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Ethnic cultural mediation for conflict resolution

Taufik Siregar
Doctoral Candidate of University of North Sumatera, Medan, Indonesia

Abstract
The potential wisdom of ethnic culture plays an important role in mediation for conflict resolution. In the formation of a forum of mediation in the resolution of civil disputes to achieve an agreement involves the cultural aspect. This paper focuses on the mediators who seek an ethnic cultural approach to the parties to minimize the differences towards the solution of mutual solution (win win solutions). Using ethnic cultural mediation institution as an Alternative Dispute Resolution (ADR) may bring advantages, among which are: Relatively cheaper compared to other alternatives. It concludes that ethnic cultural approach is opening the possibility of mutual trust among disputing parties and to avoid hostility and resentment.

Keywords: ethnic culture, civil disputes, mediation

Introduction

Adopting ethnic cultural mediation for conflict resolution in Indonesia gives some advantages. Indonesia has more than two hundred ethnic groups which already practices the mediation in settlements of conflicts. The mediation process is not a new phenomenon either to the west and east. Jewish community groups and China has tested of using mediation mechanism to resolve their problems, including as a way to counteracting penetration of a foreign legal system. Thus, mediation is very meaningful because it is the extension of the negotiation process. The parties to the dispute are not able to resolve the problem requires a neutral third party to help. A mediator can be said to be merely acting as a neutrally mediating and served only to accommodate the needs of the warring parties.

Using mediation as a means and strategies of dispute resolution, obtained the advantages that the decision-saving has the settlement quickly, the satisfactory results for all parties, agreements comprehensively and "customized", practice and learn procedures for solving problems creatively, level greater control and predictable results, the empowerment of individuals. Preserving existing relationship or end a relationship that is already running or end the relationship with a more friendly way, decisions can be implemented, a better deal than just accept a compromise or win lose procedures, applicable decisions without limitation of the time.

In Indonesia, disputes may be adjudicated through a litigation process in front of the relevant courts or through private alternative dispute resolution, such as arbitration proceedings (Clark, 2013) [4]. Courts, increasingly receive more disputes filed by the parties who seek the justice based on the rule of law. Case piling up in court makes the parties who get filed the dispute in court having to wait in a relatively long period of time to obtain a judgment that has legally binding (*inkracht*). It was noted that the 439 Civil cases in the Provincial Courts level in the North Sumatra High Court in 2008, thus grew in 2009 as many as 452 cases, in 2010 registered 412 cases, in 2011 as many as 444 cases, finally in 2012 it was noted 375 cases.

Based on the above data, it was obtained that the settlement of the civil judge actions in the Provincial courts of the North Sumatra High Court is still high. The enactment of Supreme Court Regulation No. 1 Year 2008 on Mediation Procedure of the Court of the Supreme Court of the Republic of Indonesia should lead to the settlement-a civil case in court reduced for preferring settlement through mediation agency in court.

Stacking dispute settlement proceedings and a relatively long time in court have been not in accordance with the Indonesian justice system which requires the simplicity, fast, and low cost. It is explicitly stated in Law No. 48 Year 2009 on Judicial Power that in Article 2 paragraph (4) stated that justice is done with a simple, quick and inexpensive. Dispute resolution in the courts, there is a need to adopt the ethnic cultural mediation for conflict resolution. Through the judicial procedure that no decisive period of time to complete a case resulting in the process of examination of a case from the stage of registration, as well as the examination stage to the stage of decision requires a relatively long time. Reduce the number of cases, can be done with an effective mediation process.

The mediation processes in the courts under Article 7, paragraph (1) the Supreme Court Regulation No. 1 of 2008 on the Mediation helps parties to handle the problems. Procedure of the Court of the Supreme Court of the Republic of Indonesia shall be executed. On the day of the trial that has been determined the presence of both parties, obliging judges to handle a civil case and the parties litigant to pursue the mediation process, prior to the examination of a civil case proceed in accordance with the procedure of the examination civil case in court.

Mediation is a process of the disputing parties appoint a third party (mediator) who neutrally helps the disputing parties to discuss for the settlement and tries to arise the parties to

negotiate a settlement of the main dispute. The main purpose mediation is a compromise in resolving the dispute. A mediator is trying to hold the ethnic cultural approach to the parties to minimize the differences in the case at hand. It is an attempt to reach agreement among them, towards the solution of mutual solving (win win solutions).

