

Community Efforts Regarding Mediation and Conciliation in Resolving Civil Disputes

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Abstract

Resolving civil disputes through mediation and community conciliation is an effective approach to reduce the burden on the judiciary and strengthen relationships between individuals. This article discusses strategies for education, training and access to local dispute resolution centers in strengthening the community's role in resolving civil disputes. Education and training will give communities a better understanding of the mediation and conciliation process, while easy access to local dispute resolution centers will make it easier for communities to get help and support in resolving their disputes. Thus, this article discusses the efforts that need to be made to increase the role of society in resolving civil disputes, as well as the benefits that can be obtained from this strategy in strengthening social harmony and justice.

Keywords Mediation, Justice, Dispute, Education

INTRODUCTION

The existence of law in the dialectic of social life is placed in various functional propositions. In general, law is associated with three aspects of objectives, namely justice, expediency and certainty.¹ Systematically, law is also positioned as an instrument to regulate social life. This proposition is realized through the placement of law as a medium for changing human behavior towards the desired goals.² The realization of order in society is influenced by several certain variables, firstly structure, secondly substance (the substance is composed of substantive rules and rules about how institutions should be) and thirdly, legal culture.³ Of the three sub-systems, legal culture is associated as an orientation. Constructing legal compliance and awareness is determined by the functioning of the law and thus, legal functionalization not only has a specific meaning but also needs to be universally oriented.⁴

Civil dispute resolution is an important part of the legal system in various countries, and is a complex process and requires the right approach in order to achieve fair and satisfactory results for all parties involved. One strategy that can be taken in resolving civil disputes is through community-based mediation and conciliation. Mediation and conciliation are alternative methods of dispute resolution that can be carried out outside of court and involve the disputing parties to reach a peaceful agreement.

Unlike litigation in court, community-based mediation and conciliation allows disputing parties to reach a quicker, more cost-effective and more satisfactory resolution. Community-based mediation and conciliation can help build better relationships between

¹JJH Bruggink and Arief Sidharta, 1996, Reflections on Law, PT. Citra Aditya Bakti, Bandung, p-84

²Rusli Effendi, et al., Legal Theory Hasanuddin University Press (Cet. I; Makassar: p. 82.

³Lawrence Friedman, The Legal System; A Social Science Perspective. New York, 1977(Russell: Sage

Foundation, 1977), p. 69 in Tuti Haryanti, Law and Society, Tahkim Journal, VolX No. December 2, 2014, p-161

⁴Tuti Haryanti, Ibid



disputing parties, while still maintaining sustainability and harmony in the community where the dispute occurs.

Education and training are the main keys in developing community strategies based on mediation and conciliation. Through education and training, communities can understand the importance of peaceful dispute resolution and also acquire the skills needed to become mediators or facilitators in mediation and conciliation processes. Education and training will also increase public awareness of the various dispute resolution methods available, so that people can choose the most appropriate method to resolve their disputes.

Access to local dispute resolution centers is also a very important factor in community-based mediation and conciliation strategies. Local dispute resolution centers can play a key role in providing easy access for communities to assistance in resolving civil disputes. Through local dispute resolution centers, communities can obtain the information and assistance needed to carry out effective mediation and conciliation. By facilitating mediation and conciliation, local dispute resolution centers can help ensure that the dispute resolution process runs smoothly and efficiently and ensure that community involvement is most appropriate to the local context.

Through a community-based approach, each community will have greater involvement in resolving the disputes they experience. This can trigger the formation of a more positive perception of the dispute resolution process. By involving the community, this method can create broader and more relevant solutions, ensuring fairer agreements for disputing parties. While community-based mediation and conciliation has many advantages, challenges also remain. One of the main challenges is ensuring that the mediators and facilitators involved in the mediation and conciliation process are competent and well trained. Addressing these challenges, it is important to prioritize ongoing education and training for mediators and facilitators.

