

# Models of the Settlement Effort for Communal Conflicts (In Ketara Village, Central Lombok Regency and Ngali Village vs Renda Village, Bima Regency) West Nusa Tenggara Province

Muhammad Natsir<sup>1</sup>, Koesno Adi<sup>2</sup>, Prija Djatmika<sup>3</sup>, Hj. Rodliyah<sup>4</sup>

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## Abstract

The research is focused on a model of settlement effort for communal conflict in Ketara Village, Central Lombok Regency where there is a conflict between Dayeng Rurung block and Bagek Dewa block known as the three-day war. There were six conflicts since 2007 until 2009 and the peak of the conflict happened on September 26, 2009 in which 6 people were killed. On the other hand, the communal conflict between Ngali Village and Renda Village consisted of four stages. The first stage happened 1909-1911 caused by the revenge as an impact of the war between the Ngali against the Dutch in which the village was burned down after the Dutch defeated them. The second stage was known as "Ndempa" (Mbojo language or Bima) involving the Ngali Village against the neighboring Renda Village, Baralau Village and Sakuru Village of Bima Regency from 1911 until 1970. The third stage happened from 1971 until 1991 involving the youths carrying sharps. The fourth stage happened since 1991 until 2009. It is the fourth stage chosen as the focus of the research because it is the biggest one and involves the use of organic weapons. The legal issues are why communal conflict happens and how the effective model of settlement shall be realized in the future.

The model of settlement effort for communal conflict in forms of penal and non-penal efforts that can guarantee legal certainty and justice is the ideal of the community. Indonesia embraces civil law system obliging detailed elaboration of the articles for dealing with communal conflict and the law enforcement official can use the Criminal Code (KUHP) Article 358 KUHP, Article 170, 351, 55, 338-340, and Code of Criminal Procedure and the Law No. 2 Year 2002 on the National police, especially article 18 regulating Police Discretion.

**Keywords:** Model, Effort, Settlement, Communal Conflict

## 1. Introduction

Indonesian community is a combination of different cultural identities, economic marginalization and politics. Problems do not only appear in forms of separatist movement in Aceh and Papua, but also in forms of various communal conflicts, such as in Poso and Ambon representing identity conflict. From economic perspective, conflicts are not only related with capital seizure as a capitalist characteristic marginalizing certain group, but also concerned with greed of conflicting groups in addition to socio cultural factor, history, government and legal factor.

Philosophically, a harmonic society is full with social cohesion which is the course of living in community, state and nation. Meanwhile, main course of law is to create justice, where its beneficiary is a law-obedience society. Because of that, every problems of law occurred in the community should be done through law mechanism, but the communal conflict in Ketara Village and between Ngali and Renda, because of the lack of law awareness, makes the law problems are done by ways outside the law, which is conflicted with the goal of living in community, as a nation and state.

Conflict is a word from English and it means dispute, quarrel, fight or contradiction. A conflict or dispute on something happens between two or more groups. Conflict or contradiction can hardly ever be removed from human's life and the community and therefore, it is difficult to imagine a community without conflict.<sup>5</sup> It is further explained by Rahmat Safa<sup>5</sup> at that conflict or dispute is a word that often appears in life phenomenon of the community, nation and state. It's nature has also shifted from ideological to more multicultural characteristic

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<sup>1</sup>Student of Doctorate Programme of Law, Faculty of Law, Brawijaya University Email: natsirdoctor@gmail.com. Phone +6281339577637

<sup>2</sup>Promoter, Lecturer of Program of Jurisprudence Doctor, Brawijaya University

<sup>3</sup>Co-promoters, Lecturer of Program of Jurisprudence Doctor, Brawijaya University

<sup>4</sup>Co-promoters, Lecturer of Program of Jurisprudence Doctor, Brawijaya University

<sup>5</sup>Rahmat Safa<sup>5</sup> at, *Advocacy and Alternative Dispute Resolution, Background, Concept, and Its Implementation*, (Malang, Surya Pena Gemilang, 2011), p. 47.

based on differences. The changes of the nature of conflict consequently result to the emergence of alternative conflict settlement.