Civil Case Settlement through Mediation

Principles of Mediation

In general, the principles that apply to alternative dispute resolution, including mediation are:

a. The principle of good faith, namely the desire of the parties to determine the dispute resolution will and they are facing.
b. Contractual principle, namely the existence of an agreement set forth in the written form of the means of dispute resolution. c. The principle of binding, i.e., the parties are required to comply with what has been agreed.
c. The principle of freedom of contract, which the parties can freely determine what is about to be set by the parties to the agreement do not conflict with the law and decency. This means also an agreement on the place and type of dispute resolution will be selected.
d. The principle of secrecy, namely the settlement of disputes cannot be seen by others as only parties to the dispute are unable to attend the course of examination of a dispute.

In essence, mediation is a process that is personal, confidential (not exposed out), and as the cooperative is an impartial third party helps the disputing parties to resolve the conflict and bring differences. Mediation also is practical, relatively informal and unregulated and technical procedures that apply in the judicial process. In mediation all parties to meet in person or represented by proxy with the mediator together or in a different meeting.

Third party mediation has clearly been documented but with little focus on ADR, as such, it offers a taxonomy of third party intervention types as following: a) Conciliation –a trusted third party provides an informal communication channel between the disputants in order to identify the major issues, lower the tension and encourage them to move toward direct interaction, b) Consultation –a skilled and knowledgeable third party attempts to facilitate creative problem solving through communication and analysis of the conflict, c) Pure mediation –a skilled and experienced third party intervenes in order to facilitate a negotiated settlement to the dispute, d) power mediation –also includes the use of leverage or coercion in the forms of rewards or punishment, e) Arbitration –a legitimate and authoritative third party provides to the parties a binding judgment, and f) Peacekeeping –the third party provides military personnel to supervise and monitor a ceasefire between the disputants (Keashley and Fisher in Oricho, 2010) [8].

Model of Mediation

There are two major models or styles from which to choose (Bondy and Margaret, 2011) [2], they are:

- **Facilitative mediation**

It is in which the mediator does not give opinions or advice. Rooted in the arena of community-based disputes, facilitative mediation is also practised by mediators trained in commercial and family mediation fields.

- **Evaluative mediation**

It requires the mediator to give the parties an informed view or opinion of, for example, the merits of the case or the strength of the parties' respective legal positions.

While rights-based, according to R Hunter and A Leonard (in Bondy and Margaret, 2011) [2] model of mediation was identified by the Law Society in 1991 as an alternative approach to that of facilitative mediation. In rights-based mediation, 'the mediator, personally or with other professionals or experts, helps the parties to evaluate their respective strengths and weaknesses with a view to their agreeing a resolution broadly in line with, and which reflects, their respective rights.

Mediation in Indonesia

One of mediation style in Indonesia is *Musyawarah*. Thus, the *musyawarah* is the indigenous way of decision-making, and of resolving social conflicts and disputes between individuals or groups, regardless of whether these conflicts are of a criminal or civil nature (Dean, G, 2000) [5]. Perhaps due to the absence of a credible court system the musyawarah may be the most important institution for conflict resolution in Indonesia (Barnes, 2007) [1].

Mediation is the first court set up by the Supreme Court Regulation No. 2 of 2003 on Mediation Procedure Court, which requires the examination gone through the mediation process before the principal civil cases with mediators consisting of judges of the district courts were not handling his case. The Supreme Court of the Republic of Indonesia issued a Supreme Court Regulation No. 2 of 2003 on Mediation Procedure of the Court, as the improvement Supreme Court Circular No. 1 of 2002 on Empowerment Court of First Implementing Peace Institute. In the circular, the judge is not given coercive powers to the parties to settling disputes through peace. Circular is considered to be almost the same as Article 130 HIR, which only recommends the parties to make peace, as the content of Article 130 paragraph (1) HIR which states that if on any given day that the two sides come up, then the district court with the help of the chairman of trying to reconcile them. Under Article 130 HIR / Rbg Article 154, it is known that the judge's involvement in the peace process is not effective immediately, but a mere formality in the form of the parties sought to make peace. Judge passive role, the judge tried to reconcile the litigants. In practice, it is applied is limited to actions suggest or tell the parties themselves to seek peace without the involvement of judges in meetings and negotiations.

