If the benefit referred to by some of the people of *Kenteng* Village in the tradition of prohibiting marital marriage is in the context of forming a harmonious family, then this is canceled because it does not meet the requirements to be categorized in the problematic problem, this is because:

1) This benefit is only a tradition in the village of *Kenteng*, while in other regions it is not certain to experience the same thing. Khallaf in his book said that the benefit is general, not personal. Its purpose is to prove that the formation of law in a case can bring benefits to the majority of humanity or reject danger from them and not for the benefit of individuals or some people. The law should not be prescribed to realize special benefits for the authorities or authorities and turn the attention and benefit of the majority of the people, in other words, all benefits must benefit humanity (Khallaf 2002: 144).
2) The benefit is contrary to the text. *Al-Quran* and *as-sunnah* there is not a single verse or hadith that prohibits mating marriage. Abdul Wahhab Khallaf said that the formation of law based on benefit does not conflict with laws or principles based on the text or *ijma'*. Therefore, it is not right to recognize benefits that demand equality between men and women in the inheritance section, because such benefits are invalid because they contradict the Qur'anic text, therefore the benefits contained in the prohibition of marriages of *sampir* are *munasib al-mulga* (which was canceled) because the *syarak* indicated the nullification of the confession (Khallaf 2002: 144-145).

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CONCLUSION

Based on the presentation of the results of the research and analysis of the previous chapter, the author can conclude the following:

1. Factors that encourage the prohibition of marriage in Sampeng are as follows:
   a. The community still believes that the marriage of *sampir* can bring disaster to the perpetrators.
   b. The community considers that if the perpetrators of mating have a disaster, the disaster is directly linked to the act of marrying the mates.
   c. There are witnesses and perpetrators of mating sampir who directly know the calamity that befell the perpetrators of mating sampir.
   d. The spread of the tradition of prohibiting marital marriage is hereditary.
   e. Lack of public knowledge about religious knowledge, especially related to the myth of the traditional belief in prohibiting marriage.
   f. The public's perception that there is a value of the benefit in the tradition of prohibiting marriage.
2. The review of Islamic law with the problem of the ma'laḥah approach to the tradition of prohibiting marital marriage in *Kenteng* Village gives the view that the community must leave the tradition because it is contrary to uriaruriyyah that must be prioritized, namely yakniifḍ al-din in the *uriaruriyyah al khamsah* level. This is based on Islamic legal rule

   درء المفاسد مقدم على جلب المصالح

   The above rule explains that rejecting mafsadah takes precedence overachieving benefit.

3. The benefits contained in the tradition of prohibiting marriages in the village of *Kenteng* do not meet the requirements for inclusion in the category of *maslahah mursalah*, but in the category of *al-mulga maṣlaḥah* (which is canceled) because this benefit is the benefit of a group of people not all of humanity and this benefit contradicts by the passage of the Koran.

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REVIEW ARTICLE

POSITION OF THE VICTIM IN CRIMINAL ACTS ILLEGAL LOGGING

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ABSTRACT

The purpose of this study is to analyze the position of victims in criminal acts of illegal logging and find legal reasons to the extent that the state pays more attention to State losses as victims compared to the position of the community as victims in illegal logging. The paper uses a qualitative approach with normative legal research. Data collection techniques using library research, with comparing some related laws and regulations. This paper emphasized that: (1) The position of the victim in the case of illegal logging in the criminal justice system is still lacking due to the regulation of the law and the principles in the Criminal Procedure Code itself more prioritizing retribution as embezzlement, such as seeing how much loss arises due to the perpetrators criminal without seeing the position of the community as victims indirectly. Whereas the State is more concerned with the State's loss than the community as a victim. There are principles in the Indonesian criminal procedure law which are strengthened by the Constitutional Court's decision which argued that State control over the earth and water and the natural resources contained therein. This means that the state is given the freedom to regulate, make policies, manage and oversee the use of the earth and water and natural resources contained in it with a constitutional measure that is as much as possible the prosperity of the people and considers the rights of the people as victims only of an objective nature where the state takes policy with more attention to victims generally.

Keywords: *Victim; Illegal Logging Crime; Criminal Act; Criminal Law; State Losses*

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INTRODUCTION

Illegal Logging or commonly called forest destruction which covers illegal logging of forest trees, is an act that is not favored by the community and the State. The legal basis prohibiting illegal logging practices is Law Number 23 of 1997 concerning environmental management which was later replaced with Law Number 32 of 2009 concerning Environmental Protection and Management, Law Number 41 of 1999 concerning Forestry and Law Number 5 of 1990 concerning Conservation Indonesian biological natural resources. Whereas in the case of imprisonment of the perpetrators of illegal logging (forest destruction) regulated in law number 41 of 1999 with the heaviest criminal threat is 15 years and a fine of 5 billion.

The practice of illegal logging, by taking wealth of natural resources in agriculture, especially forests, not only happens to be sold within the country, but also sold to other countries. As a result of these sales it will result in huge losses for the country and also the surrounding community. In his brief remarks Prof. dr. Kaligis S.H., M.H. said that the fact of illegal logging took place and smuggling to other countries such as Malaysia and Singapore which was marked by the loss of 28 million ha of forests and consequently was a decline in per capita income for the Republic of Indonesia. At present Singapore's income from processing natural resources, especially forests, is 7.7% while Indonesia is 5.2%. Meanwhile, when compared with Singapore which in fact the position of natural wealth is not as good as Indonesia (Ricar, 2012).

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Article 33 Paragraph (3) of the 1945 Constitution states that: "The earth, water and natural resources contained therein shall be controlled by the state and used for the greatest prosperity of the people". This means that natural resources can be used for the interests and prosperity of the people, held by the state or government. Therefore, natural resources are very important for the lives of many people to help people meet their economic needs.

In cases of criminal acts (Illegal logging) the loss is the surrounding community and the state. The purpose of the forest is to protect the community from the dangers of floods, landslides and prolonged drought. However, the state takes over by punishing the perpetrators of these crimes and ignoring the community as victims, even though in a crime that needs attention is the perpetrators and victims (Arifin 2020a; 2020b). However, because the rules explain that the victims who often appear to be the state take control of the state according to the rules of law without regard to the situation of the community. Evidence that the position of the victim is often forgotten is found in the principles of our criminal procedure law which is more concerned with the perpetrators of crime than the victims, namely:

1. The principle of presumption of innocence
2. Open trial principles
3. Principle of direct and oral inspection
4. Principles of speedy justice (Surahman & Hamzah, 2015: 35)

All of these principles are always highlighted by the perpetrators and state losses. For example, in criminal acts of forest destruction (illegal logging) is the responsibility of the perpetrators and how much the damage suffered by the state, but the government does not pay attention to social losses that is losses suffered by the community (also the environment) be it individuals, environmental groups of people who suffer as a result of the destruction of the forest (Aji, Wiyatno, Arifin, & Kamal 2020; Arifin & Choirinnisa 2019) Based on this reasoning, it can be drawn up the formulation of problems related to the role and position of the community as victims of illegal logging, while what is always applied is state losses in general and legal basis which justifies the state paying less attention to communities as indirect victims of forest destruction (illegal logging).

METHOD

This study uses a qualitative method that is the presentation of descriptive analytic research results not with numbers in a phenomenon that functions to more easily understand phenomena that occur in society that are not yet widely known.

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Qualitative approach which means that the core of the general principles underlying the manifestation of symptom units in human life, or analyzing patterns arising from socio-cultural phenomena by using culture in society to obtain a picture of the patterns that applicable. The patterns were analyzed again using objective theory (Ashofa 2013: 20-21).

This type of research is normative juridical legal research. This type of legal research is carried out by examining library materials or secondary data as a basic material to be examined by conducting a search of the regulations and literature relating to the problem under study (Soekanto 1986; Arifin, Waspiah, & Latifiani 2019). Legal research legally means that research refers to studies of existing literature or to secondary data used, namely the 1945 Constitution, Law No.32 of 2009 concerning environmental protection and management, Law Number 8 of 1981 concerning Criminal Procedure Code, Law Number 41 of 1999 concerning Forestry, Law No 13 of 2006 concerning the Protection of Witnesses and Victims, Law Number 5 of 1990 concerning Conservation of Indonesia's Living Natural Resources. The data validation technique is done by examining its credibility using triangulation techniques (Sugiyono 2010).

ILLEGAL LOGGING: HOW DOES LAW REGULATES THIS?

