



ISSN Print 2615-5648  
ISSN Online 2615-174X

Kantor Editor: Lantai 2 Fakultas Syariah Universitas Islam Negeri Profesor Kiai Haji Saifuddin Zuhri  
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## Interpretation of Public Figures in Indonesian Law Number 7 of 2012 Concerning Handling Social Conflicts in The Perspective of Legal Certainty

| Article   | Abstract   |
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| <p><b>Author</b><br/>Rayno Dwi Adityo</p> <p>Fakultas Syariah, Universitas Islam Negeri<br/>Maulana Malik Ibrahim</p> <p><b>Corresponding Author:</b><br/>Rayno Dwi Adityo, <i>Email:</i><br/><a href="mailto:raynodwiadityo@uin-malang.ac.id">raynodwiadityo@uin-malang.ac.id</a></p> <p><b>Data:</b><br/>Received: Apr 10, 2022<br/>Accepted: Jun 27, 2022<br/>Published: Jun 29, 2022</p> <p><b>DOI:</b><br/><a href="https://doi.org/10.24090/VOLKSGEIST.V5I1.6402">DOI 10.24090/VOLKSGEIST.V5I1.6402</a></p> | <p>Handling social conflicts can involve elements of the community, one of which is the involvement of community leaders as part of peacemakers and their position is recognized in the law on handling social conflicts. However, the definition of community leaders is still not clear. This article aims to analyze the meaning of community leaders in the law for handling social conflicts in terms of the principle of legal certainty. This article is based on normative juridical research with a literature research scheme. The result shows that the formulation of the concept of understanding community leaders has not fulfilled the element of legal certainty. A clear definition of community leaders will help determine the extent to which the limits of their authority are protected by law. This study also offers additional materials for those who have the authority to be able to make efforts to improve.</p> <p><b>Keywords:</b> <i>Community leaders; legal certainty; social conflicts; law.</i></p> |

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### INTRODUCTION

The existence of Indonesian Law Number 7 of 2012 concerning the Handling of Social Conflicts is an answer to the need for a legal umbrella in the context of handling conflicts that arise in society. The basis of legal arguments related to this law is that the handling of conflicts arising reactionarily and sectorally is not in accordance with the constitutional system, especially according to the path of legislation.<sup>1</sup> The consequences of a country consisting of islands provide conditions for the diversity of people, ranging in ethnicity, race, and religion. The norms adopted by a population always vary and it is not uncommon for dense mobility between regions to trigger social dynamics in community life. Such differences can be differences in race, opinion, religion, culture, traditions, interests, interests, differences in values scale, it is not uncommon for frictions at the grassroots level and then crystallizes into social conflict fields. The provisions are regulated

<sup>1</sup> Paragraph 11 of the general section on the explanation “The Republic of Indonesia Law Number 7 of 2012 Concerning Handling of Social Conflicts” (2012).

again in more detail in Government Regulation No. 2 of 2015, The Implementing Regulation of Indonesian Law No. 7 of 2012 concerning Handling social conflicts.

Conflict is a physical confrontation or spat between two or more groups of people with violence. Conflicts tend to be widespread and occur in a certain vulnerable time. Conflicts with high intensity make uncomfortable and unsafe conditions, disrupt the stability of national development, and have a wide impact.<sup>2</sup> The sources of social conflict there are many, among others can be caused due to differences in political attitudes, economic inequalities, socio-cultural differences, religious, tribal, ethnic, and territorial boundary disputes that include cities, villages, provinces, and districts. In addition, conflicts can also occur due to disputes over natural resources including distribution problems and business actors.<sup>3</sup>

A number of conflicts often arise due to the occurrence of religious, ethnic, and business actors in the context of the industrial world. The last example cited in the study of Hamludin, et al, such as the social conflicts that occurred in Jababeka industrial area (West Java and Bekasi) between entrepreneurs and the surrounding community. The cause of these problems is not finding a point of understanding regarding the amount of land compensation value or problems related to pollution resulting from industrial activities.<sup>4</sup> In the South Lampung region, one example of inter-ethnic conflict is the conflict between the Balinese and the Lampung tribes. Referring to the results of research conducted by Saputro Prayitno on post-conflict handling in the Lampung Regional Police, the problem was triggered by allegations of sexual harassment.<sup>5</sup> The specialty of Indonesian Law No. 7 of 2012 is that informal leaders can participate in reconciling the parties to the conflict. In addition to being handled by official bodies such as local governments, municipal districts, police, and TNI (Indonesian National Army), dispute resolution can involve elements of society such as religious leaders, community leaders, and peace practitioners. The provisions are contained in article 47 paragraph 3, article 48 paragraph 3, and article 49 paragraph 3 of the law on handling social conflicts.<sup>6</sup>