Nowadays, the community is sustained by various choices of conflict or dispute settlement in accordance with levels of interests and the fulfillment of their basic needs in viewing the communal conflict or the dispute itself. To settle a conflict or a dispute, there are litigation and non-litigation as well as advocacy mechanisms. Each mechanism has typical requirements and characteristics which make their potentials vary.<sup>1</sup>

In the realm of the law enforcement, the basic is the Indonesian Criminal Law (KUHP) and the Law on Criminal Procedure (KUHAP) as well as living laws in the community. However, written laws or positive laws are the most important.

According to the article 1 point (1) of the Indonesian Criminal Law (KUHP), the Criminal Law is a modern law requiring that criminal stipulations must be stipulated in the form of legit law. It means that “Adat Law” is not applicable for sentencing individuals. It is further stated that the existing stipulations are not applicable for any actions happening before the imposition of the Criminal Law. It means, law has no effect on the past. “Nullumdelectum sine poenapravialegepoenali”, meaning there is no crime when there is no criminal law previously imposed.<sup>2</sup>

On the other hand, the enforcement of the Criminal Law also involves the Indonesian National Police (POLRI) because the duties of the police are law enforcers as well as the guardian of the order in the community. They are expected to do their duties professionally and proportionally. In the practice of the Indonesian criminal justice system, the duty of the police as the law enforcer requires them to function as the criminal investigators. The function of the investigator makes the police known as “gate keeper in the process”. In addition to that, police also has an obligation to prevent crimes which is implemented in form of police patrol. The criminal court which starts from the inquiry and investigation will be continued to trial in the court. The trial process involves prosecution and closed by the decision of the judge. The trial in the court is a process to search for the material truth because an action resulting to the loss suffered by an individual must be tried in the criminal justice process. A communal conflict must be processed by criminal law because people tend to lynch a suspect and they do not obey the norms in the community. To guarantee the order and the peace in the society, the perpetrator must be tried according to the existing law. In this way, the principle of “equality before the law” must govern all decision.<sup>3</sup>

According to Muladi : “The problem of the Criminal Law in Indonesia will take us to the problem of criminal prevention in the community. Criminal policy is a term that lies within that context and it is implemented through Penal Facility and Non Penal Facility in its operational application”

The Penal Facility is the facility in which stipulations of Criminal Law are implemented to prevent crime and Non Penal Facility are those existing outside the Criminal Law which are also used to prevent crime. The question is when will we use one or both of them.<sup>4</sup>

Furthermore, BardaNawawiAriefstates : “In essence, the policy or effort to prevent crime is an integral part of social policy towards social defence and social welfare”.<sup>5</sup>

According to G.PeterHoefnagels : “Criminal Policy as a science of policy is part a larger policy : the law enforcement policy the legislative and enforcement policy is in turn part of social policy”.<sup>6</sup>

On the other side, criminal justice system as a system of law enforcement contains systemic move among subsystem or components covering police department, office of public attorney, the court and prison. They are all unified in contacts and coordination as well as making effort to transform input into output to attain the goal of criminal justice system.

According to William Friedman, the enforcement of criminal law is influenced by three elements of legal system, they are legal structure, legal substantive, legal culture.<sup>7</sup> Those components influence each other in the practice of law enforcement

According to Sadjijono, the competence of police profession is grouped into three main duties: (a) maintaining security and order in the community (b) law enforcement and (c) protect, embrace and serve the community. Afterwards, the duties are generally and specifically elaborated in police duty as well as jurisdiction. If we look into the ability of the police and their jurisdiction,<sup>8</sup> it is considered that police are able to solve problem in the community, but there is still weakness found in the implementation of their duties.

<sup>1</sup> *ibid*, p. 47.

<sup>2</sup> R. Soesilo, *The Indonesian Penal Code (KUHP)*, (Bogor: Politea, 1980), p 23.

<sup>3</sup> AndiHamzah, *Indonesian Procedural Penal Law*, (Jakarta : SinarGrafika, 2001), p. 19

<sup>4</sup> Muladi, *Selection Capital of Penal Justice System*, (Semarang : BadanPenerbitUndip, 1985), p vii

<sup>5</sup> BardaNawawiArief, *Potpourri of Penal Law Policy* (Bandung: Citra AdityaBakti, Bakti 1996) p.2.

<sup>6</sup> G. Peter Hoefnagels, *The Other Side of Criminology* , 1969, p.57

<sup>7</sup> Lawrence M. Fiedman, *American Law*. (New York: W.W. Norton & Company, 1984), p. 15.