The State of Indonesia has issued various regulations concerning the protection of the forestry sector in positive law as stipulated in Law Number 41 of 1999 concerning forestry in conjunction with Law Number 19 of 2004 concerning the establishment of government regulations in lieu of Law Number 1 of 2004 concerning amendments to Law Number 41 of 1999 concerning Forestry becomes Law. Further protection on forestry which is also regulated in government regulation No. 45/2004 concerning forestry, and criminal sanctions threatened with illegal loggers Act No. 41 of1999 and Law No. 18/2013 concerning prevention and destruction The forest, the heaviest criminal threat aimed at perpetrators of illegal logging, is 15 years in prison and a fine of Rp. 5 billion.

Indonesia already has regulations to manage the environment, namely Law No. 5 of 1990 concerning the conservation of Indonesia's biological natural resources which focuses on the preservation of biodiversity, both biodiversity in state and non-state forest areas.

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The development of legislation administration from time to time both the diversity of natural resources themselves, their protection and their ecosystems from year to year are always damaged.

Four (4) criminal aspects / as causes of violations of the environment (Environmental Damage) according to Ahmad Santosa as follows:

1. Failure in making Policy (Policy Failure)
   Weak capacity of regulators in supervision or strict policies in tackling the destruction of natural resources, it means that development is only oriented to Exploitation (Use Oriented) so that existing natural resources are drained in such a way and forget what is left for tomorrow which is important for our children and grandchildren as the next generation.
2. Failure in implementing / implementing policy. Development is partial or added without regard to the quality of the building to be sustainable.
3. Failure due to weak institutional arrangement of government (Institutional failure). The low capacity of regulators in conducting supervision and law enforcement. This means that there is still collusion between government supervision and law enforcement.
4. Failure at the level of civil society to protect the Natural Resource ecosystem and carry out the Public Control (Society's Failure) function. Lack of community understanding and cultural influences on the importance of hatyati natural resources for the benefit of common life.

Of these four weaknesses when related to Indonesia's biological natural resources viewed in terms of environmental law on forestry, illegal logging or tree felling in the forest area often occurs together.

I. CRIMINAL ASPECTS IN ILLEGAL LOGGING FOREST DAMAGE

According to Muladi, Illegal Logging crime can be seen from several elements in general in the Criminal Code, namely:

1. Damage
   Destruction as regulated in Article 406 through Article 412 of the Criminal Code is limited only to the destruction of goods in the sense of ordinary goods owned by people (Article 406 of the Criminal Code). The goods can be in the form of goods that are lifted and not lifted, but goods that have a social function means that they are used for public purposes as regulated in Article 408, but are limited

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to certain items as mentioned in that Article and are not relevant to be applied to crime of destruction Forest.

2. Theft

   Theft according to the explanation of Article 362 of the Criminal Code has the following elements:

   a. The act of taking, which is taking to be mastered
   b. An good, in this case goods in the form of wood that were taken when not in the possession of the perpetrators
   c. Partly or wholly owned by someone else, in this case the forest can be customary forest and private forest which is included in the State forest or State forest that is not encumbered
   d. With the intention of having possession by breaking the law.

3. Smuggling

   Until now, there are no laws and regulations that specifically regulate timber smuggling, even in the Criminal Code which is a general provision against criminal acts does not yet regulate smuggling. During this time smuggling activities are often only equated with offense theft because it has the same element, that is, without the right to take the property of others.

4. Counterfeiting

   The falsification of documents is regulated in Articles 263-276. Falsification of material and trademark is regulated in Articles 253-262, falsification of letters or fabrication of fake letters according to the explanation of Article 263 of the Criminal Code is to make a letter whose contents are not appropriate or to make such a letter, so that it shows as the original. Letters in this case are those that can issue: a matter, an agreement, debt relief and a letter that can be used as a description of an act or event. The criminal threat against falsification of the letter according to Article 263 of the Criminal Code is a maximum of 6 years imprisonment, and Article 264 of the Criminal Code is a maximum of 8 years

5. Embezzlement

   The embezzlement of the Criminal Code is regulated in Articles 372 through Article 377. In the explanation of Article 372 of the Criminal Code, embezzlement is a crime that is almost the same as theft in Article 362. The difference is that the theft of possessed goods is still not in the hands of thieves and must still be "taken" "While the embezzlement of the possession of the item is already in the hands of the maker, not by crime.

6. Heling

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In the Criminal Code, basically detention is another term for conspiracy or conspiracy or evil help. Retention in foreign language "heling" (Explanation of Article 480 of the Criminal Code). Further explained by R.Soesilo, that the act was divided into, the act of buying or renting goods that are known or reasonably suspected to be the proceeds of crime. The criminal threat in Article 480 is a maximum of 4 years or a maximum fine of Rp 900 (nine hundred rupiah).

From the general elements of crime above, it can be concluded that there are several criteria for forestry crime, one of which is the modus operandi in which the government and civil servants who have authority in the field of forestry, whether civil or military, shareholders in logging in carrying out deforestation by illegal there is no firmness in the law that regulates even to the falsification of documents about the validity of forest products (SKSHH) so that the perpetrators often escape the legal trap, because the applicable elements have not reached all aspects of the perpetrators of crime because the law has not clearly stipulated about 1). Existing regulations and policies cannot solve problems, especially environmental crime, 2). UU no. 23 of 1997 in conjunction with Law No. 32 of 2009 cannot be an effective instrument for protecting the environment, 3). While technological developments are followed by increasingly sophisticated quality and quantity of crime and often have regional and national international impacts.

According to Article 50 of Law No. 41 of 1999 concerning Forestry, in the category of Illegal logging, including: working and or using and or occupying illegal forest areas (illegal), encroaching forest areas, cutting down trees in forest areas, burning forests, and others. The dimensions of illegal logging activities are:

a. Licensing, if the activity does not have a permit or the permit is not yet available or the permit has expired,
b. Practice, if in practice does not apply logging according to regulations,
c. Location, if carried out at a location outside the permit, cut down in a conservation / protected area, or the origin of the location cannot be shown,
d. Wood Production, if the wood is careless (protected) type, there is no diameter limit, no origin of wood identity, no company identification,
e. Documents, if there are no legal documents,
f. Actors, if individuals or business entities do not hold logging business licenses or carry out illegal activities in the forestry sector,
g. Sales, if at the time of sale there were no documents or physical characteristics of wood or wood smuggled. So, basically, illegal logging is illegal logging, transportation and sale of timber or does not have a permit from the local authority.

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II. POSITION OF THE VICTIM IN THE CRIMINAL JUSTICE SYSTEM

The position of the victim in the criminal justice system as a unit of a crime has not been fully considered. Whereas the rights of victims in the criminal justice system should be seen as an integral part of the overall criminal justice system. According to Ali Masyhar said that "the position of the victim or people who were harmed by the existence of a crime so far has been very sad, the victim seems to be forgotten even though if we want to do law enforcement in the criminal justice system, it is necessary to pay attention to what is included in the legal protection against victims of criminal acts "(Masyhar 2008: 91). Meanwhile, according to H. S. Brahmana (2015: 54) states the position of victims in the criminal justice system (Criminal justice system) has not been placed fairly even tends to be forgotten where this condition has implications for two fundamental things namely:

1. There is no legal protection for victims and
2. Judges' decisions have not fulfilled a sense of justice for victims, perpetrators or the wider community.

In this case concerning illegal logging cases which, according to ICW records from 2005-2008, of the 205 illegal logging cases that were tried experienced criminal disparities namely, 76% only tried the field operators, 24% the main actors, and from 24% it was more than 71% are acquitted (Ricar, 2012: 5; Arwana & Arifin 2019) .

Of course, in the judge's decision raises the debate from aspects of the philosophy of punishment and the implementation of the decision of the judge in terms of protecting the parties concerned.

POSITION OF THE VICTIM IN THE INDONESIAN CRIMINAL CODE

The position of the victim in positive criminal law has not explicitly formulated provisions that concretely or directly provide legal protection for the victim. The meaning is still abstract and against the law. In this case Ali Masyhar defines the position of the victim in the Indonesian criminal law or positive law which is always described by the Indonesian Criminal Code that "the position of the victim in criminal law has no meaning or is abstract in which as part of the protection of the victim has

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not received attention from the Indonesian Criminal Code in terms of compensation restitution "(Mashhar, 2008: 92). Apart from that, the articles in the Indonesian Criminal Code tend to pay more attention to the perpetrators of criminal acts, namely regarding the formulation of criminal acts made by the perpetrators, criminal liability and criminal threats that will be charged to the perpetrators of criminal acts. In this case the position of the victim is also still very little attention.

POSITION OF THE VICTIM IN ILLEGAL LOGGING CRIMES

As it has been written and shared that the illegal logging case is not only detrimental to the state as a victim but is detrimental to the community as an indirect victim which in illegal logging can cause environmental aspects that have an impact on floods, droughts that affect the joints of life or on the contrary landslides can disrupt the community's economy. Indonesia has a state forest area of 112.3 million ha, consisting of 29.3 million ha of protected forest, 19 million ha of conservation forest and 64 million ha of production forest.