Supreme Court Circular No. 1 of 2002 was later replaced by the Supreme Court Regulation No. 2 of 2003 on Mediation Procedure Court, that the enactment of these regulations make peace efforts in the courts no longer just rely on Article 130 HIR.

Enactment of the Supreme Court of the Republic of Indonesia Number 1 of 2008 on Mediation Procedure Court, has made a fundamental change in the judicial practice in Indonesia. The court is not only the duty and authority to examine, hear and resolve cases received, but also the obligation to seek peace

between the litigants. Supreme Court Regulation No. 1 of 2008 further confirms that if a judge's decision does not mention any mediation efforts in advance, the decision may be reversed by operation of law. This impressed the court as long as law enforcement agencies and justice, but now the court also put themselves as institutions that seek a peaceful solution between the parties litigant.

State courts located in the High Court of North Sumatera, in handling civil cases also carry out the mediation process in resolving civil cases at the Supreme Court based on Regulation Number 1 of 2008.

The Practice of Ethnic Cultural Mediation

For the people of Western litigious minded concept of Alternative Disputes Resolution (ADR) into new innovations. As for the eastern society based on a culture that emphasizes harmony like Indonesia, for example, ADR-style approach is a concept that is considered part of longstanding in the context of problem solving and commonly used by the people of Indonesia. It can be seen from customary law were put to customs as a mediator and give the verdict customary for disputes between citizens.

In the Ethnic Minangkabau community of West Sumatra that acts as a mediator and give a decision on the matter is as follows:

1. "Tungganai" or "Mamak head heir" to the extent "House sieve".
2. "Mamak heads of" the general level
3. "tribal prince" at rates; and
4. prince-prince

Functionaries such an important role in resolving disputes, both as mediator with (commensurate with the arbitrator or judge) above without the authority to decide (as mediator). Similarly, in rural communities in Ethnic Bugis of South Sulawesi, is not only a head of the legal community or the village chief who acts as a judge, but it can also act as a mediator (mediator) or referees (arbitrator) Means of dispute resolution does not like litigation in state court, but more pursued through negotiations, consensus agreement between the parties to the dispute itself or through a mediator or arbitrator. More than that, this ordinance has officially become one of the philosophies of the Indonesian nation states are reflected in Sila IV of Pancasila as the principle of consensus.

Mediation or alternative dispute resolution (ADR) in Indonesia is a culture of the Indonesian nation itself, both in traditional societies as well as the basis of Pancasila state known term deliberation entire tribes Indonesia would know the meaning and the term, although the name is different but have philosophy that same. Clauses in a contract or agreement of the settlement of disputes tend to follow by the words "If there is a dispute or disagreement resolved by consensus and if not reached an agreement will be resolved in District Court". Although the traditional society in Indonesia, Mediation has been applied in resolving conflicts are traditional, but the development concepts and theories in a cooperative dispute resolution actually developed in many countries where people do not have resolution litigious or cooperatively conflict. Dialogue, deliberation and effort for accommodating against the interests of the all parties are actually the core and the concept of ADR processes. The concept is then directed to be a way of resolving disputes but using the legal principle on the part and the legal system. Therefore the challenge, particularly the legal community in Indonesia is documenting patterns of conflict resolution in the traditional societies and laboratories develop ways of dispute resolution which is a product of Indonesia. The same expression, forms of alternative dispute resolution is known in traditional Indonesian society needs to be developed towards modern alternative dispute resolution in order to accommodate a variety of public disputes that arise in contemporary Indonesian society.

Legal political direction of the Indonesian government to develop alternative dispute resolution is clear, marked by the birth of the various laws that provide space for alternative dispute resolution as a means of dispute resolution in Indonesia such as Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution, which was introduced regulation of alternative dispute resolution through the "Arbitration", "Negotiation", "Mediation", or "Expert Assessment" out of court, or by the exclusion of settlement in litigation in the District Court.