<sup>8</sup> Sadjijono, *Professional Ethics of Law*, (Yogyakarta: LaksbangMediatama, 2008), p. 40.

According to BardaNawawiArief, crime prevention and crime countermeasure can be implemented in two ways: 1). Penal way or criminal law application and 2). Non penal way covering the measure against criminogenic factors by influencing views of society on crime and punishment through the media and crime prevention effort without punishment.<sup>1</sup>

Penal policy which is also known as “Criminal Law Policy” is essentially a part of modern criminology science. In addition to penal policy, modern criminal science consists of criminology and criminal law.<sup>2</sup>

## 2. Methods

The type employed in this research is empirical method with socio-legal approach. Concerning with the data, this research employs primary data which are obtained directly from field work covering results of interviews and observation on the behavior of law enforcement officials, reaction as well as perceptions of the community on the occurred communal conflict.

In addition to that, secondary data are in forms of law materials taken from official documents, such as legal Code, result of research, books and other bibliographies.

And then tertiary data are taken from encyclopedia and dictionary. Those data are later analyzed qualitatively by describing the obtained materials through deductive frame of thought. In that way, the plot flows from the general knowledge to the specific one.

## 3. Results and Discussion

### 3.1. The Causal Factors of Communal Conflict in Ketara Village, Pujut District, Central Lombok Regency and Conflict between Ngali Village and Renda Village, Bima Regency

#### 3.1.1 The Causal Factors of Communal Conflict in Ketara Village :

##### 3.1.1.1 Historical

Historically, there are some influential factors of the conflict in Ketara. The native of Ketara believes that their ancestor is the oldest inhabitant of Lombok Island. The Sasak people who are now living in Lombok originate from their ancestor coming from KedatunSileDendeng or BatuDendeng. On the other hand, the Sasak tribe generally questions the existence of KedatuanSileDendeng. It is still a controversy in the adat community of Sasak whether SileDendeng is the name of an elder, place or a kingdom.<sup>3</sup> On the other side, there is an elder of Ketara proclaiming himself as the king of KedatunSileDendeng. Even his existence is confirmed as a member of the Reunion Forum of Keraton Nusantara (Forum SilaturahmiKeraton Nusantara). Apart from the pro dan contra, the belief among the Ketaracommunity on their status as the descendant of SileDendeng as the ancestor of the Sasak leads them to a perception that they have higher “duk” than other people outside Ketara. Therefore, other people with lower “duk” must respect them.

##### 3.1.1.2. Social

The people of Ketara Village can be categorized as a traditional community with mechanical type of solidarity. It can be seen from how they regard other individual and their community/ group. As members of the Ketara, regardless the fight or conflict between hamlets or kampongs, they will unite themselves when there is a conflict with people from other village. In that situation, they put aside revenge among them. However, when conflict with other village is over, they resume conflict between hamlets or kampongs.

The Ketara community often thinks that a bad treat given by individual from other village to the people of their village is insinuation against their collective conscience. Therefore, they will seek for revenge in order to return their pride in a repressive way. The community tends to use their own way to get back their pride when law enforcement officials do not deal with their problem as soon as possible.

##### 3.1.1.3. Economic

From the economic perspective, Ketara village is one of the underdeveloped villages in Central Lombok Regency. Their principal way of living is farming relying on the rain. According to the Data of Ketara Village, 666 families out of 1259 families in Ketara are categorized as poor families. This was why a lot of people from Ketara involved in crimes.

##### 3.1.1.4. Law awareness

From the law perspective, there are some aspects related to the communal conflict in Ketara Village. Law enforcement is weak at the beginning of the conflict (it started on October 8, 2007). There is no legal process that can deter the community or make them aware of the criminal sanction. This is worsened by solidarity type of the Ketara which is categorized as mechanical although it is transforming into a community with organic solidarity. In such anomie or normlessness, the law must be repressive. It means criminal sanction does not

<sup>1</sup>BardaNawawiArief, *Op. Cit*, p. 42.

<sup>2</sup>Marc Ancel, *Social Defence, A Modern Approach to Criminal Problems*, (London, Routledge and Kegan Paul, 1965), p. 106.

<sup>3</sup>People’s Conscience, Monday, 8 February 2010

only function as a rehabilitation tool, but it should function as deterrence for the perpetrator as well as for other member of the community.

