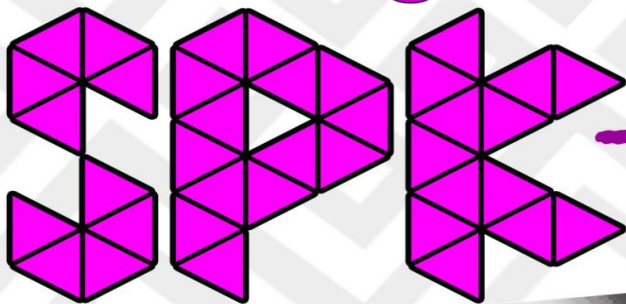


# Prosiding



# -iii2016

Seminar Psikologi Kebangsaan-iii 2016  
Unit Penyelidikan Psikologi dan Kesihatan Sosial  
26 & 27 Mei 2016 | Kota Kinabalu, Sabah



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# *Prosiding Seminar Psikologi Kebangsaan -iii 2016*

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## THE CAPACITY BUILDING OF ADAT BENGKULU INSTITUTION IN PROTECTING CHILDREN FACING LAW

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### Abstract

The capacity building of Adat Bengkulu Institution was an effort to develop knowledge and skill of Rajo Penghulu at Village Rawa Makmur Permai District Muara Bangkahulu of Bengkulu Regency in giving services the children who face law problems. It was done to consider the position of Rajo Penghulu as the important position in relating directly to the dynamic of social life as a system which was very potential for helping children with law problems. The mechanism of “Musyawarah Mufakat Rajo Penghulu” which recommends the apology, adat sanction, tepung setawar sedingin procession in coping with children problems, as an implementation of “restorative justice”. It is in accordance with Regulation Number 11 in 2012 about the Criminal Justice System of Children which is mandates to protect the rights of children as a victim, witness, or the crime.

*Key words: capacity building, children facing law problems*

### INTRODUCTION

Children protection, in Regulation Number 23 on 2002, are all activities for insuring and protecting children and the rights to life, grow and participate optimally base on humanity dignity as well as get protection from violence and discrimination. The Data from Correctional Center Bengkulu Province says that kinds of criminal acts which was done by children client on 2013 reach 556 includes 275 the act of theft cases, 95 immoral acts cases, 65 persecution cases, 70 narcotics cases, and the rest includes traffic violations, embezzlement, murder, and violence with a sharp weapon. One that have been done by the Indonesian government in order to protect the children, especially to whom that facing law problems was by set the Regulation Number 11 on 2012 about Criminal Justice System of Children. Which on it mandated mechanism “restorative justice” for handling children cases dealing with the law.

This mechanism was not the new thing in Bengkulu society, since it was have been done by Adat Bengkulu Institution through the mechanism “Musyawarah Mufakat Rajo Penghulu” in handling various social community problems, such as theft, immoral, citizens of strife, including on handling children problems dealing with the law. The research result of Yessilia Osira etc (2012) showed that Adat Bengkulu Institution, especially Rajo Penghulu in Rawa Makmur Permai Village Muara Bangkahulu District of Bengkulu city, have long played an important role on handling social community problems. One of the interview result with Executive Board of Rajo Penghulu in Rawamakmur Permai Village on the research, stated that some of children problems have handled by Adat Institution, such as immoral, child disputes, and theft problems by children. Even so, the research also showed various barriers experienced by Adat Bengkulu Institution, like: 1) the lack of socialization of Adat Institutions and its function to the citizens, 2) the lack of activity to increase the capacity of Adat Institution, 3) the absense of recording against cases that already handled by adat Institution. This situation and condition showed that it is needs to increase the capacity of adat institution on handling social problems, especially children dealing with the law on jurisdiction of Bengkulu city.

Based on the background, so the focus of this research is “ How The Capacity Building of Adat Bengkulu Institution in Protecting Children Facing Law?”. The process of developing the Adat Bengkulu

Institution is expected can be increases the capacity of Rajo Penghulu Board on Kelurahan Rawa Makmur Permai, especially on handling children problems on facing the law.