Arbitration is an adjudicative dispute resolution process (Smith, 2013) [9]. Negotiation is a basic means of getting what you want from others. It is a back and forth communication designed to reach an agreement (Fisher and Ury in Smith, 2013) [9]. While Christopher W. Moore (1996) [3] defined Mediation “as the intervention in a negotiation or a conflict of an acceptable third party who has limited or no authoritative decision-making power, who assists the involved parties to voluntarily reach a mutually acceptable settlement of the issue in dispute”

Mediation agency initially not part and institutions that are in court litigation. But now it has entered the body Mediation Court (integrated). Developed countries in general, including America, Japan, Australia, Singapore, has a mediating institutions both in and outside the court. Indonesia is already more advanced and other countries, as in the civil Procedure Law Subsequently the issue of PERMA 2 (Supreme Court Instruction) of 2003 on Mediation Procedure Court which adopted the concept of ADR in resolving disputes, but it was still using the principle of legality which became part and the legal system. This is what is referred to as "Integrated Mediation Court" or "Court annexed Mediation".

In addition, about mediation or Alternative Dispute Resolution (ADR) outside the court already regulated in Article 6 of Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution APS agencies also found in scattered in the legislation for example in the field of environment, labor and others.

Mediation in Court

The realization of justice is fast, simple and low cost is a dream and every seeker of justice everywhere.

Disputes may last for years, sometimes for generations. Many of the lengthier disputes remain unsettled despite several attempts at settlement outside of court, and then move through the court system—sometimes from Islamic court to secular court or courts, more often from district court through high court to Supreme Court (Tanner, 1969) [10].

Law No. 14 Year 1970 on Basic Provisions on Judicial

Authority formulates in Article 4 paragraph (2): In a civil case the judge must help those seeking justice and make great effort to overcome all obstacles and barriers to the achievement of justice that is simple, fast and low cost (Article 5, paragraph 2 UI) No.14 of 1970). We are fortunate to have the provisions of civil law regarding the peace set out in Article 130 HIR / 154 RBg that does not exist in civil law in other countries. It could be said that in a civil case the judge must be active to make peace, to resolve disputes that they encounter.

For comparison, in the face of problems case-overlood (increasing number of cases), giving rise to the problem of arrears cases, which seems to be the problem of the world today, in Germany simplification hearing system (and judicial) are also remedies for pretrial hearings and settlement (peace). Punt and the Netherlands (Deputy Chairman of the Rechtbank Den Haag) suggested that the average number of cases with a peace settlement is 40%. Efforts to settle the case with the "Settlement" which is one way of "Legain efficiency" principle inspection case orally (oral proceedings) is considered as a form of checks that can accelerate the settlement of case. RBg that sounds more as follows: Article 1851 of the Civil Code reads: "Peace is an agreement by which both parties by giving, promising or hold an item, put an end to a case being dependent or prevent a case. This Agreement is not valid, but if made in writing.

Article 130 or Article 154 HIR RBg reads:

1. "If on a given day, the two sides came, and the District Court through its chairman will try to reconcile them.
2. If the peace so that happens, then about things that are reconciled done a deed, and both sides parties are required to comply with the agreement done it, and letter (certificate) that will be legally binding and will be treated as a decision of Judge usual,
3. On such a decision it is not allowed to ask the apple.
4. If at the time tried to be reconciled both parties, it is necessary to wear an interpreter.

Peace is clear understanding of the above, that peace is an agreement or an agreement between the parties, this is the first element. Strength tied a peace agreement is specified in Article 1338 paragraph (1) "That all agreements made legally valid as a law for those who make it". An agreement is considered valid if it meets the four conditions set forth in Article 1320 of the Civil Code, namely the agreement of the parties, the parties competent to act within the law, the agreement about a particular thing and a cause that is lawful, by R. Subekti appropriately have clarified 4th terms in a way categorize it in two (2) parts, namely:

- Part-l Regarding the subject of the agreement is determined:

a. People who make a pact to be or capable of performing the legal act.
b. Agreement (consensus) on which the agreement should be reached on the basis of freedom determines his will (no coercion, mistake or deception).

- Part 2: Regarding the object of the agreement determined:

a. What promised each should be clear enough to define the obligations of each party;
b. What promised each is not contrary to the laws of public order and decency.