### **3.1.1.5. Government**

The government of Central Lombok Regency actually can help law enforcement officials in dealing with the stimulant factor of the conflict by involving active participation of the community. In this way, the community policing conception can be implemented. Also, revitalization of local institutions or local wisdoms is important for the conflict settlement. Government can use the elders and reactivate local institution to solve problem in the community. If the community is prosperous, communal conflict can usually be reduced and the community can live in peace and harmony.

### **3.1.2. The Causal Factors of Communal Conflict in Ngali Village and Renda Village**

#### **3.1.2.1. Historical**

Conflict between Renda Village and Ngali Village is a part of the war history of the Ngali. The Ngali war started in 1905 when the Dutch forced to sign a treaty with Sultan Ibrahim of Bima, Sultanate of Dompu, Sultanate of Sanggar and Sumbawa saying that the Dutch had the rights to impose the taxes on the goods entering four regions.

In 1906, the Dutch conducted population registration. This arouses suspicion that the registration was aimed at identifying the number of men that could be enslaved. In the same year, the Dutch made a new tax regulation which was valid from January 1907 stipulating : 5% of the rice harvest had to be given to the Dutch; each house had to pay Rp. 250.00. ; each family had to pay in the form of one load (pikulan) of rice.

The Deputy of the Dutch Governor for the East Indonesia AA Bance reported to Governor Swart in October 1907 about the refusal of the people of Bima, especially the Ngali, on the new tax regulation. Therefore, Governor Swart sent Overste Van der Zwas to investigate the situation in Bima and called Gelarang (village chief) of Ngali, Salasa Ompu Kapa'a, to explain his responsibility as the chief. However, the Ngali were determined to refuse to obey the new tax regulation. The reason of it was that the Ngali firmly hold the Islamic principle which forbade them from obeying the infidels. Therefore paying the tax to the infidels was forbidden and Sultan Ibrahim tried to convince Van der Zwas that he could deal with the Ngali.

Owing to the Van Der Zwas' report above, Governor Swart decided to go to Bima on January 16, 1908 accompanied by the marechaussee troop. Later, the troop contingent from Kendari led by First Lieutenant Van Tendu and Lieutenant Shoutan followed by marine troop led by Navy First Lieutenant Pleren who arrived on January 17, 1908.

Since the Ngali still refused to obey the new tax regulation, regardless the negotiation between Governor Swart and Sultan Bima, the governor finally decided to attack Ngali on January 19, 1908. The troop was departed on January 18, 1908. At 11.30 am, January 19, 1908 the Dutch troop arrived in Ngali from two directions: the west (Monta) and from the north (Cenggu and Renda). The fierce battle between the Dutch and the Ngali resistance started at 12.00 and lasted until late in the afternoon.

Many people of Ngali who intercepted the Dutch troop at the Tolomanta field were killed. This was because the Dutch were fully armed with guns and the battle took place in the open field. Consequently, the Ngali retreated and went back to the Ngali Kampong. Many Dutch soldiers were killed because of the ambush conducted by the Ngali from house to house. Commander of the Dutch Troop, Lieutenant Van Tendu, was killed by a gunshot of a Ngali soldier known as Adam

All the dead Dutch soldiers were gathered and buried in a (radebari) at Mbaju, while Lieutenant Van Tendu was taken home and buried in Makasar. On the Ngali side, Ompu Kapa'a was killed in the Ngali Mosque. Four days after the slaughter of the Dutch troop in Ngali Kampong, the Dutch troop led by Governor Swart returned to Ngali. They attacked and burnt down the village. The Ngali were defeated and they retreated outside the village. They sought refuge to the neighbouring villages, such as Sila and Donggo.

As the silent witness of the war history of the Ngali, there is a mass grave of the Dutch soldiers known as Rade Bari. To honor the heroes killed in the battle, a monument known as the "Monument of the heroes of Ngali War" was built in late 1980's.

The Ngali war created a psychological effect in a way that the Ngali people are known as "rebellious and they do not like serving for their king". While people from other villages position themselves as humble citizens to their king and royal family, the Ngali regard the Sultan as part of their own family and their behavior to the king as well as members of the blue blood is impolite.

