

ABSTRAK

REFUNGSIONALISASI HUKUM PIDANA ADAT LAMPUNG DALAM SISTEM PENEGAKAN HUKUM PIDANA BERBASIS KEARIFAN LOKAL

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Hukum Pidana Adat Lampung sebagai kearifan lokal masyarakat Lampung telah diterapkan sebelum kemerdekaan RI. Keberlakuannya meredup seiring diterapkannya sistem penegakan hukum pidana. Padahal hukum pidana adat Lampung diyakini lebih mampu mewujudkan kebenaran dan keadilan yang bermanfaat karena lebih berkearifan lokal dibanding hukum pidana. Penelitian disertasi ini memakai pendekatan penelitian hukum non-doktrinal dengan pendekatan sosio-legal (*socio-legal research*) dan kajian hukum kritis (*critical legal studies*) yang mengandalkan hukum yang berkearifan lokal. Prosedur pengumpulan data dengan mengedepankan studi wawancara dengan sejumlah narasumber yang representatif. Hasil penelitian menunjukkan bahwa Hukum Pidana dan Sistem Penegakan Hukum Pidana Adat Lampung masih hidup dan berkembang di masyarakat Lampung, khususnya di lingkungan masyarakat Lampung yang masih memegang dan mempertahankan teguh adatnya. Hukum Pidana Adat Lampung dipandang lebih berbasis kearifan lokal, akan tetapi keberadaan dan kejayaannya semakin meredup seiring dengan diberlakukannya hukum pidana dan sistem penegakan hukum pidana; Urgensi refungsionalisasi hukum pidana adat Lampung dalam hukum pidana, baik meliputi hukum pidana materiel, hukum pidana formal, dan hukum pelaksanaan pidana dipandang sebagai hukum pidana yang paling tepat dan paling sesuai dengan jiwanya masyarakat Lampung yang mampu mewujudkan kebenaran dan keadilan yang didasarkan pada nilai *Piil Pesenggiri*; Fungsionalisasi hukum pidana adat Lampung dalam sistem penegakan hukum pidana berbasis kearifan lokal yang meliputi politik hukum fungsionalisasi hukum pidana adat Lampung berbasis kearifan lokal yang mencakup uraian mengenai tindak pidana, pertanggungjawaban pidana serta pidana dan pemidanaan dan bentuk fungsionalisasi berbasis kearifan lokal²⁴⁷ berupa Kitab Kuntara Raja Niti dan Cepalo. Tentunya, dalam koridor asas berlakunya hukum pidana menurut waktu dan tempat dalam skema payung peraturan perundang-undangan hukum pidana dan sub-payung peraturan daerah sebagai dasar pembinaan dan penyelenggaraan peradilan pidana adat (*living law*) yang semakin tumbuh-berkembang di masing-masing daerah di Indonesia, tidak terkecuali di Lampung.

Kata kunci: Refungsionalisasi, hukum pidana adat Lampung, sistem penegakan hukum pidana, adat Lampung, kearifan lokal.

ABSTRACT

RE-FUNCTIONALIZATION OF LAMPUNG CUSTOMARY CRIMINAL LAW IN THE CRIMINAL LAW ENFORCEMENT SYSTEM BASED ON LOCAL WISDOM

By

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The Lampung Customary Criminal Law as the local wisdom of the Lampung people has been applied before the independence of the Republic of Indonesia. Its validity dims as the criminal law enforcement system is implemented even though Lampung customary criminal law is believed to be more capable of realizing useful truth and justice because it is more local wisdom than criminal law. This dissertation research uses a non-doctrinal legal research approach with a socio-legal research approach and critical legal studies that rely on laws with local wisdom. The procedure for collecting data is by prioritizing an interview study with a number of representative sources. The results showed that the Criminal Law and the Lampung Customary Criminal Law Enforcement System are still alive and thriving in the Lampung community, especially in the Lampung community who still hold and maintain their customs. The Lampung Customary Criminal Law is seen as more based on local wisdom, but its existence and glory are getting dimmer along with the enactment of criminal law and the criminal law enforcement system; The urgency of the re-functionalization of Lampung customary criminal law in criminal law, both covering material criminal law, formal criminal law, and criminal law enforcement is seen as the most appropriate criminal law and most in accordance with the soul of the Lampung people who are able to realize truth and justice based on the values of *Piil Pesenggiri* ; Functionalization of Lampung customary criminal law in the criminal law enforcement system based on local wisdom which includes legal politics of functionalization of Lampung customary criminal law based on local wisdom which includes descriptions of criminal acts, criminal responsibility and criminal and sentencing and forms of functionalization based on local wisdom in the form of the *Kuntara Raja Niti* Script and *Cepalo*. Of course, within the corridor of the application of criminal law according to time and place in the umbrella scheme of criminal law legislation and sub-umbrella regional regulations as the basis for fostering and administering customary criminal justice (living law) which is growing and developing in each region in Indonesia, Lampung is no exception.

Keywords: Re-functionalization, Lampung customary criminal law, enforcement system of criminal law, Lampung customs, local wisdom.