So that became one of the requirements of peace decision is entirely subject to the approval of the general principles of the agreement are set out in Article 1320 and Article 1321 of the Civil Code. Harahap (1997) [7] said in approval should not be there are defects in every essential element of consent. In addition to the subjective and objective elements must be complete agreement, each element must not contain defects. If the decision peace agreement provided one of the parties are one of the elements referred to in Article

1321 of the Civil Code, means approval givens an "Approval will of disability" (willsgebrek) even Article 1859 of the Civil Code has been established that the decision of peace "can be canceled" if occurred oversight of the person or the subject of disputed and Article 1860 of the Civil Code adds another factor of misunderstanding regarding his case or misunderstanding regarding a canceled right pedestal can be used as reasons for the cancellation decision peace. Likewise fraud or decision affirmed in Article 1859 (2) of the Civil Code as a flawed decision that can be used to threaten peace verdict decision null and void if the basis of the peace agreement in the ruling was based on a letter that declared false.

The second element, and a peace agreement is an agreement of the parties it is to do something. Article 1851 of the Civil Code limits the legal action is allowed. Restrictions are on the three measures, namely to give up something of goods, promises an item and hold an item. Both parties concerned are equally approved with less voluntary terminate the dispute. Approval must be pure to come and both sides. It means that the agreement is not the will or whim of judges unilaterally without compromising the ability of judges to advocate giving advice, opinions and advice.

The agreement ending the dispute and it is the third element of the peace agreement. Decision of peace is ending the dispute over the way complete. That is why Article 1851 of the Civil Code reminds the formulation of the decision peace must include all disputes sued, in the sense of ending the dispute or prevent further disputes in court regarding the case that is being sued.

As the fourth element of peace is a peace agreement on the dispute that has been there either ongoing in the Court and that the Court will prosecute the real is a civil case, so the decision was made to prevent the occurrence of the peace in court proceedings. For details, we refer to the decision of the Supreme Court dated July 7, 1962 169 K / Sip / 1962, which confirms the "Peace Agreement"

The pursuant in Article 1851 BW is to stop the approval of a" civil cases "were being examined by the court or to be filed before the courts by giving, promising or hold goods, because in case when held a peace agreement before a notary disputes both sides of emotion in the stage in front of a police investigation, a peace treaty is invalid ". And it is clear that jurisprudence types of disputes that can be contained in the decision of peace or a peace agreement, it must be a real civil dispute has been realized in pure. The fifth element and the peace agreement in the form of a written is affirmed by Article 1851 of the Civil Code. Restrictions against the peace agreement, the peace agreement is an agreement "formal" because he was unauthorized (and therefore not binding) otherwise impromptu according to a certain formality, that the

agreement must be made in writing. This requirement is imperative. Agreements approval in the form of oral, not set forth in the decision of peace, because it does not meet the formal requirements. For peace among and between the parties to the dispute can be upgraded in the form of a decision for peace, peace consent agreement must be formulated in writing. Each party to sign then requested to the Court to be poured into a decision for peace.

Decision of peace and in terms of its content must be eligible material, namely:

1. Fill in the content of the entire formulation, should be exactly the same with the written agreement made and signed by the parties.

If there is the slightest difference, resulting in the decision peace flawed material. Legal consequences, the decision peace flawed material that is illegal and not binding to the parties.

2. The decision of the Peace must include verdict "condemn the nature of Judgments there are three properties that can be issued by decision of the judiciary, that the declaratory judgment is that explicative, confirming a state of law alone. The verdict is the decision contains judgment and decision which is constitutive, the decision negate a state law or a state of the new law. The judge who ruled on the injunction must include "punish the parties to implement the contents of the peace". Term peace in Article 130 HIR / 154 RBg use is not uniform. Retnowulan Sutantio always uses the Acte, while Supreme Court Judge Mariana Sutadi more frequent uses Acte van Vergelijk to declare peace in Article 130 HIR / 154 RBg. Mr. Tresna in his book "Comments HIR" using the term acte van vergelijk to declare peace in Article 130 HIR. Judge including many authors alone are more likely to wear another term acte van Dading for letter (acte) peace made by the parties with no / no confirmation and Judge and acte van vergelijk is a letter (acte) which has gained confirmation of Judge. Peace can only be made before the parties or by the judge who examine cases also peace can be made by parties outside the Court subsequently brought to court in question to be confirmed.