During the 1955 campaign of the general election, the son of Abdul Kahir (the son of Sultan Muhammad Salahudin who is the last sultan of Bima) and during the 1977 Golkar's campaign, the campaign for the PIR Wongsonegoro's party, people came to make crowds in order to be able to kiss their hands or feet. On the other hand, when they did the campaign in Ngali, people only wanted to shake their hands.<sup>1</sup>

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<sup>1</sup>Marwan Saridjo, Crescent on The Brow, An Autobiography, Yayasan Ngali Aksara, Jakarta, 2003 p. 12.

Moreover, the people of Ngali regard people from their neighboring village, especially Renda, as their enemies. They think that the loss of Ngali in the war against the Dutch was caused by the Renda's support for the Dutch. The researcher analyzes the communal conflict between the Ngali and the Renda by employing identity theory because of the existing threatened identity rooting from the past suffering. Unfortunately, this conflict is not handled properly and thoroughly by the government and the community. Consequently, the conflict resumes.

### **3.1.2.2. Social**

Conflict is actually a communal and social problem caused by the gap and difference concerning some needs and social symbols, such as offended honor, self-esteem, prestige's and local values. Conflict can also be stimulated by the dispute over access into natural resources, such as a conflict over land. Social problem also causes conflict and this is often used as the motive of the actors or supporters to develop communal conflict, solidarity of the kampong: "Alright, let us fight and struggle for our self-esteem."<sup>1</sup>

Generally, the social condition of the Ngali, Renda Village and Ketara Village in the Central Lombok is almost similar. They are communities with mechanical solidarity and still in the process of developing into organic solidarity. At the moment, they are in an abnormal period. When all elements of the community move and adjust themselves, equilibrium is reached.

The people of Ngali who are grouped into various groups with vested interests do not have influential leaders. The loss of the influential leaders is caused by the political system. Besides the loss of influential leaders, the local wisdom is more and more fading away. This consequently brings anomie/ normlessness in the community. A further consequence of it, freedom has become unlimited euphoria. To illustrate that, the rice farmers now grow onion and the young people do not respect the older people. The education process cannot be fully carried out by the parents because the parents have to do the farming. Unfortunately, the schools cannot fully take over the process.

### **3.1.2.3. Economic**

The ways of living of the Ngali are dominated by farming as the number of the farmers reaches up to 5042 farmers. They have three periods of farming: rice, first period of onion and second period of onion. The greatest income obtained from the sale of onion from the field with the size of 216, 60 hectare (and the harvest for each hectare reaches up to seven tons) reaches up to Rp 450,000.00 per kilo weight. The planting period influences the communal conflict of the Ngali and the Renda because of the resting period of farming which lasts for three months. During the three-month period of the holiday, the Ngali usually do the Ndempa. At the beginning Ndempa only used empty hand without any feeling of revenge. It was just a public entertainment. It later changes into a communal conflict (the war between villages) by using guns.

During the conflict, the supplies for weapons and ammunitions are provided by the third parties (members of the Indonesian National Police as well as members of the Indonesian Armed Forces). The bullets cost between Rp 15,000.00 and Rp 25,000.00 for a bullet. Transaction is carried out during the conflict using financial resource from the community. The Ngali officials collected the money from the community. Each citizen paid Rp 10,000.00 – Rp 15,000.00 and the Renda women from each Neighborhood Association (RukunTetangga) contributed Rp 5,000,000.00 for the war.

### **3.1.2.4. Concerning the Absence of Ndempa**

According to the result of the FGD, the absence of Ndempa which was usually held by the community and the government as public entertainment is one of the causal factor of the conflict. It is because there are not any channels to facilitate the Ndempa as artistic expression and public entertainment for specially the citizens of Ngali and Renda as well as citizens of South Belo district in general.

### **3.1.2.5. Legal**

The community still holds a conventional perception on the law that is the police who have misunderstanding of the duty and incorrect function. For example, when there is a report on a criminal case, public expect the police to arrest the perpetrator directly. On the other hand, police must obey the procedure as stipulated in the Code of Criminal Procedure (KUHAP).

During the law enforcement process, the Ngali citizens seem to protect the criminal from the investigation carried out by the police. This influences the law enforcement process and against what the public actually idealizes. The citizens of Ngali are worried about their future if they uncover or cede the perpetrator to the police as well as witnessing in the court. It is because the perpetrator will regard them as enemies.