Seeing the role of informal leaders in bridging social conflicts above, it can be understood that this involvement is allowed to be a form of legality since it has a strong legal basis and is contained in the law. In other words, it is part of the positive law that applies (*ius constitutum*) to our country.<sup>7</sup> It emphasizes that, although community leaders, traditional leaders, and religious leaders are actually part of the embodiment of informal institutions, they become part of the written law (*geschreven recht*) because they are accommodated in a law. This is in accordance with the statement of Seodjono Dirjdosisworo that written law includes rules and regulations in various forms made by legislators.<sup>8</sup>

<sup>2</sup> Article 1 paragraph 1 The Republic of Indonesia Law Number 7 of 2012 concerning Handling of Social Conflicts.

<sup>3</sup> Article 5 The Republic of Indonesia Law Number 7 of 2012 concerning Handling of Social Conflicts.

<sup>4</sup> Hamluddin Hamluddin, Sarwititi Sarwoprasodjo, and Ninuk Purnaningsih, "Konflik Sosial Kawasan Industri Jababeka Dalam Perspektif Komunikasi," *Makna: Jurnal Kajian Komunikasi, Bahasa, Dan Budaya* 4, no. 1 (June 19, 2019): 1–19, <https://doi.org/10.33558/makna.v4i1.1669>.

<sup>5</sup> Saputro Prayitno, "Post Social Conflict Management in South Lampung (Studies in Lampung Regional Police)," *Cepalo* 3, no. 1 (September 17, 2019): 35–40, <https://doi.org/10.25041/cepalo.v3no1.1788>.

<sup>6</sup> The Republic of Indonesia Law Number 7 of 2012 concerning Handling of Social Conflicts.

<sup>7</sup> Agus Sudaryanto, *Pengantar Ilmu Hukum Pengertian Dan Perkembangannya Di Indonesia* (Malang: Setara Press, 2015), 113.

<sup>8</sup> Seodjono Dirdjosisworo, *Pengantar Ilmu Hukum* (Jakarta: Rajawali Press, 2007), 206.

Legal certainty is fundamental in the Indonesian legal system as everything must have a written and definitive basis. The study is limited to the position of community leaders as part of the community element as mandated by the written regulation. Although normatively, the legal aspect of the involvement of community leaders is no longer in doubt, the notion of community leaders still holds a fundamental question about the concept, criteria, measurement, and complete description of how it is appropriate to be called a public figure. Considering that community leaders have a strategic position, they have influence in a community and are respected because they have the ability to create conduciveness from a certain condition, become protectors, and mediators in the event of social conflict.<sup>9</sup> Of course, not everyone can claim to be a community figure. If their origins are not clear, it is possible that their role will only exacerbate the situation or, even worse, trigger a violation of the law.

Based on these problems, it's essential to examine further the meaning of community leaders in the law on handling social conflicts. Because the element of certainty is an important part of our legal system. The question that arises is how clear the definition of community leaders is in RI Law Number 7 of 2012 concerning the Handling of Social Conflicts in reviewing the principle of legal certainty.

In previous studies, several researchers have studied from the point of view of post-conflict management, such as a study conducted by Suprayitno entitled "Handling after Social Conflict in South Lampung (Study in the Lampung Regional Police)".<sup>10</sup> Furthermore, the study conducted by I Putu Agus Darya Auh focused his research on the efforts of the roles of social institutions or the role of customary institutions in preventing conflict.<sup>11</sup> There is also research conducted by Petrus Soerjowinoto which focuses his study on victims of social conflict.<sup>12</sup> Miftah Faridl Widhagdha and Rahmad Hidayat, conducted research related to community empowerment as a good strategy in social conflict resolution efforts.<sup>13</sup> Then, Akbar Syamsuddin in his study revealed that in an effort to handle social conflicts it is necessary to involve religious leaders, as well as efforts to promote equality in religion.<sup>14</sup> Meanwhile, Muliono's study focuses more on elaborating on the patterns and trends of social conflicts that occur in Indonesia, which at the same time offers a deconstruction of thought that tends to position differences in religion, ethnicity, and race as the cause of conflict.<sup>15</sup>

In contrast to the research above, this study focuses more on the interpretation bias of community leaders in law number 7 of 2012 on social conflict handling, which has a vital role in conflict resolution based on the perspective of legal certainty. In addition, this article is a continuation of

<sup>9</sup> Udin Suchaini, "Mandat Ketokohan," accessed June 19, 2022, <https://news.detik.com/kolom/d-4009058/mandat-ketokohan>.