Data from the Indonesian Ministry of Forestry in 2010 stated that deforestation (forest loss) was mainly caused by encroachment (60%), conservation (22%), road use (16%), and as much as (0.6%) caused by mining.

Meanwhile, according to Global Forest Watch, noted that Indonesia from 2001 to 2014 globally ranked fifth and in 2012 as the highest record for loss of tree cover› 30% canopy cover which reached 2.26 million ha. associated with countries with tree cover loss. The loss of tree cover in question is the loss of tree cover in various landscapes, such as tropical rainforest to plantation areas without explaining the cause. 2012 was recorded as the highest record. In addition, according to the Ministry of Environment and Forestry, said that deforestation in Indonesia showed a declining trend in the period 2009 to 2014, while the results of the 2017 land cover data analysis in the 2016-2017 period as conveyed by the Minister of Environment and Forestry, Siti Nurbaya in Jakarta (29/01.2017), national deforestation (net) is 479 thousand ha, with details in the forest area of 308 thousand ha, and in Other Use Areas (APL) is 171 thousand ha with deforestation rate in 2016, which is 630 thousand Ha. Forest area in 2017 covers 93.6 million ha. In addition, Siti Nurbaya also said that currently there is a decline in deforestation rates in the forest area, which is 64.3%, compared to 2014 which amounted to 73.6%.

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Whereas in the case of justification or legal basis in which the government / state is more concerned about the state's loss than the community as a victim indirectly, there are principles that apply in Indonesian procedural law and are also strengthened by the Constitutional Court's decision in "MKRI ruling Number 3/PUU-VIII / 2010 "which argues that state control over the earth and water and the natural resources contained therein. This means that the state is given the freedom to regulate, make policies, manage and oversee the use of the earth and water and natural resources contained in it with a constitutional measure that is as much as the prosperity of the people, so it can be concluded that the rights of the community as victims are only objective where the state takes policy in the interests of the country in general .

CONCLUSION

This study concludes that the position of the victim viewed from the perspective of criminal justice as a state institution can be said to be merely complementary. This is due to the current Criminal Procedure Code which is more oriented towards the perpetrators referred to as the concept of retributive justice (retaliation) so that the position of the victim in the criminal justice system has not received a balanced place with the perpetrators. The legal basis that can justify the state being placed as a victim of forest destruction (illegal logging) is Article 33 paragraph (3) of the 1945 Constitution states that: "the earth, water and natural resources contained therein are controlled by the state and used for the maximum prosperity of the people ". And strengthened again with the decision of the Constitutional Court in the "MKRI decision No. 3 / PUU-VIII / 2010" which argues that state control over the earth and water and natural resources contained therein. Therefore, it can be concluded that the rights of the community as victims are only objective in that the state takes policies in the interests of the state in general.

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REVIEW ARTICLE

POLITICAL IMPLICATIONS OF LAW IN THE FORMATION OF LAW NO. 13 OF 2003 CONCERNING WORKERS PROTECTION IN EMPLOYMENT AGREEMENT SPECIFIC TIME (EAST/PWKT)

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ABSTRACT

Basically social protection is a labor protection which aims to ensure that workers / laborers are valued for their dignity and status as human beings, not only as a factor of production (external factors, but are treated as humans with all their dignity and values (internal or constitutive factors). Law in the Formation of Law No. 13 of 2003. This research study uses a research method with a normative juridical approach with data collection techniques in the form of library research. Political Politics in Lawmaking No. 13 of 2003 is influenced by the spirit of reform to better provide protection for workers / workers after the "dark era" in the new order, and because of the problems of era labor, it has to do with the economic problems in a country, especially in Indonesia, which is a developing country, which in the process of making this law is closely linked to economic politics clear from the implications for PKWT workers. Where this is still a pros and cons. However, this is like a double-edged knife. In terms of politics clearly this can reduce unemployment but also the number of Workers / Workers who do not understand the protection they should get. Weak understanding of the public, especially employees in private companies of labor regulations, is very likely to create injustices and legal violations that are legalized and last for a long period of time or may even last forever, even though in terms of the Manpower Act, sanctions are imposed on companies and / or individuals who violate the Law are severely punished.

Keywords: *Political Law; Labor Law; Labor Protection; PKWT; EAST*

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INTRODUCTION

Act 13 of 2003 on Manpower issued at the time of President Megawati. Where legally in Article 5 of the Act provides protection that all workers are entitled to and have the same opportunity to get a job and a decent living regardless of gender, ethnicity, race, religion and political orientation in accordance with the interests and abilities of labor concerned, including equal treatment of persons with disabilities (Khakim 2003).

Labor protection itself can be classified into three kinds, namely Protection economically, namely the protection of workers in the form of an adequate income, including when labor does not work outside of will, social protection, namely the protection of labor in the form of health insurance work, and the right to organize and the right to organize, and the protection of technical, such as labor protection in the form of security and safety (Asikin 2002).

Related Legal Politics in the formation of this legislation, it is interesting to discuss because over two hundred (200) years, the legislature is a key institution in the political development of modern countries (Biynton & Kim on Isra 2010). Political law can be divided into two dimensions. The first is the political dimension of law as the basic reason of the holding of a legislation. The second dimension is the purpose or reason that appears behind the enactment of a legislation (Rajaguguk 2004).

In view of Machiavelli that eliminates the distance between law and force states that the law is nothing but a tool of legitimacy of power and can be a justification of violence (Baswir 1993). The position of labor by employers that are not balanced, the

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necessary role of the State to protect workers as the weaker party, which by law/legislation particularly the Manpower Act in order to achieve a balance which bring society the purpose of the State which guarantee a decent life for humanity of each citizen (Zaeni 2007). To set this, the government issued Law No. 13 Year 2003 on Manpower. In the Act is one of them regulates the Employment Agreement Specific Time (EAST).

Employment Agreement setting specific time periods in Law No. 13 of 2003 on Labor regulated in Article 56 to Article 59, which can be generally stated that the Employment Agreement Specific Time For no trial period, only apply to the job type and nature completed within the specified time, the job of all kind of selection or temporary or work related to the product or a new activity or product in the experiment.

In addition, the set also that the Employment Agreement for specific time periods are not allowed to work that is permanent, work contracts for a certain period of time is based on a certain time period can be held for a maximum of two (2) years and may only be extended for 1 (one) for a period a maximum of 1 (one) year. If employers want to extend the Employment Agreement Specific Time (EAST) that certain, at least seven (7) days before the Employment Agreement Specific Time (EAST) ends has notified the intention in writing to the worker / laborer. Employment agreement that does not meet these conditions should be changed to Time Indefinite Employment Agreement or in other words, the workers appointed as permanent employees (Uwiyono 2003).

Social protection is primarily a labor protection aimed at keeping workers / laborers appreciated the worth and dignity as human beings and not just as a production factor (external factor, but rather treated as human beings with dignity and values (internal or constitutive factor) (Uwiyono 2003).

METHOD

This research study uses juridical normative research method. The approach in this study include law approach and concept approach to be used continuously and interrelated, in order to obtain further data can be reviewed, analyzed and interpreted. With the approach used is expected to explain the problems in the study of the dynamics arising from the rules regarding Law Political Implications of the Establishment of Act No. 13 in 2003 Labor Protection Against In EAST.

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LAW FOR POLITICAL PRODUCT

Moh. Mahfud MD found that legal politics is "Legal Policy" of the laws that apply or not apply weeks to achieve the objectives of the State. In this case the law is positioned as a tool to achieve the purpose of the State. Related to this Suyaryati breathing Hartono argued about the "law as a tool" in practice, politics is also legal political law as the means and rare that governments can use to create system national law in order to achieve the ideals of the nation and the destination country (Mahfud MD 2011).

The basic assumption used of this study is law is a political product that content of the character of each product will be very defined or characterized by the political balance of forces or a par which gave it birth. Assumption has been based on the fact that any legal product is a product of political decisions so that the law can seen as a crystallization of the political thought of interacting among politicians. Although in terms of "*das sollen*" there is a view that politics must be subject to the provisions of the law, but these studies more viewing angle "das sein "or empirical that law that were in fact determined by political configuration as its background. Instrumental function law as a tool of political power noticeably is more dominant than the other functions. Moreover, a phenomenon that can be seen from the growth of legal institutions, values and procedures, legislation and law enforcement bureaucracy not only reflects the law as a condition and development process but also a strong supporting structure of the political, economic, social (Mahfud MD 2011).