## RESEARCH METHODS

This research is an action research which tries to find the solution of specific problem and help the practitioners improve their jobs (Neuman : 2000). This action research was preceded with introduction reseach done by Yessilia Osira etc (2012) about the Role of Adat Bengkulu Institution on handling social problems (Cases study on Rawamakmur Permai village Muara Bangkahulu Bengkulu City, 2012 ) which one of them recomends the existence of capacity development of Adat Institution.

Refers to Suwarsih Madya (2007), this action research steps are as follows :**1) Identifying and formulating the problems.** Based on Introduction Study, noted that Adat Bengkulu Institution had been long time involved on handling social community problems, such as immoral cases, promiscuity, citizens of strife and theft. Nevertheless the Institution also had limitations and obstacles, like the lack of socialization of adat Institution and lack of activities of capacity improvement for Adat Institution boards. By that condition, the researcher formulating the research problem become “How The Capacity Buiding of Adat Bengkulu Institution in Protecting Children Facing Law” **2) Analyzing the problems.** Problems analysis done by the researchers after they done the introduction study and continued at the research. The problem formulation according to the situation and condition of Bengkulu at this time as we know that there are many violence problems of children and women, so that stated “ Bengkulu emergencies on violence of women and children”. **3) Organizing the action plan.** The action plan for developing the capacity of Adat Bengkulu Institute on protecting children facing the law had been done together between the researchers, adat institution especially Rajo Penghulu on Rawa Makmur Permai Village and Rumah Kita Peduli Association, that is an social organization concerns about the handling children problems dealing with the law in Bengkulu **4) The Action** was the implementation of the action plan. On this research the action plan was in the form of capacity building of Adat Bengkulu Institution on protecting children that facing the law by the socialization of legislation number 11 on 2012 about Criminal Justice System of Children. **5) Processing and interpretation/analyzing of data.** This step was to collecting and processing and also analyzing all datas that have been got by the researchers both datas from introduction research and also activities datas of capacity buiding Adat Bengkulu Institution in protecting children facing the law. **6) Reporting the result of research.** After the datas finished on processing, then the researchers presenting the result of reserch on the form of research result report. It is expected that next the report of result research can be usefull especially for development adat institution and also for the practitioners in general.

On the research, the datas about profile of Adat Bengkulu Institution getting from the boards including Rajo Penghulu on Rawamakmur Permai Village, Musyawarah Adat Agency (MAA) District Muara Bangkahulu, and documentation study about Adat Bengkulu Institution. While the datas about children problems that facing the law getting from documentation study, public figures and institution related to children problems on facing the law. The datas collected through in-depth interview techniques, discussion focused group discussion, and documentation study.

The collected datas then validated by a test of credibility which contains: 1) Extension of the observation . It was done by the researchers by re-observe on the research field/ location. It means that the relationship between researchers and participants/interviewees become more familiar, opens each other, mutual trust so there is no information hidden anymore. 2) The persistence increase on the research. The researchers checking again if the datas that have been found were true or false. They can also describing the acurate and systematic datas. 3) Triangulation, that is the checking of datas from various sources and various time. Some information sources that used to each check the validity of datas are Pengulu Adat,

Penghulu Syara', Cerdik Cendikio, village government and other sources. By the qualitative analysis technique, the result datas of introduction research analyzed together with datas collecting result along the research start from interview datas, FGD result, action plan result and also result datas of documentation study which related with Adat Bengkulu Institute and social protection of children facing the law in Bengkulu city, especially Rawa Makmur Permai Village.

The research about Capacity Building of Adat Bengkulu Institution on Protecting Children facing the Law in Rawa Makmur Permai Village was held for 5 months, from July to November 2015.

## RESEARCH RESULT AND STUDY

### Profile Adat Bengkulu Institution on Rawamakmur Permai Village

The result of this research indicates that the existence of Adat Bengkulu Institution as stated on Regional Regulation of Bengkulu city number 29 on 2003, includes Rajo Penghulu on village level, Badan Musyawarah Adat (Musyawarah Adat Agency/MAA) on district dan city MAA. The research of Yessilia Osira etc (2012) says that Rajo Penghulu is an adat institution exist in villages of Kota Bengkulu, consist of Penghulu Adat, Penghulu Syara' and Cerdik Cendikio. The Rajo Penghulu selected and stated by the Decree of Bengkulu Mayor on 2005 until now there has been no changes or turnover, where the regional regulation about Adat Bengkulu Institute set that period of Rajo Penghulu board is two periods for 5 years each period.