<sup>10</sup> Prayitno, "Post Social Conflict Management in South Lampung (Studies in Lampung Regional Police)."

<sup>11</sup> I. Putu Agus Arya Dauh, I. Ketut Sukadana, and I. Made Minggu Widyantara, "Peran Pranata Adat Dalam Pencegahan Konflik Antara Kelompok Masyarakat Adat," *Jurnal Preferensi Hukum* 1, no. 1 (July 27, 2020): 133–38, <https://doi.org/10.22225/jph.1.1.1996.133-138>.

<sup>12</sup> Petrus Soerjowinoto, "Perlindungan Hukum Terhadap Korban Konflik Sosial," *JURNAL HUKUM, POLITIK DAN KEKUASAAN* 1, no. 1 (2020): 34–47, <https://doi.org/10.24167/jhpk.v1i1.2674>.

<sup>13</sup> Miftah Faridl Widhagdha and Rahmad Hidayat, "Pemberdayaan Masyarakat sebagai Strategi Resolusi Konflik Sosial," *Jurnal Pemberdayaan Masyarakat* 8, no. 1 (June 18, 2020): 82–91, <https://doi.org/10.37064/jpm.v8i1.7139>.

<sup>14</sup> Akbar Syamsuddin, "Konflik Sosial Dalam Perspektif Sosiologi Agama," *Al-Din: Jurnal Dakwah dan Sosial Keagamaan* 6, no. 1 (June 30, 2020), <https://doi.org/10.35673/ajdsk.v6i1.865>.

<sup>15</sup> Muliono Muliono, "Pola Perubahan, Wacana, Dan Tren Konflik Sosial Di Indonesia," *Al-Adyan* 1, no. 2 (2020): 115–32.

the previous author's research with the distinction that in previous writing it was more concerned with the general aspects of legality which led to a conclusion that it was permissible for these community leaders to be involved in resolving social conflicts.<sup>16</sup>

## RESEARCH METHODS

This research is a normative juridical study based on legal principles that are faced with legal rules.<sup>17</sup> The analysis is supported and complemented by using a systematic legal interpretation method, namely the method of legal interpretation based on the arrangement of words connected to the texts in the articles of the law or other statutory regulations.<sup>18</sup> The research is using a literature approach with the aim of trying to reveal the clarity of community leaders or how someone is positioned as a public figure as stated in the law on handling social conflicts to obtain a comprehensive picture by conducting a review based on the principle of legal certainty. The data used is composed of primary data sources, secondary data sources, and tertiary data sources. Primary data sourced from RI Law Number 7 of 2012 concerning Handling Social Conflicts, Government of Indonesia Regulation Number 2 of 2015 concerning Implementing Regulations of RI Law Number 7 of 2012, other laws and regulations, legal science books, legal theories, legal scientific journals, and legal articles. Secondary data, as a source of supporting primary data placed as additional information, were obtained from social science scientific journals, socio-cultural science books, and interdisciplinary sciences. Tertiary data is positioned to fill information gaps that are not accommodated by secondary data obtained from articles through print and electronic media, dictionary of legal terms, and dictionary of terms.

## ANALYSIS AND DISCUSSION

### Legal Society and Community Relation

According to Dony Prasetyo and Irwansyah in their research by quoting from a number of explanations of figures regarding the etymology of the word "community", they concluded that the word community comes from the Latin word *societas* which means friends or society in English and *musyarak* or *syaraka* in Arabic which means to participate.<sup>19</sup> Society consists of individuals in an area that is often found in the study of society from experts in the fields of sociology and anthropology. They often interpret the community's identity formed by the individual as a representation of humans and equated as "social animals" who live in groups in the community. In society, they follow existing norms, become members of formal and informal groups, and gain social status.<sup>20</sup> It is clear that humans cannot be separated from the environment in which they live in groups that are part of their nature and have interests. Interesting encounters are said to be

<sup>16</sup> Rayno Dwi Adityo, "Studi Normatif Legalitas Peran Tokoh Masyarakat Dalam Undang-Undang No. 7 Tahun 2012 Tentang Penanganan Konflik Sosial," *Jurnal Mahkamah : Kajian Ilmu Hukum Dan Hukum Islam* 2, no. 1 (July 31, 2017): 1–26, <https://doi.org/10.25217/jm.v2i1.102>.