Law was given primary function as an instrument development program because the law is not really the main goal. Thus, it can be understood if there is tendency that law adopted in order to facilitate and political support. As a result, all the rules and laws that are considered not to create political stability and economic growth must be changed or abolished. Thus, as a political product, the law can be used as a means of justification for the political vision of entrepreneurs. In fact, activity legislative (legislation) is more political decisions load imbalance run those jobs so meaningful legislative institutions closer to politics than law (Mahfud MD 2011).

Theoretically legal relationship with politics can indeed be distinguished on three different relationships. First as *das sollen*, accepted the law on political as any political agenda should be subject to the rules of the rules. Both das sein, political determinant of the law because the law is in fact a political product of any legal, therefore, in front of us the other is the crystallization of competing political will.

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Third, the political and legal related inter-determinant political justice and without be unjust law while the law without political guard will be paralyzed. Law in this context is defined as law-pelicang created by the agency legislative (Mahfud MD 2010).

POLITICAL RELATIONS LAW BY LAW AND POLITICS LAW WITH LEGISLATION

Some of the literature reveals that the law is regarded as the goal of politics. Politics is the intent of the law so that ideas or rechtsidee such as freedom, fairness, predictability, and so placed in the positive law and the implementation of part or the whole, of the idea of law that is the goal of the political process. Second, that the law as well as a tool of politics. In this case the political use of positive law (legislation) to achieve its objectives in terms of the realization of the ideas of the law.

Accordingly, the existing regulations or society to a certain destination. In this regard, we recall the term that the law is a social engineering tool or a tool of social engineering. politics and law have the same roles and tasks that solve social problems in which politics is dynamic and legal aspects of the static aspect.

From what has been described, it becomes clear that the relationship between politics and the law is the basis of political law provided that the implementation of the legal political development can not be separated with the implementation of the overall political development. Alternatively, it can be said, the basic principles are used as political development provisions will also apply to the implementation of legal politics realized through legislation.

Legislation is part of our laws made deliberately by the state institutions. It did not appear suddenly. However, it made with a purpose and a reason. Considering there should be consistency and correlation between what is defined as a legal political with a goal to be achieved. law politics can be divided in two dimensions. The first is the political dimension of law as the basic reason of the holding of a regulation legislation. law politics with the basic reasons such dimensions according to Hikmahanto as "basic policy" or in English is called "basic policy".

The second dimension of the politics of law is the purpose or reason that appears behind the enforcement of a regulation legislation, which is then referred to as the "Policy Entry" or in English as "enactment" policy. Through "enforcement policy" to do the identification of these various policies the enactment of legislation in Indonesia

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FORMATION OF POLITICAL LAW IN LAW NO. 13 OF 2003

The Constitution of Republic Indonesia 1945 ensured that every citizen is entitled to work and a decent living for humanity (Art 27(2)). Also the objective of the State Government in 1945 opening paragraph IV, among which is to promote the general welfare. Designed to promote the general welfare of social justice according to the 1945 opening proves that the Indonesian state since its inception as a welfare state (Sihombing 2008; Putri & Arifin 2019).

The formation process so that the Labor Law actually watched the Legal Protection against Labor because the real Whatever is done within the law, we should never ignore the human aspect as the central part of the law, because the law was made for man, not vice versa. Therefore, in any proceedings in a State of law, human aspects must occupy a central position, including allowing people to participate in a process that determines the fate. Only then, the ideals to make the State under the law as the home of the people of Indonesia are orderly and convenient reality (Rahardjo 2003). However Indeed, it is known that the form of government attention often by issuing a legal product, but often the role of interest groups in the formation of law is dominant, so the law as not separated of other social subsystems included in the product (Mahfud MD 2006).

Law as translated through the materialization of their text has been placed as the political configuration that works. That is, the law has been made aware by the maker / taker wisdom with some understanding and interest they have. Therefore, although the law is believed to have values and meanings are very important in managing social life, he remained as a result of friction and attraction of political representation-specific economic power in influencing it (Perdana 2006; Arifin 2019).

In other words, the laws that are in power become increasingly helpless state when practices of politicizing more dominant than the actual practice of law. Enforcement is losing space, related to such issues Ronald Katz stated that what happened in Indonesia is a law without law, no law but useless (al-Akhlaq 2011).

Labor is a group of workers in a business field is an important partner for entrepreneurs in the wheels of economic activity. On one hand, entrepreneurs have the capital and require workers to carry out certain tasks for the benefit of employers, and on the other hand the workers need jobs and contribute energy and mind to carry out the work assigned to him by the businessman received a number of rewards determined. But often violations of labor rights committed by the employer, which is

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for example violations of wage payments under government regulatory standards or the payment of overtime under the terms of the government and others (Mahasin, Naziah, & Arifin 2020).

Renewal of government regulations on employment from time to time is a manifestation of the government's commitment to continuously improving the normative rules of employment to meet the world's sense of justice for employment in which there are employers and workers. Labor provisions issued by the government aims to regulate the life of labor in Indonesia, but the government also often issued wisdom normative rules are not clear and do not set out detailed rules were causing a lot of meaning interpretation by the employer, it would be much conflict between employers and workers.

Act No. 13 of 2003, Article 1 (14) on Labor to give understanding labor agreement is an agreement between the workers and employers or employer which contains the terms of employment rights and obligations of both parties. But in a labor agreement is not a purely civil. Because Indonesia based on Law No. 13 of 2003 embraced the Industrial Relations System, in which these relationships are related parties, namely the employees / workers, employers and the Government. Where They arise due to participate in the government in addressing employment problems through legislation, with the aim of creating and realizing fair working relationship (Art 1 (16)).

When we look back on how the politics of labor law after the independence of Indonesia in the era of the old order, or at least until 1965, is the position of the workers is only for the exploitation of physical needs alone, which is only employed at the plant for the benefit of the production process and never noticed right labor essential for the provision of welfare cover; wage issues which deserve to be given the employer to the worker (Arifin & Arifin 2019; Arifin 2020; Mahasin, Naziah, & Arifin 2020).

In the era of the old order, the role of the workers is very important to the engagement of maintaining national independence by creating a movement "Labor Unions, Workers and Trade Unions in Indonesia" were active in defending the independence of Indonesia to escape from Dutch colonial rule, the Japanese, and the Allies who wanted recapturing that the shape of the workers intervened in policy formation and labor law in Indonesia after independence government in 1945. Then, the contribution of the success of the labor movement to defend the independence of Indonesia put position of the workers are in a strategic position.

With the intervention of the workers in the establishment of policies and labor law in the government, then the rule is formed tends to advance and protect the

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workers, including; Act no. 1 in 1951 Applicability Statement Law 12 in 1948 on Labor Protection, Law No. 2 in 1951 Enactment of Law No. 33 in 1947 concerning Safety in the Workplace, Law No. 3 in 1951 regarding the Applicability Statement Law 23 in 1948 on Labor Inspection, Law No. 21 in 1954 About the Labor Agreement between the Trade Unions and Employers, Act No. 18 in 1956 which ratified ILO Convention No. 98 About the Right to Organize, Act No. 22 in 1957 about the Settlement of Labor Disputes, law No. 3 in 1958 About the Employment of Foreign Nationals (Tedjasukmana on Sinaga 2006).

In the New Order of Suharto Policy, ruling political control of labor is primarily intended to eliminate the influence of the Left flow of the labor movement in the political arena at large. In addition, the main feature of worker-employer accommodation-state during the new order is a very strong state control over labor organizations and persistent denial of the working class as a social force. In terms of labor policies carried out in this period is strongly influenced by an economic stability to stop the economic downturn after the incident G30S/PKI. It is indeed evident from the program *Repelita* by the new order (Agusmidah 2010).

Entering the reform era in 1998, with the spirit of reform policies issued by the government in the reform era in economic matters also directed to follow the policy flexibility of labor relations and investment climate that has worldwide in accordance with the development of globalization, liberalization and free market. Since the core of the flexibility of the employment relationship is the freedom to mobilize and implement a system of labor relations in accordance with the needs of a flexible labor market (Agusmidah 2015). So, of economic policy made by the government in the reform era either directly related to employment issues and policies relating to investment, it is clear that flexibility policies geared working relationship (Agusmidah 2015).

Then, in the era of the so-called post-reform, some of the demands put forward the community will remain, especially related to the sector - a sector that has not been achieved in the reform period. Sector - the sector which are related to the rule of law, human rights, and the eradication of corruption, collusion and nepotism. Besides, it also will always appear on the fulfillment of the demands of justice in the economic field (Arinanto 2006).