### **3.1.2.6. Government**

The local government of Bima Regency has committed omission because they do not make a maximum effort that can directly settle the conflict, such as no visit is made by the Regent to settle the problem. The trigger of the omission is that when the Regent is lost in the local election, he made a political statement saying that "he will prioritize the attention to the area which supports him in the election"

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<sup>1</sup>Interview with LaluWirasaptaKaryadi, Leader of Sasak community, academician group, March 5, 2013



### **3.2. The Reality of Settlement Effort for Communal Conflict in Ketara, Central Lombok Regency and Communal Conflict Between Ngali Village and Renda Village, Bima Regency**

#### **3.2.1. The Legal Option in the Settlement of Communal Conflict in Ketara Village, Central Lombok Regency**

Before the attack carried out by the citizens of the BagekDewa Hamlet against DayangRurung Hamlet, an effort for reconciliation has been made by the neutral local-leaders, but the effort is disregarded. In the communal conflict settlement through the penal effort (litigation), the legal bases are Article 170, Article 351, and Article 358 in conjunction with Article 55 of the Indonesian Criminal Code. On the other hand, communal conflict in Ketara Village has resulted to the death of six people from DayengRurung Hamlet. In the latter case, the Praya Court has imposed verdict based on the Article 170 point (2) part number (3), Article 351 point (3) in conjunction with Article 55 point (1) and Article 358 point (2) of the Indonesian Criminal Code. Therefore, judges imposed verdicts in forms of 8 years to 11 years imprisonment.

#### **3.2.2. The Communal Conflict in Ngali Village and RendaVillage : Settlement Using A Model Known asDampa/ KasamaNggahi Ra Eli (Common Consultation to Reach an Agreement)**

The settlement used a model known as Dampa/KasamaNggahi Ra Eli (common consultation to reach an agreement) and this model has been employed since the era of old Bima Sultanate. The Dampa process which is specially aimed at resolving a conflict is preceded by Mbolo Rasa (sitting together for discussing the problem of the village). It is usually an internal meeting in each village to make an agreement for peace to be offered to the citizens from other village. And then religious leaders, adat leaders, community leaders and education leaders are chosen to represent each of their village for the meeting with other villages facilitated by the government, police and the armed forces. Each spokesperson proposes the peace solution and discussing the causes of the conflict as well as arguments for peaceful settlement. Afterwards, the leaders return to their villages to do the Mbolo Rasa (village meeting) to discuss concepts proposed by each village. Those concepts will be brought to the next Dampa in order to decide the points of peaceful settlement agreed by conflicting villages in a neutral place, such as the office of the chief of the city police.

The citizens of Ngali and Renda choose the conflict settlement by employing Dampa model in the form of peace statements as follows :

1. We, the first and the second parties, agree to establish the peace and state that there is no more hostility between citizens of renda Village and Ngali Village;
2. The village's chief of Ngali and Renda as well as the citizens shall assist the law enforcement officials in the process of law enforcement;
3. After this agrrement is signed, citizens of Ngali and Renda are obliged to avoid disturbing the activities of people on the street and on the farms;
4. Establishing a security post at the border of Renda and Ngali located in WaduNocu;
5. Violation against the points of the peace agreement will be firmly handled according to the existing laws and regulations.

The peace statement is represented and signed by the chiefs of Ngali and Renda as well as representatives of the citizens witnessed by the Regent of Bima (H. Ferry Zulkarnaen, ST) and the spokesperson of the House of Representatives of Bima Regency (Drs. H. MuchdarArsyad), Police Chief of Bima Regency, Commander of the 1608th Military District of Bima and the Chief of the Bima Court.

The peace agreement is in line with local wisdom of the “mbojo” community or Bima in general. A proverb says : “The Bima people are families” or “KeseTahopodua” meaning that it is better to be two. There is also a proverb saying “maja la bodahu” which means that everyone must be ashamed of others and be afraid of Allah in violating the religious rules and norms of the community. There is also a terminology known as “Mbolo Rasa” meaning meeting or consultation attended by all components of the community to plan something or settle problems in the community, such as communal conflict. In addition to that, another proverb says “NggahiRawiPahu” which denotatively means as follows: “Nggahi” means saying, “rawi” means behavior and “pahu” means the consequence. Generally, the meaning is that it is said by the mouth and realized in action and therefore it can create positive consequence.