<sup>17</sup> Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat* (Jakarta: Rajawali Press, 2007), 63.

<sup>18</sup> Sudaryanto, *Pengantar Ilmu Hukum Pengertian Dan Perkembangannya Di Indonesia*, 113.

<sup>19</sup> Donny Prasetyo and Irwansyah, "Memahami Masyarakat Dan Perspektifnya," *JURNAL MANAJEMEN PENDIDIKAN DAN ILMU SOSIAL* 1, no. 1 (May 19, 2020): 163–75, <https://doi.org/10.38035/jmpis.v1i1.253>.

<sup>20</sup> M Jacky, *Sosiologi Konsep, Teori Dan Metode* (Jakarta: Mitra Wacana Media, 2015), 43.

“contacts”. According to Surojo Wingjodipuro quoted by Muhammad Taupan, “contact” is divided into two kinds. First, pleasant contact is when all interests meet, align, and complement each other. Second, unpleasant contact, when the interests of each other clash.<sup>21</sup>

The human need for society is a need that can also be said to be very basic, the human need to work, live, and enjoy life. The definition of society is very diverse and generally understood as a group of people. This group of people has a specific territorial area, has the same cultural characteristics, and has the same direction of feeling in creating unity. Taken by M. Jacky regarding the understanding of society from several sociological figures, including:<sup>22</sup>

1. Morris Ginsberg

Society is a group of people united by certain connectedness in a sense that is different from them in terms of behavior as a sign that they are different from others.

2. Auguste Comte

Position the community as a social organism, and there is a functional and harmonious structure.

3. Cooley

He places people such as institutions or associations that are organized and composed of complexity.

4. Ferdinan Tonies

Society is an inter-personal association in a short-term contract, where the individual has a self-interest motivation.

Interpreted from the opinions of the experts above, it can be identified ten characteristics of a community said to be a society, among others; territory, always together, each group has a strong sense, has reciprocal relationships between individuals and groups, institutionalized mutual influence, informal and closed relationships, cultural similarities, have shared values and beliefs, also not personal.<sup>23</sup> In the field of sociological studies, the types of society that are rarely discussed are the legal community, which includes the hunting and gathering society, the horticultural society, the feudal society, the industrial society, and the post-industrial society.<sup>24</sup>

Society in social science is considered as a social system and has dimensions that include elements of human behavior, namely social action, a movement bound by four conditions; (a) to achieve certain goals; (b) occurs under certain conditions; (c) adherence to certain rules; and (d) motivated by certain motives. Furthermore, social action includes the underlying sub-systems, namely; (a) cultural subsystem; (b) social subsystem; (c) personality subsystem and (d) behavioral organ subsystem.<sup>25</sup> The movement of society becomes a series of social orders; when individuals in it interact, the interaction is limited by the prevailing norms. Generally, the standards used include religious norms derived from religious teachings; for example, if there is a violation, the reference used is to whether it is permissible or not, and halal or haram. Another standard of decency norm that regulates human behavior lies in the heart of conscience. Then, the standard of decency norms that arise from the community itself and the standard of legal norms, namely regulations that arise

<sup>21</sup> Muhammad Taupan, *Pendidikan Kewarganegaraan* (Bandung: Yrama Widya, 2012), 1.

<sup>22</sup> Jacky, *Sosiologi Konsep, Teori Dan Metode*, 42.

<sup>23</sup> Jacky, 42.

<sup>24</sup> Jacky, 50.

<sup>25</sup> Jacobus Ranjabar, *Sistem Sosial Budaya Indonesia Suatu Pengantar* (Bandung: Alfabeta, 2004), 24.



from it because it is made by an institution that has the authority or is commonly referred to as a state institution.<sup>26</sup>

It should be noted that from various perspectives, some of these norms are included in the category of social norms, but some are placed separately from legal norms. Why? Because social norms are aspects formed from moral values that live in society, while legal norms are formed from rulers who have authority. In line with Maria Farida Indrati's comments, customary, ethical and moral norms are formed unwritten and develop from habits that grow in society. In contrast to legal norms, although it can be formed in writing or unwritten but subject to official and authorized institutional processes.<sup>27</sup> The authorized institution in question is a state institution.