Research result of Susi Ramadhani (2011) says that what is it mean by Rajo Penghulu is an institution on duty to solve various problems on community's day life of Bengkulu City. Rajo Penghulu, thus is source for residentin solving the social life problems. This condition reinforced with the research of Yessilia Osira and friends (2012) said that Rajo Penghulu have been taken part actively on handling social community problems.

The result of introduction research says that according to Regional Regulation of Bengkulu Number 29 on 2003, Duties and Functions of Adat Bengkulu Institution, especially Rajo Penghulu on the villages level are:

Matrix 1

Duties and Functions of Rajo Penghulu

|                              |                                                                                                                                                                                                                                                                                                                                                                                                       |
|------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Main duties of Rajo Penghulu | <ul style="list-style-type: none"> <li>To Foster and maintaining the implementation of adat law in villages of Bengkulu</li> <li>As communicator between community and district MAA</li> <li>As key partner of Headman</li> </ul>                                                                                                                                                                     |
| Functions of Rajo Penghulu   | <ul style="list-style-type: none"> <li>To prevent the law violation occur (<i>Dapek Salah</i>) that cause the Denda Adat</li> <li>To push the citizen to keep <i>pegang pakai adat</i> together</li> <li>To solve Dapek Salah wisely, worthily and prudentially based on hukum adat provision</li> <li>To foster the balancing between the age progress and the demands of adat community.</li> </ul> |

Source : Yessilia Osira etc 2012

The result of introduction research also found the gaps between implementation adat provision based on Regional Regulation and the fact on the field, as follows

Matrix 2  
 Gaps between Implementation Adat Provision based on  
 Regional Regulation and the Fact on Field

| Aspects Assessment     | Regional Regulation of Bengkulu                                                                                                                             | Facts on Field                                                                                                                                                                                                                       |
|------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Rajo Penghulu Election | <ul style="list-style-type: none"> <li>Penghulu adat directly elected by community or through head families delegation system and public figures</li> </ul> | <ul style="list-style-type: none"> <li>Penghulu adat was elected through head families delegation system and public figures on 2005 untill now never changes</li> </ul>                                                              |
|                        | <ul style="list-style-type: none"> <li>Penghulu syara' was elected by Mosques boards in the villages</li> </ul>                                             | <ul style="list-style-type: none"> <li>Penghulu syara' was elected by head familyies delegation and public figure</li> </ul>                                                                                                         |
|                        | <ul style="list-style-type: none"> <li>Cerdik cendikio was elected by the head of neighbourhood groups in the `villages</li> </ul>                          | <ul style="list-style-type: none"> <li>Cerdik cendikio was elected by head of neighbourhood groups delegation</li> </ul>                                                                                                             |
| Working Period         | Penghulu adat there is no clear provision                                                                                                                   | Since it was stated on 2005, untill now, there is no changes                                                                                                                                                                         |
|                        | Penghulu Syara', the time management is 2 (two) period with the lenght between is 5 (five) years                                                            | Since it was stated on 2005, there was some changes of names composition that became Penghulu Syara' like Mr. Ruslan Andalas now becomes imam. Nevertheless that changes was not followed by the Issuance of the New Decree of Mayor |
|                        | Cerdik Cendikio, the time management is 2 (two) period with the lenght between is 5 (five) years                                                            | Since it was stated on 2005, untill now, there is no changes                                                                                                                                                                         |

Source : Yessilia Osira etc 2012

The result of research about The Capacity Building of Adat Bengkulu Institution on Protecting Children facing the Law shows that since the introduction study which held on 2012 until now, in fact there was no significant development related to repairing management of Adat Bengkulu Institution, as told by penghulu adat:

*“Sebenarnya kito tuch lah ado nangani beberapa masalah yang ado dimasyarakat, mulai dari konflik antar suku, keributan rumah tango, pergaulan bebas, perselisian hidup bertetangga sampai permasalahan anak-anak....hanya idak tercatat dengan baik...biasonyo selesai nangani masalah dan kedua pihak sudah berdamai berita acaranyo kami serahkan kek pak ketua RT masing-masing....”*

(“Actually we had handling some social problems, from ethnic conflict, household commotion, promiscuity, neighborly disputes to children problems....just not recorded properly...it is usually solved the problems and both sides have been reconciled, news events given to each neighbourhood groups headman...”) (interview August 2015)

*“Kasus-kasus yang dapat kami proses, bila ado pihak yang mengadu, pihak saksi, dan bukti, kalu iko idaknyo maka kasus tersebut idak bisa kami proses..”*

(“All cases that we can process, just if there is a party conlain, with witness side and evidence, but if not we can not process the case”) (Interview Oktober 2015)

Another thing that complained by Rajo Penghulu is that there are many community do not understand about the functions and the roles of adat institution on handling community problems. Most of the community will only come to adat institution when they want to held a wedding procession. It was also the reseachers get information from pemangku adat dan community, as follows:

*“Masyarakat kito ko banyak yang belum paham tentang fungsi lembaga adat, dipikirnyo lembaga adat ini berperan hanya pada saat prosesi pernikahan dan kegiatan cuci kampung saja...bahkan terdapat beberapa ketua rt yang jugo belum paham, kalo kami ko merupakan mitranyo dalam nangani masalah masyarakat...”*

*“Most of our community have not understand about the fuction of adat institution, they think the role is just at the wedding procession and “washing village”....even there are some headmans of neighbourhood group not yet understand while we are the the partner on handling social problems (Interview October 2015)*

Another comment from the community:

*“ohh jadi fungsi lembaga adat tuch idak hanyo nangani masalah orang ndak nikah ajo yo..slamo ini saya pikir Cuma ngurus orang nikah kek kalu ado warga yang ketangkok..”*

*“Ohh so the functions of adat institution not only handling one who want to get married yeah...all this time I think just to process people want to get married and if there are residents caught...(Interview October 2015)*

On handling the cases of adat institution in this village have been made cooperate with Police Resort district Muara Bangkahulu through Security and public orders and some head of neighbourhood groups in this village. While for activities that aim on development of institution capacity, this institution have just coordinated with City MAA and district MAA. An obstacle felt by this institution on capacity development related with, institutions funding, human sources, administration activities, the lack of socialization about this Adat Regional Regulation toward community, the neighbourhood groups headmans. On this case, the reseachers know when held a discussion with penghulu adat and cendikio.

### **The Situation of Children problems facing the law**

Children problems facing the law is a term that is used in Constitution Number 11 on 2012 about Criminal Justice System of Children . For the activists of children protection, this term such an effort to eliminate a negative stigma of children that before known as “naughty child”. The term Children problems facing the law refers to children that on position as a victim, witness, or the crime.

The result of this study shows that Children problems facing the law also happened on Rawa Makmur Permai Village. Event the formal datas of the problems difficult to found, but Rajo penghulu from this village explained that social problems especially related to children in this territory quite many had no report from community, so adat institution could not follow up the problem, like the explanation one of adat board follows:

*“Khusus tentang permasalahan anak kami juga pernah menanganinya, waktu itu nangani masalah anak yang ngintip tetanggonyo lagi mandi, kareno meraso idak nerimo tetanggonyo ko ngadu kek kami selaku pemangku adat, dan masalah itu akhir nyo dapat kito selesaikan tanpa harus sampai ke pihak kepolisian...”*

*“Especially about children problems we have handling too, at that time handling a child who was peeping someone take a bath, cannot accepted that, the neighbor report to us as pemangku adat, and finally the problem could be solve without reporting to the police...”(Interview August 2015)*