A way of how to settle the communal conflict between Ngali and Renda village is by Mbolo Ra Dampa, which means settle in amicably to achieve an agreement, which is done by followings:

1. Kaboro Ro Kamboloangi, means the gathering of all parties, among the conflicted parties or their families and the mediator or other neutral.
2. Kancihicaokaimambuipuwara ma cara, means the effort of finding resolution of any problem.
3. Mafakaradampakaikuaibantaunadumpu, means settle in amicably in order to find solution of the problem or conflict so it will no longer be occur in the future.
4. Wausimafakaradampati du wara ma dompona, means everyone must obey the agreement when it have been reached.

5. Wausiranuntuwarande'icuanenti, means the agreement is the evidence or guidance that everyone must be obey.
6. Wausiranantikaciati du waramaloakacou, means when there are written evidence that agreed between the parties, then nobody may have the chance to questions about it.

After agreement have been reached, the settle in amicably must be closed with words “NtaukuMaja La Bo Dahu” meaning that we should have embarrass and fear to Allah, traditional law (adatrecht) and positive law, and also to theirselves, the community, nation and state of Republic of Indonesia which based on Pancasila as ideology.

According to the Law Number 2 year 2002 Article 18 point (1 and 2) on the National Police, a police officer has discretionary authority. In the opinion of the researcher, although the police can exercise discretion to establish justice, the security is neglected when a conflict breaks out. Due to the absence of legal certainty, the community makes a decision to establish the peace, but the decision is not legalized by the court. For example, there is no law enforcement against the owner of organic weapon and the police only advised the citizens to surrender their weapons. Finally, 38 organic and traditional weapons are collected from the community.

### **3.3. Effective Models for Settling Communal Conflict in the Future**

#### **3.3.1. Criminal Policy**

Criminal policy is a rational and organized effort from a community to deal with the crimes and it is essentially an integral part of social policy.

According to G. Peter Hoefnagel : *“Criminal policy as science of policy is part of larger policy: the law enforcement policy. The legislative and enforcement policy is in turn part of social policy”*.<sup>1</sup>

BardaNawawiArief proposes that the politics of criminal law is identical with “the policy of dealing with crimes by employing criminal law”.<sup>2</sup> In addition to that, penal policy as part of law enforcement policy is the realization of policy process covering three stages, they are policy-making stage (formulation stage or legislative stage), the policy application stage (application stage) and execution stage.

The writer calls it negative peace because the peace exists, but violation can emerge at any time. On the other hand, positive peace means the government system runs well, law enforcement runs well, the economic wheel is good, and the people are prosperous. In this way, people will live in harmony.

#### **3.3.2. Negotiation**

Negotiation is a processing effort to reach agreement of conflicting parties in which a dynamic, various, soft and nuanced process of interaction and communication take place like interaction and communication of human being.<sup>3</sup> Negotiation can involve single problem or many problems, be valid once or repeatedly and continuously. During the negotiation, the conflicting parties can directly negotiate with the mediator.

#### **3.3.3. Mediation**

Mediation is informal dispute resolution process in which a neutral third person, the mediator, helps disputing parties to reach an agreement. The mediator has no power to impose a decision on the parties. According to Peter Lovenheim as quoted by PrijaJatmika,<sup>4</sup> mediation is a process and as a process, it can be used for almost all disputes (communal conflict).

#### **3.3.4. Social Engineering**

Social engineering is carried out in two ways : 1. Conducting a preventive step; 2. Conducting persuasive step or local wisdom approach. To conduct these steps, government from the level of the village chief until regent/major are required to take synergistic action with community leader, Police and the armed forces. They carry out restructuring in developing new social structure in the community by way of revitalization of local social institution and local wisdom. That requires them to strengthen the role and function of the adat leaders, religious leaders, community leaders, educational leaders, youth leaders and women leaders. This is aimed at making the leaders as the patrons which consequently create a relation in which the community respects their leaders and the leaders protect the people. They understand their position each other.

The requirement for a patron are: 1. Mastering general knowledge and religious teaching well and deeply; 2. Being in well-off family (economically stable); 3. Having the quality of high social-awareness; 4. Having the quality of a leader and social responsibility. The moment, the function of patron does not exist among the leaders. It looks as if a horse ran without a rein. Therefore, leaders and government need to pay attention to revitalize the values of local wisdom in the community. The Ketaracommunity has gone out of the Sasak's values (kesasakan). The values mainly idealize that the Sasak community are families (Bersanakan/ BaturSasakBersanakan). On the

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<sup>1</sup>G. Peter Hoefnagels, Loc. Cit

<sup>2</sup>BardaNawawiArief, (Book IV), *Op. Cit.*, p.26

<sup>3</sup>Achmad Ali, *Sociology of Law, Empirical Study to Court*, BP IBLAM, Jakarta, 2004, p. 19.