Thus, legal norms are found in a legal society. The basic difference between society and legal society is that in society, the space for social movement is determined and limited by a set of local rules in accordance with the sociological, geographical, and anthropological conditions of the community itself. The influence is norms and characteristics that are in accordance with local surrounding patterns, making them different from each other, as explained by Van Vollen Hoven in the context of customary law as quoted by Agus Sudaryanto.<sup>28</sup> While the legal community is a population of people who live in a certain zone, in which it is bound by a set of rules that become a reference for behavior but are universal in nature, for example, residents of a country who live on the basis of the same rules, evenly and equally.

However, according to the legal order, legal communities can sometimes be formed and classified according to the context. For example, in our country, based on the Republic of Indonesia Law Number 30 of 2014 concerning Government Administration, the community is said to be a citizen in article 1 paragraph 15 and has its own meaning, namely a civil legal entity, or individuals involved in decisions and or behavior.<sup>29</sup> Thus it can be understood that the legal community arises from the community itself which basically has a relationship. However, according to their context and nature, these two communities are still different because society, in general, is governed by a narrow and unwritten standard or set of local regulations. Meanwhile, the legal community is regulated through universal standard rules made by the ruling authority, in this case, the state through the government. On the other hand, the articulation of the legal community in regulatory texts is still called society but substantively still interpreted as a legal community.

### **Community Leaders as Community Representatives**

Each group in a community has a figure who may be considered as a reference, as well as in a wider scope such as society. Such a figure is placed as a leader. A leader has the ability to direct and influence the direction of movement of his members. Meanwhile, leadership shows more on the articulation of a process. Erni Tisnawati Sule and Kurniawan Saefullah define leadership as a process of influencing and directing group members in various activities to be carried out. As part of the process, the leadership movement focuses on the activities of leaders, where leaders use their

<sup>26</sup> Muhammad Taupan, *Pendidikan Kewarganegaraan*, 2.

<sup>27</sup> Maria Farida Indrati S, *Ilmu Perundang-Undangan Jenis, Fungsi Dan Materi Muatan* (Yogyakarta: Kanisius, 2007), 19.

<sup>28</sup> Sudaryanto, *Pengantar Ilmu Hukum Pengertian Dan Perkembangannya Di Indonesia*, 56.

<sup>29</sup> "RI Law Number 30 of 2014 Concerning Government Administration" (2014).

impressions to guide those they lead, motivate their members to achieve certain goals, and carry out social engineering in the form of productive cultural conditions.<sup>30</sup>

As indigenous peoples know leaders with various customary calls that describe the terms as traditional figures. In the context of society in general, the leaders are better known as community leaders/figures. Edi Kusnadi and Dadan Iskandar in their research study, argue about how a person should be called a community figure. A community figure is a leader with certain distinctive skills and advantages. he has a strong influence to move other parties to work hand in hand to carry out certain activities. In social life, the individual has a role as a mover, leader, coach, pioneer and mentor. The process of forming community leaders in classical times emerged through the assumption that he was “born” naturally, meaning that community leaders were born in the conditions and situations of their own society. The concept of community leaders born from assumptions certainly has its own documentation because the emergence of community leaders can be studied throughout the process and can be traced from how these figures appear in their environment.<sup>31</sup> The leadership of community leaders before national law, before the law on handling social conflicts, was preceded by the Law of the Republic of Indonesia Number 8 of 1987 concerning Protocol, namely in article 1 number 6, which states that community leaders are those who with their social position receive respect from the community and or government.<sup>32</sup>

Even though the phrase “receiving honor from the community” is limited in nature, it cannot be separated from the context of the law because the corpus is a classification of individuals who have protocol rights (ceremonial rights), such as state officials or government officials. This was due to the influence of the political conditions of the New Order era when the law on protocols was enacted. The features can be found in several explanations in the articles of the protocol law as follows; *first*, in the explanation of article 2, the community leaders do not regulate all community leaders, they are limited to certain categories. *Second*, in the explanation of the same article in the third paragraph, certain groups of community leaders consist of people who receive certain signs of Star, political party figures, *Golongan Karya* (workgroups), religious leaders, and others as determined by the government.<sup>33</sup>

However, because the provisions of the law on protocols are considered irrelevant and have a very political nuance, the new order government has subsequently been discontinued and replaced by Law of the Republic of Indonesia Number 9 of 2010 concerning Protocol,<sup>34</sup> along with the implementing regulations of PP Number 39 of 2018. From this brief description, the community and community leaders cannot be separated. In the general public, community leaders appear because of the situation and condition of the community. On the one hand, from the perspective of the protocol law, a person can be said to be a public figure if the embedding is given by the

<sup>30</sup> Ernie Tisnawati Sule and Kurniawan Saefullah, *Pengantar Manajemen* (Jakarta: Kencana Ilmu, 2010), 255.