Analytical in the context of education and training, it also needs to be emphasized that the community must be empowered to play an active role in resolving civil disputes. Through the knowledge and skills gained from education and training, communities can become agents of change in resolving civil disputes in their local communities. The active participation of local communities in resolving civil disputes will strengthen the legitimacy and acceptance of the resulting solutions. In conclusion, community strategies based on mediation and conciliation are very important in resolving civil disputes. Through education, training and access to local dispute resolution centers, communities can be involved in the dispute resolution process in an effective way and achieve fair and satisfactory results. Education and training will provide the necessary knowledge and skills for dispute mediators and facilitators, while access to local dispute resolution centers will ensure that communities can get the assistance they need in the dispute resolution process.

LITERATURE REVIEW

This community-based mediation strategy is important considering that the formal judicial process in resolving disputes tends to be slow and expensive. Meanwhile mediation and conciliation enable dispute resolution quickly, efficiently and more affordably.

Aspects of education and training in mediation and conciliation are also important to increase public understanding of the importance of peaceful dispute resolution. Education and training about mediation and conciliation can be carried out through various types of programs, such as workshops, seminars or direct training. Apart from that, access to local dispute resolution centers is also crucial in this community-based mediation strategy. With the existence of a local dispute resolution center, the community can have easy access to resolving disputes without having to involve formal justice.

Education, training, and access to local dispute resolution centers can help communities recognize the benefits and processes of mediation and conciliation. In this way, society can be more open in adopting this dispute resolution method in everyday life. Apart from that, education and training also help people to practice communication and negotiation skills that can be used in mediation and conciliation.

Adoption of this community-based mediation strategy can also help in reducing the caseload in courts. With communities actively using mediation and conciliation, courts can focus on cases that require special attention. In the context of education and training, it is important for the government and related institutions to develop a curriculum that includes mediation and conciliation material. This will help in increasing public understanding of this dispute resolution method. Apart from that, the government can also provide incentives for people who use mediation and conciliation to resolve disputes, such as reducing costs or other financial incentives.

The mediation and conciliation approach in resolving civil disputes can also help the community to maintain good relations between the parties involved in the dispute. This is important considering that many civil disputes involve parties who have a previous relationship.

Training in mediation and conciliation can also help communities to develop skills and strategies for resolving disputes peacefully. Access to local dispute resolution centers can also help in increasing community participation in resolving disputes peacefully.

Community-based mediation strategies can also help in resolving disputes involving indigenous peoples or communities that have their own legal systems.

The mediation and conciliation approach allows for inclusive and participatory decision making, which is an important principle in resolving civil disputes. Education and training regarding mediation and conciliation can also help communities to more clearly evaluate existing dispute resolution options.

Access to a local dispute resolution center can also help facilitate meetings between parties involved in a dispute, so that the mediation and conciliation process can run smoothly. In addition, adopting community-based mediation strategies can also help in reducing the level of conflict and violence in resolving civil disputes.

Implementing mediation and conciliation strategies in resolving civil disputes can also help in strengthening public trust in the legal system. (Menkel-Thus, this community-based mediation strategy is an effective and efficient solution in resolving civil disputes, especially in the context of education, training and access to local dispute resolution centers.



METHOD

The approach method explains how to complete legal research carried out through socio-legal by examining the implementation or factual implementation of positive legal provisions (legislative regulations) and contracts for each specific legal event that occurs in society in order to achieve predetermined goals (Muhammad, 2004) , and legal theories and jurisprudence related to the issues discussed (Soemitro, 1998). Meanwhile, the specifications of this article are analytical descriptive which are then analyzed according to existing science and theory as well as the author's own opinion to conclude (Achmad, 2013).

The legal research data analysis method is carried out through qualitative methods, then processed through an editing process, and then analyzed from several sources, to find conclusions about the answers to the article's problems.