<sup>4</sup>PrijaDjatmika, *The Case Settlement of Insulting by Means of Press*, Dissertation of Doctoral Program of Law Subject of Faculty of Law of Brawijaya University, , Malang, 2008, p 95.

other hand, the community of Ngali and Renda has also left their “Mbojo” teaching that the citizens of Bima are families as stipulated in the proverb “KeseTahopodua” meaning being two is better than being alone. There is also another proverb saying : “Maja la bodahu” meaning being ashamed of others and afraid of Allah to prevent from breaking religious norms and other norms. There is also a terminology known as “Mbolo Rasa” meaning meeting or consultation attended by all components of the community to plan something or settle problems in the community, such as communal conflict. In addition to that, another proverb says “NggahiRawiPahu” which denotatively means as follows: “Nggahi” means saying, “rawi” means behaviour and “pahu” means the consequence. Generally, the meaning is that it is said by the mouth and realized in action and therefore it can create positive consequence.

### **3.3.5. The application of criminal law**

The application of criminal law is equal to an effort to function the Criminal Code (KUHP) or to put it into work or realization. Besides, conflicts are stipulated in the article 358 of the Criminal Code. The enforcement of criminal law is a process to realize the ideal of criminal law to come into reality.

## **4. Conclusion**

**4.1 The causal factors of the conflict covering** historical, social, economic, and legal and government are all related one another because of the weakness in social structure of the community. Conflicts are also caused by “genitas” as well as negative stigma of the past crime.

### **4.2 The Reality of Settlement Effort for Communal Conflict in Ketara, Central Lombok Regency and Communal Conflict Between Ngali Village and Renda Village, Bima Regency**

4.2.1. The communal conflict in Ketara is settled through penal policy (litigation). The legal bases are Article 170, Article 351, and Article 358 in conjunction with Article 55 of the Criminal Code. On the other hand, communal conflict in Ketara Village has resulted to the death of six people from DayengRurung Hamlet. In the latter case, the Praya Court has imposed verdict based on the Article 170 point (2) part number (3), Article 351 point (3) of the Indonesian Criminal Code.

4.2.2. The communal conflict involving Ngali and Renda villages are settled through the model known as Dampa/KasamaNggahi Ra Eli (meeting to reach common agreement). It is done through the process known as Mbolo Rasa (village consultation) in which a peace agreement is finally made. It is witnessed by the religious leaders, the adat leaders, education leaders and government officials of Bima Regency. This is known as non-penal policy.

### **4.3. Effective Models for Settling Communal Conflict in the Future**

#### **4.3.1 Criminal policy**

Criminal policy is a rational and organized effort from a community to deal with the crimes and it is essentially an integral part of social policy. This policy consist of penal policy and non-penal policy.

4.3.2. Negotiation is a processing effort to reach agreement of conflicting parties in which a dynamic, various, soft and nuanced process of interaction and communication take place like interaction and communication of human being.

4.3.3. Mediation is a process and as a process, it can be used for almost all disputes (communal conflict).

#### **4.3.4. Social engineering**

Social engineering is carried out in two ways : (1). Conducting a preventive step; (2). Conducting persuasive step or local wisdom approach. Government and local leaders carry out restructuration in developing new social structure in the community by way of revitalization of local social institution and local wisdom. This is aimed at making the leaders as the patrons which consequently create a relation in which the community respects their leaders and the leaders protect the people. They understand their position each other. The requirements for a patron are: 1. Mastering general knowledge and religious teaching well and deeply; 2. Being in well-off family (economically stable); 3. Having the quality of high social-awareness; 4. Having the quality of a leader and social responsibility.

4.3.5 The application of criminal law. The application of criminal law is equal to an effort to function the Criminal Code (KUHP) or to put it into work or realization. Besides, conflicts are stipulated in the article 358 of the Criminal Code. The enforcement of criminal law is a process to realize the ideal of criminal law to come into reality Law enforcement activity is firstly aimed at improving order and legal certainty in the community. However the application of criminal law is categorized as the last resort (ultimumremedium)

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