<sup>31</sup> Edi Kusnadi and Dadan Iskandar, “Peranan Tokoh Masyarakat Dalam Membangun Partisipasi Kewargaan Pemuda Karang Taruna” (Konferensi Nasional Kewarganegaraan III, Yogyakarta, Indonesia, 2017), 358–63, <http://eprints.uad.ac.id/9926/>.

<sup>32</sup> “RI Law Number 8 of 1987 Concerning Protocol” (1987).

<sup>33</sup> Elucidation of Article 2 RI Law Number 8 of 1987 concerning Protocol.

<sup>34</sup> Setjen DPR RI, “J.D.I.H. - Dewan Perwakilan Rakyat,” accessed June 19, 2022, <https://www.dpr.go.id/jdih/index/id/233>.

community and/or the government with a note that the definition of a public figure is limited by the protocol law itself as stated in the explanation of the law.

### **Community Leaders in RI Law Number 7 of 2012 Judging from the Principle of Legal Certainty**

As a state of law (*rechstaat*), the role of law is so central and the affirmation of the state of Indonesia as a state based on law is contained in the constitution. The legal understanding adopted is positive law, in its narrow meaning, it is interpreted as a written rule applicable in a country or nation. In the study of legal science, positive law is the object of legal dogmatics, namely a science whose scientific nature cannot be measured, assessed, or compared with other sciences.<sup>35</sup> One of its characteristics is a specific and firm statement. Our positive law contains legal principles. In this case, Satjipto Rahardjo gave a statement that the legal principle is an important and basic element in the rule of law. This principle is the heart of legal regulation which is laid as the broadest basis for the birth of legal norms.<sup>36</sup> So many kinds of principles are included and attached to a variety of legal products. The position in our positive legal level is so important that in its general position it is always covered by three principles, namely the principle of legal certainty, the principle of justice, and the principle of expediency. Legal certainty is the basis of a high hierarchy in our country's legal system. This principle emphasizes written or normative law.<sup>37</sup>

At least, according to Utrecht, quoted by Oksidelfa Yanto, legal certainty has two meanings: (1) general rules that allow legal subjects to know what is prohibited and what is not; (2) legal protection for someone from abuse of power by power holders. By understanding existing regulations, every citizen is able to know what the authority owner wants or does to individuals.<sup>38</sup> The element of legal certainty is essential in a context where the rules become real guidelines for behavior. Humberto Avila, argues:

*Legal certainty can also embody a legal norm, normative prescription establishing directly or indirectly that something as allowed, forbidden or mandated.*<sup>39</sup>

Humberto Avila's argument explains that the element of certainty is a basic principle. Legal certainty can create legal norms, as a normative provision where legal certainty can determine directly or indirectly that something is declared permissible or not, prohibited or authorized. Legal certainty is free from any intervention without the need to look at the inner condition of the legal subject, due to its objective nature. According to Maria Farida Indrati as quoted by Sidik Surnaryo and Shinta Purnamawati in their research, there are two aspects behind which legal certainty can be created. *First*, legal certainty is created when the formulation of legal products or statutory regulations is thorough and clear so that the public can understand what cannot be done and what

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<sup>35</sup> Salim, *Perkembangan Teori Dalam Ilmu Hukum* (Jakarta: Rajawali Press, 2010), 70.

<sup>36</sup> Sudaryanto, *Pengantar Ilmu Hukum Pengertian Dan Perkembangannya Di Indonesia*, 102.

<sup>37</sup> Sudaryanto, 86.

<sup>38</sup> Oksidelfa Yanto, *Negara Hukum, Kepastian, Keadilan dan Kemanfaatan Hukum Dalam Sistem Peradilan Pidana Indonesia* (Bandung: Pustaka Reka Cipta, 2020), 28.

<sup>39</sup> Humberto Avila, *Certainty in Law* (Switzerland: Springer International Publishing, 2016), 58, <https://link.springer.com/book/10.1007/978-3-319-33407-3>.



can be done. *Second*, when the law is to be amended, the interests of the affected parties must be considered and the transitional or transitional provisions are adequate.<sup>40</sup>

In the explanation of legal certainty, we can take the common thread that legal certainty is a basic principle of law, has a consistent normative style, and is applied thoroughly, evenly, and free of intervention. Legal certainty is closely related to the written regulatory system. The characteristics of the application of legal norms must be detailed, rigid, clear, thorough, and definitive in relation to things that are declared true or not true, violating or not violating.