When discussing the economy, it can be separated from the Chinese State. Chinese as Asian tiger that became one of the strongest countries in the world's economy has done a total legal reform, creating a law based on the economy so that the law could facilitate economic and answered all the existing economic problems. Where the country since the beginning of the 1980s, beginning of the rapid

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development vesting legislative power cannot be avoided. Legal mechanisms essential for a modern country to strengthen the administration of this system vesting legislative power also promotes the development of the country, a reflection of the positive consequences of the rebuilding of China's legal system and economic restructuring (Xichuan & Lingyuan on Arinanto 2001).

This needs to be discussed as well as the economy is closely related to labor issues as described above, that Labor is a group of workers in a business field is an important partner for entrepreneurs in the wheels of economic activity. Because labor issues are based on the spirit of reform when the monetary crisis in 1997, it shows how vulnerable the nation's economy was built during this time that demands for reform which economic disruption brought great suffering to many residents and contribute to regular outbreaks of social conflict, including ethnic and religious clashes in various parts of the country. So, the emergence of Termination of Employment where even though many of them, especially the worker's status as employee EAST.

The relationship between the legal protection of workers / labors in employment agreement specific time (EAST) with economics because EAST is part of legal changes in the field of employment/labor. Where is Indonesia after the reform and will undergo an industrialization phase (Art. 56 (2)). In the industrialization phase characterized by the accumulation of capital and economic growth, where the law in favor of the industrialists, the rules EAST born to answer the needs of industrialization (Art. 56 (2)).

LAW POLITICAL IMPLICATION OF THE ESTABLISHMENT OF ACT NO. 13 OF 2003 AGAINST LABOR PROTECTION IN EAST

Employment Agreement according to the law No. 13 in 2003, is divided into two, namely the Employment Agreement Specific Time (EAST) and Employment Agreement Unspecific Time (EAUT). Where Employment agreements are made for a certain time (EAST) must be in writing. This provision is intended to better ensure or maintain things that are not desirable in connection with the termination of employment contract. EAST shall not require the presence of probation.

EAST actually are still raise the pros and cons. Where in the formation of this Act in fact the legislators argued to reduce unemployment. When compared with Act earlier, on Law No. 12 of 1948 and Act No. 14 of 1969, the employment relationship is not fixed. There is no organized, the reverse is also no prohibited, so use it as a habit.

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While in Law Number 13 in 2003 on Manpower provides a stronger legal basis than the previous law. EAST where there are separate settings in sub-chapter on employment. Then made the norm of the executive, namely the Ministry of Manpower and Transmigration No. KEP.100 / MEN / VI / 2004.

After the reform and the release of this Act shall in this period noticed among others the interests of labor then the demands on government intervention through the establishment of laws that protect the weaker is very strong. Especially these EAST problems as described above raises the pros and cons.

The number of practices that deviate from the provisions of this law is one of the demands of the workers at the time of massive demonstrations. Because it is in the process of its formation as described above to accelerate the process of economic growth but forget about workers' rights.

Because basically the system of relations workers with employers a nation always reflects a development system that is basically a reflection of the economic system or the system development and ideology embraced. For example, the economic system which is too liberal, capitalist or *etatist paced*, communistic will bear the same system of industrial relations as its reflection.

So in the end the economic political influence is also crucial Employment Law, because basically these two things cannot be separated in the era of globalization of trade, the applicable law is the law of the free market that requires the government's role be on the wane and even become larger private role. This law applies also to the field of employment (Uwiyono 2003).

However, not all things in Employment Law can be submitted on market mechanisms. In addition, the law system of Indonesia also did not give room spacious enough for it. This was where the government was challenged to run a labor policy that is able to accommodate all the interests, both owners of capital, workers / laborers and the government itself.

Not to mention if it is the Indonesian people better understand values of justice in the community so there are many people who still customary law uses resolve any legal issues rather than find out about the national law itself (Lubis in Arinanto 2016). No exception to the workers who were low educational level does not understand the national laws actually protect them in EAST issue. So that there are problems here and there in the process of this legal protection.

It can also be caused when viewed sociologically worker is the person or group that is not free, which means it is a person who has no life provision other than strength alone, he was forced to work on other people and employers this is basically

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determine the terms of employment that (Finawati 2003). Because that Indonesia is a developing country where jobs are not balanced with the available labor.

Real law has become a tool of social change. Legally required to take actions that affect people, property or the rights of everybody. Requests for legal practitioners was never satisfied until today (Jain 1989). This also applies in the Law of Political implications of this Act to Workers EAST that this legislation should be a tool to influence the employers to pay more attention to the provisions of the workers / laborers EAST.

Koffi Anan himself argued that the economic rights and social responsibility are two sides of the same coin. That is why a few years ago in Davos, he proposed a global equation between the PBB business. He also asked them to take action within their sphere of influence (PBB), in accordance with internationally accepted standards in the field of human rights, labor standards, and environmental-United Nations system and offer services to help them do so (Annan 2000).

Then Government intervention to enforce the rules of Labor is also indispensable in Pancasila Industrial Relations system. Besides efforts to resolve business disputes including labor issue should be able to give justice without inhibiting economic growth. Where is fronted bipartite and tripartite in labor disputes. For as by Friedman, in the end, if the courts cannot solve the problem and if the problem does not disappear by itself (through a radical change in popular tastes or tolerance level), some solutions outside the law will be achieved (Friedman 1967).

Protection of workers/labors who use Employment Agreement Specific Time (EAST/PWKT) as stipulated in Law No. 13 of 2003 on Labor and its implementing regulations, namely in Article 59 paragraph (1) of Law Number 13 of 2003 on Labor which states that the work agreement for a specified time can only be made for specific jobs by type and nature of the job will be completed within a certain time, namely:

a. Jobs that once completed or are temporary in nature,
b. Work completion is expected not too long and not later than 3 (three) years, and
c. The work is seasonal; or works related to new products, new activities, or additional products that are still in experimental or exploratory.

Also, in Article 88 paragraph (1) and (2) of Law Number 13 of 2003 on Labor states that each worker / labor is entitled to the income that meets a decent living for humanity. And to realize earnings that meet a decent livelihood for humanity, the government set a wage policy that protects workers / labors.

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The purpose of government intervention in the labor area is to realize a fair labor, because the legislation of labor gives rights for laborers / workers as a whole human being, because it must be protected both with regard to their safety, health, decent wages and so on. Also, the government must also consider the interests of employers / employer the continuity of the company (Husni 2011).

Supervising the implementation of the legal provisions (law enforcement) in the field of labor / employment will ensure the implementation of the basic rights of workers, which in turn have an impact on its stability. Besides labor inspection will also be able to educate employers and workers to always obey the provisions of the legislation in force in the field of employment so that disputes occurred because employers do not provide legal protection to workers in accordance with applicable regulations.

The government (state) must be able to position itself as a wise regulator by means of the establishment and implementation of the Employment Law Employment Law due will be the primary means to carry out government policy in the field of labor itself. Employment policies (labor policy), in Indonesia can be seen in the 1945 Constitution as the Constitution of the State, also in the legislation concerned.

Especially with regard to employment, if observed, the 1945 Constitution actually contains the politics of law on employment, which is in Article 27 of the 1945 Constitution and Article 28D, of these two chapters can be withdrawn their legal politics in the field of employment, which is to create rules that protect the right of every person to work and protect every person in his job.

At the end of the formation of these labor laws of the previously described because it is their political importance in the economy is inseparable from testing this law against the Constitution. Where in the first one made by Judge John Marshall as US Supreme Court Justice in the case of Marbury v Madison-known by the term Judiciary Act (1789) because the substance is contrary to the constitution (Rehnquist 1989). One such case is the Constitutional Court Decision No. 7 / PUU-XII / 2014 concerning the shift worker status EAST be EAUT So that future needs to be considered by the authors do Judicial Review by Parliament with more advanced aspects of Labor Protection rather than political.

CONCLUSION

Political Law in the Making of Act No. 13 of 2003 influenced the spirit of reform to give greater protection to the labors / workers after the "dark era" in the new order. Moreover, because the labor issues related to a country's economic problems,

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especially in the State of Indonesia which is a developing country. Where in the process of enactment of this Act closely with economic policy. It is apparent from the implications for workers EAST. Where it is still the pros and cons. However, it's like a double-edged knife. In political terms this clearly can reduce unemployment but also many Labor / Workers who do not know with the protection they are supposed to get, so that the need of judicial review of this legislation so that more priority is the legal protection of workers as citizens rather than more advanced aspects of the legal political and economic policy to make it easier for entrepreneurs and investors in the hiring of workers in EAST. So that it is also necessary to create a government oversight of industrial relations its aspired Pancasila.