Normative juridical research methods are used for this article. The material used in this legal scientific writing is statutory rules as the main legal material, namely primary legal material, then legal material such as from existing references regarding mediation in legal scientific works.

As supporting material for scientific writing in this field of law (secondary legal material), then tertiary legal material, for example, can be found in legal dictionaries and general dictionaries which provide explanations of meanings that are related to the discussion of this article. The legal materials that have been collected will be analyzed descriptively juridically, namely to provide a general overview of the problems discussed in this article and the end of this article is to draw up conclusions from the results of the discussion to answer the problem formulation.

RESULTS AND DISCUSSION

Community Efforts Regarding Mediation and Conciliation in Resolving Civil Disputes

As time goes by, civil dispute resolution is increasingly receiving greater attention. Not only through formal legal channels, but also through mediation and conciliation. Mediation and conciliation are a simpler, faster way of resolving disputes and can resolve problems peacefully without having to go through a lengthy judicial process.

The pattern of dispute resolution through mediation in Indonesian law is part of the pattern of resolution through alternative channels.⁵Mediation is defined as resolving disputes through a negotiation process between the parties with the assistance of a mediator, namely a neutral party who helps the parties in the negotiation process to find various possibilities for resolving the dispute without resorting to deciding or forcing a resolution.⁶The mediation process as an alternative dispute resolution can also be carried out in court or what is known as judicial mediation. This matter is regulated in Supreme Court Regulation (PERMA) Number 2 of 2003 concerning Mediation Procedures in Court as has been revoked by PERMA No. 01 of 2008. One of the considerations for introducing mediation in court is because mediation is an active instrument to overcome the possibility of a backlog of cases

⁵Khotibul Umam, *Dispute Resolution Outside the Court*, Cet-1. Pustaka Yustisia, Yogyakarta, 2010, p. 24.

⁶Ibid, p. 38

in court so that the dispute resolution process will be faster and cheaper and can provide access for the parties in dispute to obtain justice or a satisfactory resolution. regarding the dispute at hand.⁷

Basically, mediation as regulated in Book 3 of the Civil Code is a form of engagement, mediation which is also known as peace, the meaning of which is formulated in Article 1851 of the Civil Code which reads in full as follows: "peace is a an agreement which states that by handing over, promising or retaining an item, both parties end a case being examined by the court or prevent a case from arising, this agreement only has legal force if it is made in writing."⁸

An effective strategy in resolving civil disputes is to adopt a community model based on mediation and conciliation. In this research, we will discuss education, training, and access to local dispute resolution centers as part of that strategy.

In the educational context, it is very important to provide the public with an understanding of the importance of mediation and conciliation in resolving civil disputes. Through proper education, the public can understand the mediation and conciliation process, as well as its benefits in resolving civil disputes. Education can also provide knowledge about ways to start the mediation and conciliation process, so that people can easily access these mechanisms when experiencing civil disputes.

Apart from education, training is also an important factor in implementing community strategies based on mediation and conciliation. The training will prepare mediators and conciliators who are reliable and competent in handling civil disputes. With quality training, people will be more confident and comfortable using mediation and conciliation services in resolving civil disputes.

Having access to local dispute resolution centers is also very important in supporting this strategy. With a local dispute resolution center, it will be easier for the community to access mediation and conciliation services. In this way, the process of resolving civil disputes can be carried out more efficiently.

Several studies have shown that a community model based on mediation and conciliation is able to reduce the burden on courts and increase community satisfaction in resolving civil disputes.