“Sebenarnya kasus tentang anak ko banyak kami dengar, Cuma itulah idak ado yang mengadukannyo, sehingga kasus-kasusnyo idak dapat kami tindaklanjuti..Kasus kasus yang pernah kami dengar seperti pencurian, tindakan asusila, narkoba, yang pelaku nyo adalah anak..”  
“Actually, this children cases many sounds, but there was no one reports, so we can not follow up the cases. Cases that we have heard like theft, immoral, drugs, wich the convicts are children...”(Interview August 2015)

Information that said by Mrs. Iba Nilisti, a social worker in Social Agency of province Bengkulu who is cares and actives on handling Children problems facing the law said there are 47 children dealing with law cases. The cases such as theft of HP or laptop, presecution and immoral cases.

If we noted the mass media informations in Bengkulu on 2015, we will know that children problem facing the law is urgent to get concern from government and also community because the problems are very concerned. Facts said “Bengkulu emergency of violence toward children and women” becomes evidence of the need to increase effort of children protection.

The constitution Number 11 on 2012 mandated to prepare all infrastructures that needed on outline of Criminal Justice System of Children. The constitution’s mandated including: 1) preparing human sources both children invertigator and police, children public prosecutor, children judge, social research officer in Correctional Center, professional social workers, children mentors, and other officers, to understand the mechanism children justice and especially to understand children protection effort. 2) preparing infrastructures like seperti Development Institute for children, that is an institution or place where the children pass their punishment time, Temporary Child Placement Agency is a temporary place for children along the Judicial process, Institution of Social Welfare Management that is an istitution or place of social service to take care of the children social welfare.

This mandate based on information from Bengkulu Police Resort and Social Agency of Bengkulu province infact it was still in preparation. Since that must be many preparation needed in order to up hold the “restorative justice”, so participation of the society and social organization very needed to optimize the children protection effort especially to whom facing the law.

The explanation shows many problems or limitation of children protection effort especially to whom facing the law, however this research indicates in the middle of communy there are many people event organizations that care and active handling children problems. One on Rawa Makmur Permai Village is Rumah Kita Peduli Association.

### **Capacity Building of Adat Bengkulu Institution on Protecting Children Facing the Law**

The capacity building of institution is a process that can increase someone ability, an organization or a system to reach the intended purposes. Brown (2001:25). Based on the common interest and concern, the researchers together with Rumah Kita Peduli Association and Rajo Penghulu of Rawa Makmur Permai Village agreed to held capacity building activities of Adat Bengkulu Institution. Through some discussions and meetingg, finally agreed the Activities Outline of Capacity building of Adat Bengkulu Institution on Protecting children that facing the law by socialize Regulation Number 11 on 2012 about Criminal Justice System of Children.

Activities of Capacity building of Adat Bengkulu Institution through the socialization activities of Criminal Justice System of Children held for the reasons: 1) Rajo Penghulu of Rawa Makmur Permai Village and Rumah Kita Peduli Association are social organizations in the district and have been active role on handling social problems including children protection problems, that’s why there is needed

capacity building like: Knowledge development. 2) Socialization materials of Regulation Number 11 on 2012 about Criminal Justice System of Children are new mechanism on children justice that have to understand by the society and social organization includes Adat Bengkulu Institution and Rumah Kita Peduli Association. 3) The activities of capacity building and selected materials appropriate to the children problems condition on district Rawa Makmur Permai and also general condition of Bengkulu that have been on “Bengkulu emergency on violence of women and children”.

The selected activities of capacity building in form of socialization is basically according to Katty Sensons 1993:15) on Warsito and Yuwono (2003) that:

“Capacity building in common was known as effort to help government, community or individual on developing expertise and skill which needed to realize their purposes. Capacity building program usually designed to strengthen ability on evaluating their options policy and to run decisions effectively. Capacity building can be involves education and training, regulation and institution reformation, and also financial assistance, technology and scientific.”

The socialization activities held on Thursday 19 November 2015 at 19.30 till 22.00 on Masjid Akbar Rawa Makmur Permai attended by Rajo Penghulu of Rawa Makmur Permai involved penghulu adat, penghulu syara’, cedik cendikio, Neighbourhood Groups and Community Groups devices, security and public orders and public figures surrounding.