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REVIEW ARTICLE

DYNASTY POLITICS IN INDONESIA: TRADITION OR DEMOCRACY?

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ABSTRACT

The presence of political dynasties that encompassed power struggles at regional to national levels resulted in the substance of democracy itself being difficult to realize. The flourishing of political dynasties - especially in the regions - is inseparable from the role of political parties and regulations on the elections. Oligarchy in the body of political parties causes the mechanism of candidacy and nomination to not run as it should. During this time, there is a tendency for candidates to be nominated by political parties based on the wishes of the party elite - not through democratic mechanisms that take into account the subjective abilities and integrity of candidates. In addition, at the same time, political dynasties continue to build a strong network of power so that they can maintain their power within the party body both at the regional and central levels so that political dynasties are able to dominate and kill democracy in political parties.

Keywords: *Dynasty; Political Parties; Indonesia; Democracy*

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INTRODUCTION

Since the end of the New Order era, Indonesia started a new era in the implementation of the government system, namely the government that we know by the name of the Reformation. Before the reform era, democracy was a hope that seemed difficult to achieve in the previous era. At that time, under the centralized power and restricting the movement in democracy, we wanted the freedom to express opinions and express, take part in the running of government, and enjoy the fruits of development in an equitable way. We dream of a government formed on the basis of democracy, that is, of the people by the people and for the people. We want democracy and a real republic. But after twenty-one years of living in a democracy, fundamental questions begin to emerge. Is it true that this nation wants democracy, or at least whether the current practice is genuine democracy (Gaffar, 2012: 9).

Discussing the problem of Democracy certainly cannot be separated from dynastic politics which seems to be contrary to the spirit of democracy itself. How can it be that the practice of kinship politics today is a hot topic in the world of politics in Indonesia. Kinship politics or what is often called "dynastic politics" is considered as the impact of weak party institutionalization and the proper functioning of political

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parties, giving rise to a tendency to strengthen kinship politics that seems to be a shortcut for political parties to win political contests and ensure the existence of a particular political regime (Harjanto, 2011: 138; Pamungkas & Arifin 2019).

METHOD

Normative legal research is a type of legal research used in this study. Normative legal research will depend on a method with a focus on library law research using library materials, as well as applicable laws and regulations. In this legal research, a descriptive approach is used where a descriptive approach is carried out by describing the political phenomena of dynasties in Indonesia. Primary legal materials that will be used in the writing, compilation and presentation of legal research are legal provisions in the Law on Human Rights, the Election Law and secondary legal materials relating to books, literature, written results of legal experts and doctrines that are relevant to the discussion of this legal research. The technique of collecting legal material in this study uses document studies (literature studies). Analysis of primary legal materials and secondary legal materials is carried out by the method of systematic interpretation, then interpreted by the formulation of research problems related to the phenomenon of dynastic political traditions in Indonesia

THE PRACTICE OF DYNASTIC POLITICS IN INDONESIA

The practice of political dynasties in true democracy does not exist because in the constitution it guarantees and upholds every citizen to vote and be elected. The Indonesian state belongs to all its citizens, not dominated by certain groups, groups or families. Thus, every citizen has the right to be elected to sit as a public official as long as the people want it. The practice of dynastic politics in Indonesia emerged in the

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form of *aji mumpung*. That is, when the father is in power to become an official, then bequeathed his authority to his son, son-in-law, his wife, sister, brother-in-law and other relatives. So, what develops is patrimonial, meaning that power is only circling around certain family or family circles. Dynasty is a word that defines autocracy as the sensitivity of imaging of ancestors, grandfather, grandmother, father, mother, siblings and relatives is still a bastion of the legitimacy of power. Dynasty in politics creates a circle of power or structuring that occupies the family, children and colleagues (Abdurrahman, 2015: 108).

The circle of power includes strategic positions that are one line of instruction and coordination and strategic positions obtained through elections such as elections to become leaders in a region. Political Dynasty according to the understanding (Agustino 2011: 130) is a "political empire" where the elite places their family, siblings and relatives in several important posts of government both local and national, or it can be said, the elite forms strategies such as a structured and systematic royal network (Agustino 2011: 31; Arifin & Hidayat 2019; Arifin & Putri 2019). With this network, it will be easier for certain families or relatives to continue the chain of power.

THE DYNASTIC POLITICAL PHENOMENON IN INDONESIA: TRADITION OR DEMOCRACY?

The names of the two sons of Indonesian President Joko Widodo appeared, Gibran Rakabuming and Kaesang Pangarep, in the Surakarta Mayor Election exchange period 2020-2025, causing various kinds of public reactions. Even though it was only a preliminary survey, Gibran and Kaesang were said to be the start of the Jokowi's family's political dynasty. Gibran and Kaesang are considered to be alternative figures. In addition to having a high popularity, both of them also have an identity to represent

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"youth" as a leadership style today. Coupled with the existence of his father as RI 1. "Like it or not, our politics are the basis of the clan.

Jokowi has a large capital to build it in terms of legal basis regarding dynastic politics as if it was increasingly open, especially on July 8, 2015, when the Court finally" allow "political dynasties. In the trial presided over by the then Chief Justice of the Constitutional Court, Arief Hidayat, this institution officially canceled Article 7 letter (r) of Law Number 8 of 2015 concerning Regional Election or *Pilkada*, which states that the requirements for Regional Head candidates (Governor, Regent or Mayor) does not have a conflict of interest with the incumbent, that means not having blood relations, marriage ties and/or bloodline one level straight up, down, sideways with incumbent (father, mother, in-laws, uncles, aunts, brothers , sister, brother-in-law, child, son-in-law).

Constitutional Justices argue that ideally in the implementation of democracy is the involvement of as much community participation as possible in participating in the political process as the implementation of democracy. Although restrictions are needed to ensure that public office holders fulfill their capacity and capability, they must not limit the constitutional rights of citizens.

Thus, family members, relatives, and groups close to incumbent can participate in the simultaneous local elections in December 2015, without having to wait for a gap of five years or one term of office. In its consideration, the Constitutional Court stated that the provisions prohibiting conflicts of interest with incumbents make meaningful differences in terms of treatment based solely on one's birth and kinship status.

In fact, in this case the constitution guarantees that every citizen is free from discriminatory treatment in anything and has the right to receive protection against discriminatory treatment including in the case of being elected and elected. The prohibition of discrimination is also emphasized in Law No. 39 of 1999 concerning Human Rights Article 3 paragraph 3 which emphasizes that every person has the right to the protection of human rights and basic human freedoms without discrimination.

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Then the Constitutional Court saw that Article 7 letter (r) of Law No. 8/2015 was also not easy to implement by the election organizer. That is because the meaning of the phrase "does not have a conflict of interest with the incumbent" is left to the interpretation of each person according to his interests that can lead to legal uncertainty.

Now we see the performance and capacity of the politicians who were dynasties of the politicians before they started from the political dynasty in Banten Former Banten Governor Ratu Atut Chosiyah placed his relatives in the Banten government. Atut is a suspect in a number of corruption cases with his younger brother, Tubagus Chaeri Wardana alias Wawan. Among them were bribery cases against former MK Chief Akil Mochtar in the Lebak district election dispute in a corruption case in the procurement of medical devices in Banten.

Then in the Kutai Kartanegara dynasty, the case of the Kutai Regent Kertanegara Rita Widyasari showed that political dynasties in an area were closely related to corruption. Before Rita was involved in a corruption case, Rita's father, who had served as the Regent of Kutai Kertanegara, Syaukani Hassan Rais was first determined as a convicted of corruption in the misuse of funds stimulating natural resource levies (oil and gas), funds for feasibility studies in the Kutai Airport, and funds for the construction of the Kutai Airport, and misuse of public welfare budget post funds. While his daughter Rita, is a suspect of three corruption cases. The first case is related to the bribery of providing operations for the core and plasma needs of oil palm plantations in Kupang Baru Village, Muara Kaman District to PT Sawit Golden Prima. In this case, he received a bribe of Rp 6 billion. The next case is that Rita is suspected of receiving gratuity related to her position Rita is also suspected of disguising gratification worth Rp 436 billion. He also became a money laundering suspect for disguising gratification.

From the case above concerning the dynastic politics of corruption by dynastic politics there are at least a number of possibilities. First, to build a political dynasty to "perpetuate power", certainly not only social capital, but also strong capital. During

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this time, the political process, both at the national and local levels is still harmed by deviant practices that are most often done is the practice of money politics or money politics and political dowry.