According to Heir et al. (2016), good education and training will increase public understanding of mediation and conciliation, so that the process of resolving civil disputes can run more smoothly. In addition, easy access to local dispute resolution centers can also increase the effectiveness of this strategy, as revealed in research by Tjaden et al. (2018). Although it cannot be denied that the implementation of this strategy will also face several obstacles. Some people still have a mindset that tends to prioritize dispute resolution through formal legal channels, so they are less interested in using mediation and conciliation. Therefore, efforts are needed to change society's attitudes and views regarding civil dispute resolution. In addition, there are still limitations in access to local dispute resolution centers,

⁷ibid

⁸Edi As' Adi, Civil Procedure Law in the Perspective of Mediation (ADR) in Indonesia, First Edition, Print First, Graha Ilmu, Yogyakarta, 2012, p. 3.



especially in rural areas. This can hinder efforts to make community strategies based on mediation and conciliation more effective.

To overcome these obstacles, the government needs to take strategic steps. A more aggressive campaign is needed to increase public understanding of the benefits of mediation and conciliation in resolving civil disputes. The government also needs to increase access to local dispute resolution centers by building more dispute resolution facilities in various regions, especially rural areas.

In the context of education and training, collaboration between the government, educational institutions and NGOs involved in resolving civil disputes is also very important. With good collaboration, education and training programs can be produced that suit the needs of the community in resolving civil disputes through mediation and conciliation.

Basically, every flow of mediation must be based on the wishes of the parties concerned first, whether for the plaintiff or the defendant. The role of the mediator is to read what each party wants. Every civil case that wants to be resolved in court must first go through/attempt to resolve the mediation process, then each party who wants to take mediation steps expresses their wishes for peace. The mediation step is so that each person knows the way to peace, previously they did not know how to make peace and what efforts were best made. The presence of a mediator makes it easier for the party in trouble to take the best steps, then plays a role in taking the method according to the wishes of the plaintiff and defendant. The benchmark for its effect is that if the mediation is successful, it means the mediation is effective, but whether it is effective or not depends on the intentions of each party involved in the case. If there is a desire for peace, it will certainly be expressed, but because there are several litigants at the beginning, there are those who have no intention of wanting peace, even if the mediator tries to persuade them during mediation, it will definitely not be successful. The progress of the mediation process will not be successful, if each party does not have the intention/desire to build a peaceful resolution.⁹

In conclusion, community strategies based on mediation and conciliation in resolving civil disputes require good education, training and access to local dispute resolution centers. With this approach, it is hoped that civil dispute resolution can proceed more effectively, efficiently and provide satisfaction for the community. Strategic steps are needed from the government, educational institutions and NGOs to overcome various obstacles in implementing this strategy.

CONCLUSION

A study of community efforts based on mediation and conciliation in resolving civil disputes, there are several things that can be concluded, namely:

1. First, education and training in mediation and conciliation are very important to increase public understanding of peaceful dispute resolution.

⁹Muhammad Yusuf (36 years), Mediator member in Labuhan Batu, North Sumatra, Interview, March 10, 2024.

2. Second, access to local dispute resolution centers needs to be improved so that people can more easily access dispute resolution services without having to go through a formal judicial process.
3. Third, the role of the community in mediating and conciliating civil disputes needs to be strengthened through the establishment of mediation and conciliation institutions at the local level.

Education and training regarding mediation and conciliation can be carried out through programs organized by the government, non-governmental organizations, or educational institutions. These programs can include both formal and non-formal training, aimed at providing a better understanding of the mediation and conciliation process. In addition, formal education in schools can also include material regarding the peaceful resolution of civil disputes, so that the younger generation can grow up with a strong understanding of the importance of mediation and conciliation.

Access to local dispute resolution centers also needs to be improved so that people can more easily access dispute resolution services. This can be done by expanding the network of local dispute resolution services to remote areas, increasing promotion of these services, and organizing advocacy programs aimed at increasing public awareness of the importance of peaceful dispute resolution.

The role of the community in mediating and conciliating civil disputes needs to be strengthened by establishing mediation and conciliation institutions at the local level. Involving community, religious and educational leaders to become mediators or conciliators to resolve civil disputes. In addition, through these institutions, communities can be given a better understanding of the mediation and conciliation process, so that they can play an active role in resolving disputes in their environment.

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