This activity was opened by greetings from Department of Social Welfare of Social and Politics Faculty of Bengkulu University represented by Mrs. Yessilia Osira (Lead researcher). On the greetings she delivered the importance of Adat Bengkulu Institution position especially Rajo Penghulu to be more active on handling social problems including children protection facing the law.

The next socialization activities in the form of material presentation and discussion which moderated by leader of Rumah Kita Peduli Association. It was involved : 1) Roles of Adat Bengkulu Institution on handling children facing the law. This material preceded performed by Musyawarah Adat Agency (MAA) of Bengkulu city, but because an absent at last presented by Penghulu Adat from Rawa Makmur Permai that is Mr. Mahyuddin Alwi which also as a board of MAA of district Muara Bangkahulu. 2) Protection of children and women by Social Agency of Bengkulu Province, in this occasion represented by Mrs. Iba Nilisti S.Sos, a social worker that cares and actives on handling children problems facing the law. 3) Regulation of RI Number 11 on 2012 about Criminal Justice System of Children presented by Police Resort Bengkulu, in this case represented by Head of Investigation and Criminal Unit (Mr. Mirza Gunawan) and Head of Women and Children Protection Unit (Mr. M Zainur Kosim)

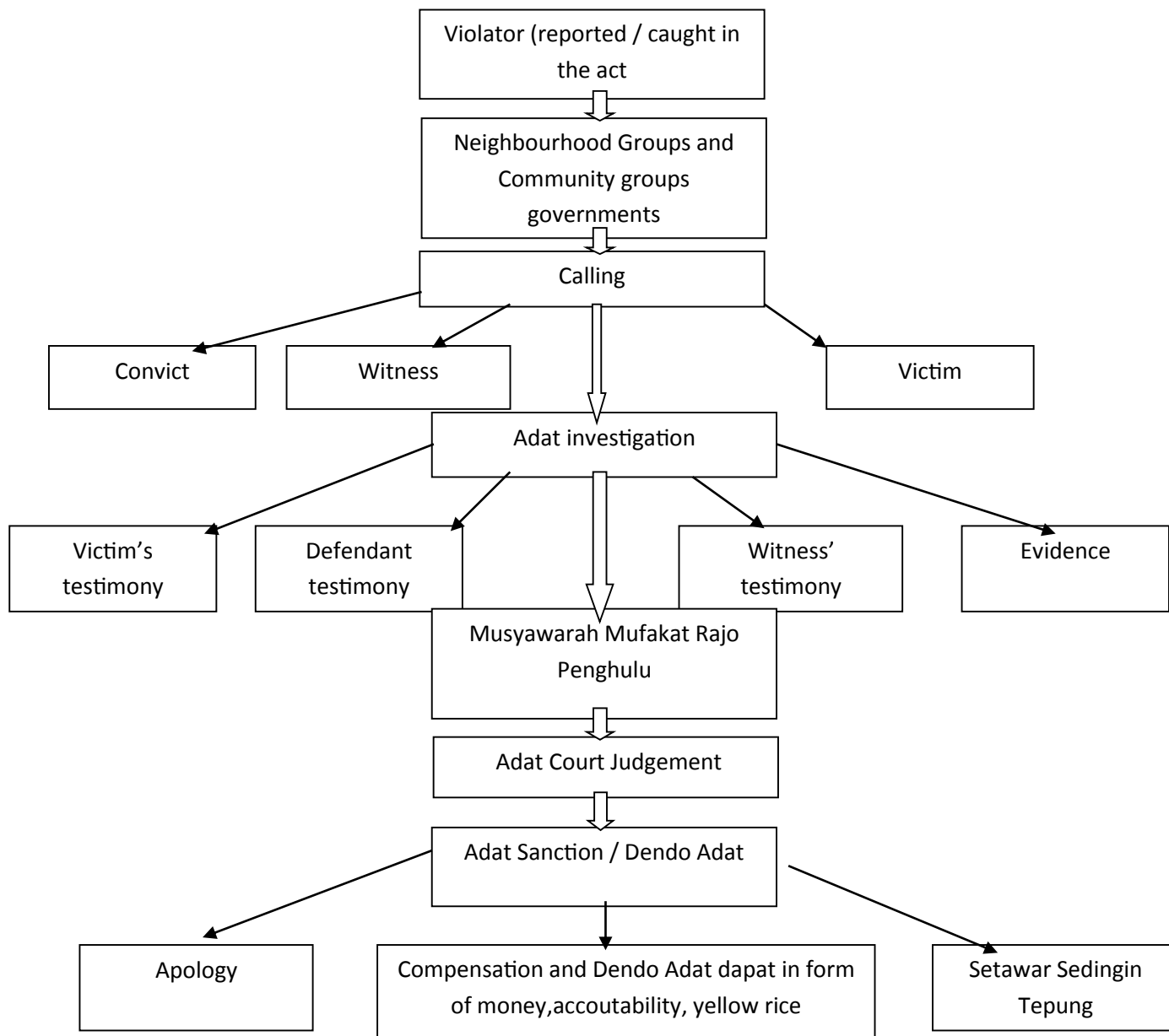
On the explanation, speaker from Police Resort Bengkulu and Social Agency of Bengkulu emphasized the necessary of “restorative justice” implementation through “diversion” mechanism on handling social problems including children protection facing the law. Restorative justice has the meaning as a completion of criminal case by involving convicts, victims, family of convicts and victims and others involved for together find fair solution by emphasizing on restoration to original condition, and not revenge. While diversion constitutes the transferring the children case solution from criminal justice process to outside criminal justice process.