From the above it can be concluded that peace can be divided as follows

1. Articles of Peace keeping with the approval of the judge (acte van vergehjk)
2. Certificate of peace without the consent of the judge (acte van dading) Judging and actions, divided into:

a. Created in court (before the Judge)
b. Made out of court (not before Judge)

A question arises, how the legal consequences for peace with the inauguration of the judges and the strengthening of peace without Justice. Article 1858 Civil Code is interesting to note as follows: "Any peace among the parties have a force such as a judge's decision in the rate of depletion. Peace it cannot be denied by reason of an oversight on the law or on the grounds that one of the injured party. The peace means having the same power with a decision that is legally binding.

In relation to Article 130 paragraph (3) HIR: The decision that should not be compared. Similarly, Article 43 paragraph (1) of Law No. 14 of 1985 prohibits to appeal. Decision peace equal value and weight peace with the court verdict have the permanent legal force that has the power directly executorial. The only effort that can be used against the Decision of the Peace or determination thereof court executions, only resistance. It means that it should not happen twice in a case of termination of the cooperation between both parties equally. However, if there is a third party who is not a party in a case that has permanent legal force, filed opposition, certainly the case have different legal consequences, at least the decision will be binding to these third parties. Has been described above that the deed of peace that has been confirmed by the Court have the same legal force with the Judge's decision which had been legally binding, therefore, if there is resistance third parties on the peace that has gained the inaugural Judge synonymous with resistance to the Judge's decision that has been binding. Examination in court is also the same as the examination of third party opposition against the decision of the judge who has permanent legal force.

Mediation was originally intended to deal masa1ah-trade issues, but now it has grown also into other things throughout a civil matter. Therefore, coverage is very broad jurisdiction. Jurisdiction is also up to Divorce in anti reconciling the parties lest divorce. Arises a question again of how on a case Criminal complaint (klacht delict) whether a case which has received the peace and has been confirmed by the Court then one of the parties concerned still complained the matter to the police transform and followed up to the Court, for example in the case-the case of IPR (Intellectual Property Rights)

Mediation jurisdiction in a wide range of environmental justice

a. District Court have jurisdiction to make peace or mediation for all civil cases both business, land, marriage as well as civil cases of a criminal offense complaint (klact delict) and others to the litigants as stipulated in article 130 HIR / RBg, In the event of agreement between the parties that the agreement was confirmed by a judge and adjudicates cases. In the event that does not occur peace the examination continued in the principal case adjudication.
b. Islamic Court also has jurisdiction to conduct peace in the sense that the litigants are not divorced. Usually the parties to come to the religious court without going through BP4 case remains examined. The parties came to the Religious Court either already through BP4or not, religious judge and adjudicates the case is still required to make efforts in order that the parties to the dispute gets peace. In the event of agreement then the plaintiff and revoke his case.
c. State Administrative Court (Administrative Court) does not have jurisdiction to conduct peace to the litigants because the substance of the case were examined by the administrative court is not a civil case is the decision of the State Administration but as stated in Article 53 of Law No5 Year 1986. In happen in practice if peace among the litigants then one party would pull out its case. Therefore judge and adjudicates cases it may not do peace. Even if there is peace between the parties solely is

happening outside the court without the knowledge of the judge who examined.

d. Military courts do not have jurisdiction to conduct peace to the litigants because the substance of the case were forwarded to the military court is not a civil case but a criminal offense.

Benefits Dispute Resolution through Mediation

There are several factors / reasons why people started to settle disputes mediation wear, while these factors are:

1. Economic factors, which have the potential of alternative dispute resolution as a means to settle disputes more economical, both from the point of view of cost and time.
2. The scope of the factors discussed, alternative dispute resolution has the ability to discuss broader issues agenda, a comprehensive and flexible.
3. Factors fostering good relations, because the alternative dispute resolution methods which rely on the completion of a cooperative, very suitable for those who emphasize the importance of good interpersonal relationship (relationship), neither of which have lasted nor will come