In this case dynastic politics do not deviate in terms of our positive law, the anti-politic article of dynasty has been rejected and canceled by the Constitutional Court because it is considered to obstruct a person's constitutional right to participate in elections, but the attitude of society that still has a primordial attitude, which continues to trap society into a pattern think that tends to be closed. Difficult to accept new people, even though the choice does not fully promise a change for the better. In the context of local politics, the situation was used by politicians to build their political dynasties because they were considered to have maintained the stability of their regions, even though the original was also questionable when seeing corruption committed by political dynasties. So. it is not surprising, if political dynasties always sell identity politics in every practical political activity

CONCLUSION

Based on the findings of facts and the legal basis of dynastic political phenomena in Indonesia, the following conclusions can be drawn that legally positive, dynastic politics is certainly not prohibited along with the cancellation of Article 7 letter (r) of Law Number 8 of 2015 concerning Pilkada, which states that the requirements for candidates for Regional Head (Governor, Regent or Mayor) do not have a conflict of interest with the incumbent. Thus, the implementation of dynastic politics is indirectly "permitted" in our positive law Dynasty politics is also a product of human rights regarding political rights, namely the right to be elected and to choose. The dynastic political phenomenon in Indonesia is also part of the culture in Indonesia. Primordial culture is a view or understanding that holds firmly on things brought about as a child, both regarding traditions, customs, beliefs, and everything that exists in this first environment. which are used by incumbent candidates or regional heads to draw votes from the people who reject new things. Difficult to accept new people, even though the choice does not fully promise change for the better, it can reduce the

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dynastic politics that also not necessarily good The many practices of dynastic politics are a consequence of the mistaken evaluation of Indonesian democracy. Therefore, in order to realize true democracy and not pseudo democracy in the name of the people, it is better for Political Parties who have also played a role in dynastic political practices because political parties are the only political vehicle that is possible in the implementation of dynastic politics. In addition, the thing that can be done is to eliminate the behavior of money politics in elections both related to political dowry and to give prospective voters some money to choose one pair of candidates, so that more people can participate in the elections. During this time the candidates who emerged came from dynastic groups who already had a lot of economic resources making it possible to do money politics to get them elected.

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REVIEW ARTICLE

PRESS ROLES IN DEMOCRACY SOCIETY

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ABSTRACT

Citizens can express their opinions through printed and electronic masses, one of them through mass media press. The free and responsible press is indispensable to support the formation of democracy society. Here the press role is crucial in the democracy community. The research method used in this research is normative. The data source used is a secondary data source, i.e. data obtained from literature material. The data collection techniques in this legal study use Documenter studies. The results of these studies and discussions are of the numerous press roles, which explicitly relate to the democratic community is the role of enforcing the fundamental values of democracy. The press is required to open up to the wishes of the community in participating or supervising the public agenda. Advice from the results of the discussion, the press should provide opportunities for citizens to criticize, submit claims, commit rejection of government policies that do not apply and fight for justice and truth through the independent press.

Keywords: *Roles; Press; Community; Democracy*

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INTRODUCTION

Article 28 of the Constitution 1945 mentions that freedom of union and assembly, out of mind with oral and written and so stipulated by law. This section 28 guarantees to citizens to: (1) Form an association or organization in both political and non-political, (2) free expressed opinion. The freedom to convey an opinion must be guaranteed by the Government in accordance with the direction of the Constitution as a form of state obligation to protect citizens who feel harmed by government action or to ensure the human rights of citizens in particular the right to communicate and obtain information.

Citizens can express their opinions through the media-the mass of both print and electronic media. These masses in other words are called the press. The press is a term in Dutch. The term in English is press. Literally, the press means print and outward means broadcasting on a printed or printed publication (Effendy, 2006:245).

The Department of National Education Language Center (2002: 863) gives the press meaning in 5 things: (1) Printing and publishing business, (2) The collection effort of ADM News Broadcasting, (3) news broadcasting through newspapers, magazines and Radio, (4) people engaged in news broadcasting, (5) medium of news broadcasting such as newspapers, magazines, radio, television and film.

The press or media-the masses referred to in this paper are all activities and forms of collection, printing, publishing and broadcasting of the news. The free and responsible press is indispensable to support the formation of the democracy community. The existence of the press is primarily a freedom of press believed to be

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one of the criteria that must be fulfilled by a state that wants to be called Democracy (Suseno 1995: 60; Rosyada, et al. 2003:117). This free and responsible press is a pillar of Democratic enforcer other than the law nation, civil society and political infrastructures.

The values developed in democratic societies such as freedom of speech, other group freedoms, equality, cooperation, competition and belief will not be realized properly if the community or the state does not permit press or media-mass, because only a few of them produce the news or opinions of citizens and even a control window for the community to supervise or conduct an assessment of the performance of a State government. Based on the writing above, in this article the problem to be obtained is how the press role in the democracy community.

LITERATURE REVIEW

I. MEANING AND FUNCTION OF PRESS

According to article 1 of law number 40 year 1999, the press is a social institution and a mass communication vehicle that conducts journalistic activities, including: seeking, obtaining, owning, storing, processing, and conveying information both in writing, voice, picture, sound and image as well as data and graphics and other forms using printed media, electronic media and all types of channels.

In its development, the press has two understandings, namely the press in the broad meaning and in the narrow sense. The press in a broad sense includes all publications, even including electronic mass media, broadcast radio and television broadcasts; While the press in the narrow sense is limited only to the media-the printing of newspapers, magazines and Bulletin (Effendi, 2006:145).

If it is reviewed, the press is limited to print media only; But in the reality radio and television is also included in the press environment because when held press conference, which includes news in the press meeting is not only newspaper journalists, magazines and news agencies, but also radio journalists and television.

Electronic and print mass media become part of mass communication has the main characteristics, namely: the process is in one direction, the Communicator is institution, its message is general, the media raises the solidarity and communication heterogeneous. Although mass media and electronics have the same traits, they have a significant difference. Messages broadcast by electronic mass media are accepted by the audience at a glance and audiences must always be located or adjacent to the aircraft: whereas messages delivered by print masses can be re-examined, learned and

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saved to be read on each occasion. Messages broadcast by electronic mass media must be packaged in such a way as to be easily digestible by listeners and viewers while the messages presented by the print mass media tend to be sophisticated and scientific.

Judging from its ideological, press are categorized into four namely: (1) Authoritarian press, (2) Libertarian Press, (3) social responsibility Press, and (4) Soviet Communist Press (Effendy, 2006:146). Based on the four types of press, the most appropriate for the development of a country's democracy is libertarian press and social responsibility press.

According to the Act No. 40 year 1999, the national press function is as: (1) Information media, (2) educational media, (3) entertainment media, and (4) social media.

The press has the independence to find out and convey information as an important effort to ensure the realization of human rights or which is often referred to by HUMAN rights. The Constitution of the year 1945, as certify Human rights, especially in article 28 E paragraph (3) and article 28 F, article 28 E paragraph (3) states: "Every person is entitled to freedom of association, gathering and issuing opinions." Article 28 F reads: "Everyone has the right to communicate and obtain information, to develop his/her personal and social environment, and to seek, acquire, own, store, process and convey information using all available channels."

Press as an education, hopefully can serve as a source of knowledge for audiences. When people or groups are in the audience or involved in the press, new insights intellectual acuity and critical awareness are significantly increased. Then from the political aspect, the mass media that provides the choice of news becomes an important part of the political education process that helps create conditions for the community to learn to find other alternatives (Ibn. Chamim, et.al 2003: 153).

Both print and electronic mass Media provide entertainment facilities that can be enjoyed by the audience of readers, listeners or spectators. For newspapers and magazines, news or entertainment information such as short stories, serialized stories, rhymes, caricatures, funny stories, celebrity drawings and interesting advertisements provide services to readers, while also serving to compensate for heavy news and weighted articles. The entertaining function of the press is primarily television giving a compelling choice to viewers who are working or studying. In front of television, smiling as viewers, laughing at the group of Joker who were performing or drifting sad when watching soap operas. From the radio, listeners can request their favorite songs, enjoy the songs that are heard and hear the humor and the will of his investigator.

The press also conducts social control, the responsibility of the community to be able to live according to the agreed norms. Similarly, through news, opinions or

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other information offerings, the press can be used to prevent misuse of corruption, collusion, and nepotism or misappropriation and other irregularities.

II. PRESS RIGHTS AND OBLIGATIONS

The press has independence, namely as one manifestation of the sovereignty of the people based on the principles of democracy, justice and rule of law, the Sound of Article 2 Act number 40 of 1999. The independence of the press is secured as a human right of the state, meaning that the press is free from the precautionary, prohibition and or emphasis of the community's right to obtain guaranteed information. Such rights are secured by Constitution 1945 i.e. 28, 28 E paragraph (3) and 28 F. Law Number 39 of 1999 about human rights also provide similar assurance. Article 23 paragraph (2) of the Law states: "Every person is free to have, issue, and disseminate the opinion according to his or her conscience, orally and or in writing through print or electronic media with regard to values, religion, morality, order, public interest, and the integrity of the nation."