Society is an entity that cannot be separated from the social interactions of everyday life. In the eyes of the social sciences, society consists of many layers ranging from indigenous peoples, urban villages, industries, and others. As the previous discussion, another term that is familiar to the legal community is a society whose interactions are limited, organized, and regulated by a set of positive legal rules. Even so, the articulation of the legal community is still mentioned with the same terms as the word “community” itself. Thus, it is inevitable that the mention of the community cannot be separated from the context of the root words used in certain objects, which in the scope of government administration are better known as community members as individuals or civil legal entities that have an attachment to certain behaviors or activities.<sup>41</sup> There is a close and inherent relationship between the community and the figures that can be likened to two inseparable sides of a coin.

Characteristics of a figure usually describe a person who can be a mover or pioneer. He has a solid initiative to influence his members to do or achieve certain goals. Because he has a special ability to lead his group, the figure of a character is always a reference for its members at certain times. Figures with many terms are sometimes referred to as traditional leaders, religious leaders, and community leaders. Regardless of the number of names, this character has an essential and influential role in bridging problems that arise in the community; his figure is always present to create environmental or regional conduciveness. The case of community leaders being formed can be explained in two ways. The first pattern is built on the assumption that community leaders are born naturally (taken for granted). In the second pattern, community leaders are born from a series of processes in the community’s environment. It is the community that predicts them as leaders through a series of processes. Therefore, not just anyone can be said to be a public figure. Moreover, his role is expected to be able to bridge the existing feuds in society. Conflict handling tends to have different results if ordinary people carry out the management. Even personnel from official state institutions in certain areas become less effective in dealing with conflicts without the help of local community leaders.

From the previous author’s research, it is clear that after the Republic of Indonesia Law Number 7 of 2012 concerning Handling Social Conflicts, the roles of community leaders have increased to become part of the applicable law in Indonesia. Community leaders with other elements of society have become legal and optimal to be involved in resolving social conflicts. Unfortunately, it turns out that the law on handling social conflicts does not seem to have provided adequate information in its entirety concerning the definition of community leaders, which is not simple and tends to be

<sup>40</sup> Sidik Sunaryo and Shinta Ayu Purnamawati, “Paradigma Hukum Yang Benar Dan Hukum Yang Baik (Perspektif Desain Putusan Hakim Perkara Korupsi Di Indonesia),” *Hukum Pidana Dan Pembangunan Hukum* 1, no. 2 (April 1, 2019), <https://doi.org/10.25105/hpph.v1i2.5465>.

<sup>41</sup> Article 1 paragraph 15 RI Law Number 30 of 2014 concerning Government Administration.

complex. The fundamental question of who can be said to be a public figure has not been answered, causing the understanding contained in this law not to fulfill the element of legal certainty.

Of the many elaborations of the articles contained in the law, there is no complete information. It isn't easy to find the formulation of community leaders both in the law itself and from the implementation of government regulations. Information about community leaders can be seen in the following article:<sup>42</sup>

Article 47 paragraph 3 sub (c):

*The community elements as referred to in paragraph (1) consist of: (a) religious figures; (b) traditional leaders; (c) community leaders; (d) peace activists; (e) representatives of the parties to the conflict.*

Article 48 paragraph 3 sub (c):

*The community elements as referred to in paragraph (1) consist of: (a) religious figures; (b) traditional leaders; (c) community leaders; (d) peace activists; (e) representatives of the conflicting parties from the District/City Scale Social Conflict Resolution Task Force.*

Article 49 paragraph 3 sub (c):

*The community elements as referred to in paragraph (1) consist of: (a) religious figures; (b) traditional leaders; (c) community leaders; (d) peace activists; (e) representatives of the conflicting parties from the Provincial Scale Social Conflict Resolution Task Force; (f) other related community institutions as needed.*

There are differences between these articles. In Article 48 paragraph 3 sub (e), there is additional information on conflict areas at the district or city level. Then, in Article 49 paragraph 3 sub (e), there is a description of conflict areas at the provincial level and may involve other community institutions. Apart from the law, the diction of community leaders is also found in the implementing regulations that is in the text of article 63 paragraph 3 sub (c):<sup>43</sup>