In addition to the above factors there are some advantages and benefits of using the dispute settlement through mediation. Christopher W. Moore said the use of mediation as a means of dispute resolution and the strategy will benefit as follows: (1). decisions are cost effective. Settlement of disputes by mediation process usually takes a cheaper cost when seen from the financial considerations compared with the costs to be incurred to make the protracted litigation or other dispute forms, (2). settlement of disputes quickly; if the bias litigation process takes up to one year to be tried in court and even many years, if the case continues to appeal and cassation. Options for mediation often are one of the shorter ways to resolve disputes. If the parties disputing, then they have to think to choose a dispute resolution process that is biased quickly, (3).satisfactory result for all parties. The parties to the dispute are generally more satisfied with the way out mutually agreed on the need to agree a way out has been decided by the decision of a third party, such as a judge, referee or administrative officer, dissatisfaction seems generally accepted that kind, (4) agreements comprehensive and customized. Settlement of dispute resolution-mediation can simultaneously solve the problems of law or beyond the reach of the law. The deal through the mediation often able to cover procedural and psychological problems may not be resolved through legal channels. The parties involved can patch up ways of solving the problems according to their situations. (5). Practice and learn procedures for solving problems creatively. Mediation teaches people about techniques of practical problem solving that can be used to resolve disputes in the future. Components of mediation education are very different from the dispute settlement procedures exclusively oriented to the decision, such as arbitration or legal decision.

Using mediation institution many advantages, among which are:

1. Relatively cheaper compared to other alternatives.
2. The tendency of the conflicting parties to accept the verdict and a sense of belonging mediation.
3. It can be the basis for the disputing parties to negotiate their own disputes in the future.
4. Opening up the opportunity to examine the problems which are the basis of a dispute.
5. Opening the possibility of mutual trust ushered disputing parties, so as to avoid hostility and resentment.

There are several requirements needed in order for a mediation process to function properly. The terms are as follows

1. The bargaining power balance between the parties.
2. The Parties looked forward to the future relationship in the future
3. The presence of many issues that allows the exchange (trade- offs).
4. There is an urgency to finish quickly.
5. The absence of deep hostility or longstanding between the parties.
6. If the parties have supporters or followers, they have no hope that a lot and can be controlled.
7. Creating a precedent or retain the right is no more important than the rapid settlement of disputes.
8. If the parties are in the process of litigation, the interests of other actors, such as lawyers or guarantor are not enforced well in comparison with the mediation.

The existence of dissent even the strength of the parties to the dispute can be resolved by mediation, through the following ways

1. Provide a non-threatening atmosphere.
2. Give each party the opportunity to speak and be heard by the other party more freely.
3. Potential differences between them by creating an informal situation.
4. The behavior of a neutral mediator and impartially dams provide comfort to the parties to the dispute.
5. Do not press each side to agree to a settlement.

Mediators conducted separate meetings with the parties expected to further convince the weaker party will position them and how efforts to overcome them and suggest approaches or proposals that are expected to capable prospects for completion. To that end, the process of mediation and mediator's skills become very important in relation to the prevention of abuse of power.

Conclusions

The success of mediation in resolving civil disputes in court took a process of the disputing parties appoint a third party (mediator) who neutrally in the settlement and tried to arise the parties to negotiate a settlement of the dispute. The main purpose of ethnic cultural mediation it is a compromise in resolving the dispute. A mediator seeks an ethnic cultural approach to the parties to minimize the differences. Ethnic culture leads the agreement among them, towards the solution of mutual solution (win win solutions). The success rate of mediation in the District Court is still low due because the parties do not understand that the formal and technical nature of the judicial settlement of disputes which often lead to protracted, so it takes a long time. Peace is going on between the parties to the dispute can be upgraded in the form of a decision for peace; the peace consent agreement must be

formulated in writing that adopt ethnic cultural mediation model. Decision of peace and in terms of its content must be eligible material, namely: Fill the content of the entire formulation, should be exactly the same with the written agreement made and signed by the parties. If there is the slightest difference, resulting in the decision peace flawed material. Legal consequences, the decision peace flawed material that is illegal and not binding to the parties.

Recommendations

1. It should be recognized that all disputes have difficulty processing to handle the differences, however, dispute settlement by way ofmediation is expected to make imbalances the strength of the parties is less felt than on dispute resolution in the courts.
2. It should be understood that the peace that has to do with a sense of human decency is the root or source of civilization, as well as with the law or justice, since enforcing the law means upholding human civilization, because the law is intrinsically contains the values of human decency or the sense of the good, truth and justice is the goal of all human beings as creatures of God.
3. It should be created a mechanism that can Forcing a One Party Not Attending Meeting of Mediation, support Judges, Advocates support for Mandatory Mediation Process, The need for a special room Mediation

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