Unlike the previous provisions, against the national press shall not be subjected to censorship, limit or violations of broadcasting (article 4 paragraph 2, Law No. 40 year 1999). This is a step forward rather than the press conditions during the new order. The new order as a fear regime caused the occurrence of silent society or Silence-society. Similarly, the mass media fear not dare to voice a different view or opinion for fear of being bullied. In order to ensure the freedom of the press, the national press has the right to seek, acquire, and convey ideas and information. Journalists as a human press have a right to reject the news in front of the law.

The rights owned by the press and members of the public, especially those who have been practiced during the Reformation are able to apply democratic values such as freedom, equality, appreciation of differences or diversity, equality, cooperation, competition, openness and trust.

In addition to having the above rights, the national press is obliged to preach events and opinions by respecting religious norms and the sense of public morality as well as the presumption of innocent principles. Similarly, the press must serve the right of responsibility and correction rights. So the press at any time is under the control of society. Control can be done by individuals as well as public agencies such as media monitors and the Press Council. Activities undertaken by the public to ensure the implementation of this control function are: (1) Monitor and report analysis on the breach of laws, ethics, and technical errors of the press, (2) Submit

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proposals and suggestions to the press board in order to safeguard and improve the national press quality.

METHOD

This research uses the normative juridical research approach. Normative legal research, also known as Literature Law Research, is: "Legal research conducted by researching a library material or secondary data. (Soekanto & Mamuji, 2010: 12). This research is a research in the form of analyzing of positive law that is focused on collecting data on the prevailing law that is the law of the Press regulations.

The data source used in this study is a secondary data source. Data obtained from libraries or literature materials that have a relationship with the research object. Then the primary legal material which is a legal material that has binding power. So, the primary legal material in this study covers legislation, namely Act No. 40 year 1999 about the press. The legislation approach is one of normative legal research approaches according to Johnny Ibrahim (2008). The Statue approach is an approach used to analysis and examine something that will be examined.

So, this research is using a regulatory approach, by reviewing the press role in the democracy community based on the legislation governing the press. As for the data collection techniques in this legal research, namely using Documenter study. The documentary study is a study that examines the sharing of documents, both related to statutory regulations and documents (Salim & Nurbani, 2014: 19). The documentary study is certainly related to the press role in the Democracy society.

ANALYSIS OF PRESS ROLES IN DEMOCRACY SOCIETY

Democracy is a society in which the principles of freedom, equality and pluralism are developed. Democracy according to Dahl (2001:53) provides various opportunities for: (1) effective participation, (2) The equality in voting, (3) gaining a clear understanding (bright), (4) conducting final supervision on the agenda, (5) Adult conversation.

Dahl (2001:63) gives a reason why society should be democracy, namely: (1) Avoiding tyranny, (2) Ensuring human rights, (3) to ensure greater personal freedom, (4) helping people to protect their fundamental interests, (5) giving the most sense of sincerity for people to use the freedom to determine their own fate, (6) to give maximum opportunity to carry out moral responsibility, (7) to help human

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development more in total, (8) to help the relatively high level of political equality , (9) help make peace and avoid war, (10) Accelerate prosperity.

The parallel democracy with liberalism is a system that has a high commitment to equality, freedom, individuality and rationality (Bellany in Roger Eatwell and Anthony Wright (ed) 2004:32).

On the next level, democracy in the realm of liberalism evolved into a liberal democracy, namely the liberal first (aiming to restrict state power over civil society) and later democracy (aiming to create a structure that would secure the people's mandate for the holders of State power).

The quality of democracy must increase to the level of democratic autonomy, Held. According to Held, the autonomy of democracy requires a statement of human rights (the bill of right) beyond the right to elect to provide the same opportunity to participate and to find personal preference and supervision by citizens of the public Agenda (Sorensen, 2003:15).

The growth of democracy requires the three main values that are the principle of the existence of democracy, namely (1) freedom (2) equality, (3) the sovereignty of majority vote (Nurtjahjo, 2006: 75).

The values of democracy as a primary prerequisite of community formation or democratic rule do not appear on their own. Democracy is not dating from the sky. Democracy must be cultivated. One community or social institution that is expected to implement democratic values is the press or mass media.

Almost all authors, such as: Dahl, Powell, Jr, Sorensen, Lively, Mayo, Budiardjo, Widjaja, Rais, and Suseno agree that the freedom of the press is one of the important pillars of community or government democracy. The democratic government, according to Suseno (1995: 81), took place under the spotlight of society and the main highlighter was the press. The press provides information and facet of judgment that the community needs to form a responsible opinion on the government and political life.

In the context of Indonesia's democratic state, the press performs the role of: (1) fulfilling the community's right to know (2) establishing the fundamental values of democracy, encouraging the realization of legal supremacy, human rights and respecting diversity, (3) developing public opinion based on precise, accurate and correct information, (4) conducting supervision, criticism, correction, and advice on matters relating to the public interest, (5) championing justice and truth.

In Saudi Arabia, as an absolute royal state, the development of the media and press has enriched the democratic process in political activity (Jebril, Nael et al, 2013).

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This is evidence that the media or press can play an effective role even in countries with absolute systems.

Of the many press roles, which explicitly relate to democratic society is the role of enforcing the fundamental values of democracy. In relation to this role, the press is required to open up to the wishes of the society in participating or supervising the public agenda. The press should provide opportunities for citizens to criticize, file claims, commit rejections against government policies that do not apply and fight for justice and truth through independent press. Through the press independent, open, critical, and objective the expected values of freedom, similarity, plurality, people's sovereignty, cooperation, competition, rationality and other derivative values can grow with fertile strengthening the foundations of democratic society.

Nevertheless, freedom of the press is not absolute. The freedom of the press is a pattern of relative, contextual, and dynamic patterns (Suseno, 1995: 81). Violating privacy, corrupting other people's names, defamation, religious insults, insults the head of State, solicitation of undermines of the state or constitution, and commit criminal in almost all democratic states prohibited by law. Law number 40 of 1999 gives signs to the press company especially in AD loading. The banned advertisements are: (1) that degrading a religion and/or disturbing the harmony of inter-religious life and contrary to morality, (2) liquor, narcotics, psychotropic, and other addictive substances in accordance with the provisions of the prevailing laws and regulations, (3) demonstration of cigarette and use of cigarettes.

Relativity and contextual Press can also be examined from the contents of Law number 32 of 2002 about broadcasting. In accordance with the provisions of the Act, the contents of the broadcast must contain information, education, entertainment and benefits for the formation of intellectual, character, moral, advancement, strength of the nation, safeguard unity and unity, and practicing the values of Indonesian religion and culture.

Still according to Law number 32 year 2002, the content of the broadcast is prohibited: (1) is defamatory, inciting, misleading and/or lying, (2) highlighting elements of violence, obscene, gambling, narcotic abuse and illegal drugs, (3) to vary ethnic, religious, racial, and Intergroup. Similarly, the contents of the broadcast are prohibited from plugging, degrading, harassing and/or ignoring religious values, human dignity of Indonesia or damaging international relations.

Press or mass media accountability in addition to the roles, obligations and prohibitions to be avoided by the press, is also shown through the Indonesian journalist's journalism ethics code and the Code of the Independent Journalists Alliance. Article 3 of the Indonesian journalist's journalism code of Ethics, for

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example, "Indonesian journalists do not broadcast news, writings or misleading images, distorting facts, defamatory, obscene, sadistic, and exaggerated sensations". In line with the code, Indonesian journalist Alliance instructed the members not to present the news with obscenity, cruelty, physical and sexual violence.

CONCLUSION

Press or mass media is one of the indicators of the community or democratic government. The press is seen as the most effective public institution in shaping the democracy culture of a society. Newspapers, magazines, tabloids, television and internet are believed to be important socialization agents in shaping the community imaginative democracy as it has control over the information to be presented. Democratic values such as: freedom, equality, pluralism, the sovereignty of the people (majority-rule), appreciation of Diversity, competition, cooperation and rationality can be adjusted throughout the freedom the press is guaranteed. The free press remains based on the principles of democracy, fairness and legal supremacy. The provisions of its functions, rights, obligations and roles as governed by the law shall remain to be complied with. Similarly, there are prohibitions to be avoided by the press. The existence of prohibitions and obligations is not intended to restrict press space, but instead directed to build a free and responsible press or a democratic press. Without a legal corridor, the press will fall into an anarchist act that substantially does not conform to the principles of democracy.

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