The result of this research shows that restorative justice and diversion constitute activities that have been done by Adat Bengkulu Institution on handling social community problems. Mechanism of Mufakat Rajo Penghulu on handling social community problems bring out decision in form of “dendo

adat” involved apology, compensation and adat ritual “Tepung Setawar Sedingin”. The ritual consist of sedingin leaves as expression of soothing, setawar leaves as expression of sincerity and humility, and the curcuma/yellow rice.

This research result says that the process of handling social community problems by Adat Bengkulu Institution have done through 35 stages, it is appropriate with the stages on Susi Ramadhani research (2011), as follow:

Picture 1  
 The Court Process of Adat Musyawarah Mufakat Rajo Penghulu



The activities of capacity building of Adat Bengkulu Institution on Protecting Children facing the law through socialization Number 11 on 2012 about Children Criminal Justice System indirectly also as effort to build networking children protection between Rajo Penghulu Village of Rawa Makmur Permai with Rumah Kita Peduli Association, Bengkulu University, Police Resort Bengkulu, and Social Agency of Bengkulu Province.



Picture 2. Giving souvenir to interviewees at once commitment build networking to each institutions for protecting children

## CONCLUSION

This research indicates the existence of agreement between mandate of Regulation Number 11 on 2012 with Rajo Penghulu Role on handling children problem dealing with the law, especially related to suppression approaches “restorative justice”, that is a completion of criminal case by involving suspect, victim, family of suspect/victim and other relevant parties to find together the fair solution by emphasize on restoration to original condition, and not revenge. The effort done by “diversion” mechanism that is transferring the children case solution from criminal justice process to outside criminal justice process.

Regulation spirit to protect children's right either as victim, witness or suspect indirectly have been done by Adat Bengkulu Institution through "Musyawarah Mufakat Rajo Penghulu".

This research recommends: 1) to Adat Bengkulu Institution, either Rajo Penghulu, District Musyawarah Adat Agency or City Musyawarah Adat Agency, to be systematically and sustainably doing activities of capacity development of adat institutions especially that related to knowledge and skill enhancement on handling social community problems including children problem facing the law. 2) To the government either Village, District or Bengkulu city government to be factually support the existence of Adat Bengkulu Institution through adequate "budget politics" so performance and role of Adat Bengkulu Institute on handling social community problems including children problem facing the law can be run optimally. 3) To academics and social organizations who is working on field of social study and service, to be systematically and sustainably encourage formation of network of all stakeholder to handling children problem facing the law.

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