*Community participation as referred to in paragraph (1) can be carried out by: (a) religious leaders; (b) traditional leaders; (c) community leaders; (d) customary institutions; (e) social institutions;*

The difference with the articles contained in the law lies in the use of the phrases, namely in sub (d) and sub (e), the phrase 'customary institutions' and social institutions. Besides, limited information also includes an explanation chapter on the law on handling social conflicts. The explanation of the three articles is said to be 'quite clear,' with no exception found in the implementing regulations. Regarding how the process of the appointment, who gives or assesses a person's eligibility as an unclear figure in the law is limited to what customary and social institutions are:<sup>44</sup>

Article 1 paragraph 15:

*Institutions born from customary values that are respected, recognized, and obeyed by the community.*

Article 1 paragraph 16:

*Institutions born from customary, religious, cultural, educational, and economic values that are respected, recognized and obeyed by the community.*

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<sup>42</sup> The Republic of Indonesia Law Number 7 of 2012 concerning Handling of Social Conflicts.

<sup>43</sup> "Government Regulation of the Republic of Indonesia Number 2 of 2015 Concerning Implementing Regulations of Law Number 7 of 2012 Concerning Handling of Social Conflicts" (2015).

<sup>44</sup> Article 1 paragraphs 15 and 16 The Republic of Indonesia Law Number 7 of 2012 concerning Handling of Social Conflicts.

The difference between the two lies in the use of the ‘customary values’ diction in customary institutions, while in social institutions, it uses the diction of culture, education, and economy. In contrast to the law on protocols, the law clearly provides an understanding of community leaders in a very detailed formulation up to the explanation chapter.<sup>45</sup> Based on a systematic legal interpretation, the articles on community leaders contained in the law on handling social conflicts can be synergized by referring to their meaning to the protocol law but still cannot be used as legal arguments. By argumentation; First, the Republic of Indonesia Law Number 8 of 1987 concerning Protocols has been revoked, replaced by a new regulation regarding protocols, and their implementing rules have emerged. *Second*, even if the Republic of Indonesia Law Number 8 of 1987 is still valid, it still cannot be used as a strong legal basis because, in the protocol law, the paradigm of the text of the article on community leaders is limited in its interpretation. Although the editor of the article says that a community leader is someone whose position is given the honor by the community or the government. However, this description is limited by other editorials which are located in the explanation chapter of article 2, paragraph two, and paragraph three, which are strongly tied to the political context of the New Order era government. The full text reads as follows:<sup>46</sup>

*This law also does not regulate all community leaders but only certain community leaders. The definition of certain public figures in this article includes owners of honorary marks in the form of certain stars, general chairmen of political parties, workgroups (Golongan Karya), religious leaders, and others as further determined by the Government.*

Therefore, the concept, criteria, formulation, and understanding of community leaders in the Law of the Republic of Indonesia Number 7 of 2012 concerning Handling Social Conflicts are biased in the elements of legal certainty. Who is meant by community leaders in the description is still vague, not detailed, and not fully explained. In fact, the principle of legal certainty demands that something must be described in great detail, strictly, evenly, thoroughly, in detail, with clear boundaries, including the scope of authority, and unbiased. Thus, interested parties enforcing the provisions of these regulations will not worry about falling into arbitrariness and violating the law because it is clear about who can and cannot do, what is prohibited, and what is not prohibited. In This way, the absence of corridors or boundaries for the meaning of community leaders will not result in the suboptimal application of the law.

## CONCLUSION

The definition of community leaders in the law on handling social conflicts cannot be said to fulfill the element of legal certainty. The formulation of the understanding of community leaders is considered something quite urgent, considering the potential for social conflict can always occur anytime and anywhere. A detailed explanation of the editorial articles of the law will greatly help provide a complete picture of the limits of authority and clarify who is categorized as a public figure. Seeing the problem in terms of legal certainty has helped provide a bright spot that the community leaders referred to in the law on handling social conflicts are still biased, both in the law and its implementing regulations. This research may be additional material for those who have the authority to make improvements so that the criteria and concepts of community leaders really become ideals as desired and are indeed able to become real peacemakers. The author hopes that

<sup>45</sup> Article 1 paragraph 6 RI Law Number 8 of 1987 concerning Protocol.

<sup>46</sup> Elucidation of Article 2 of the second and third paragraphs RI Law Number 8 of 1987 concerning Protocol.

there will be further research from any party that focuses on developing legal issues surrounding the handling of social conflicts in the future.

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