



Mahurui Hatulang Kabalim Traditional Mediation (A Household Dispute Resolution in Central Katingan, Central Kalimantan)

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Abstract

This study examined a traditional mediation of mahurui hatulang kabalim which is a local wisdom of indigenous Dayak society in Central Katingan, Central Kalimantan who has a traditional mentality and belief in resolving household disputes. Mahurui hatulang kabalim is rooted on conciliation and deliberation culture as society values transforming into the character which is manifested into mechanical solidarity. This study was an empirical legal study or so-called non-doctrinal sociological legal study. The approaches applied in this study were explanatoris approach, conceptual approach and philosophical approach. Result research show that in the mediation practice of Mahurui hatulang kabalim, the mantir adat as a mediator to resolve disputes was by mangatawan masalah (knowing the problem), nyundau ije-ije (visiting respectively), ngahau ije-ije (calling respectively), Manggau jalan damai (seeking a peaceful way), manukep atei (approaching the heart). Some were successfully reconciled (sarukui haluli) and some were failed to reconcile (separate pinja). The essence of Mahurui hatulang kabalim was a traditional mediation as a repressive effort in restoring family relations as society's traditional mentality.

1. Introduction

According to the format, Indonesian positive law concepts consist of written (laws and regulations) and unwritten (customary law). The source of law material is communal legal awareness or legal awareness existing in a society that is considered appropriate,¹ and its formation in the society life process is without any determination by institutions or organs that possess the authority to form law.² This positive law becomes a companion in managing the association of legal subjects to achieve legal goals. In other words, it is the law that always serves interests of justice, discipline, orderliness and peace in order to support the realization of a physically and spiritually prosperous society.³

The role and purpose of positive law is still inseparable from the existence of disputes, which cause opinion differences, quarrels, contentions, and conflicts. It started from a situation in which one party feels aggrieved by another party. This is preceded by dissatisfaction feelings that are subjective and closed. This occurs by individuals or groups. Dissatisfaction feelings emerge once there is a *conflict of interest*.⁴ The party feeling aggrieved will convey his/her dissatisfaction to the second party. Once the second party can respond and satisfy the first party, then the conflict is resolved. On the other hand, if the second party's reaction shows different opinions or has different values, then a dispute occurs.⁵

As a result of a dispute, a dispute resolution method is needed to normalize the relationship between the disputing parties to their original states. In this way, the disputing parties can establish relationships both socially and legally with one another. The dispute-litigation resolution in the court might be win-lose, unresponsive, time consuming, and open to public. In fact, dispute resolution with out-of-court has existed a long time ago. Dispute resolution which is non-litigation with out-of-court is *close door session* and maintains parties' confidentiality, and the processes are faster and more efficient. This process makes *win-win solution*.⁶

¹ Theresia Ngutra, "Hukum Dan Sumber-Sumber Hukum," *Jurnal Supremasi*, XI.Sumber Hukum (2016), 193-210.

² Slamet Suhartono, "Hukum Positif Problematik Penerapan Dan Solusi Teoritiknya," *DiH: Jurnal Ilmu Hukum*, 15.2 (2019), 201-11 <<https://doi.org/10.30996/dih.v15i2.2549>>.

³ Bobby Briando, "Prophetical Law: Membangun Hukum Berkeadilan Dengan Kedamaian," *Jurnal Legislasi Indonesia*, 14.3 (2017), 1-12 <<https://ejournal.peraturan.go.id/index.php/jli/article/download/123/pdf>>.

⁴ Johan's Kadir Putra Karyadi, Bruce Anzward, "Mekanisme Penyelesaian Sengketa Antara Masyarakat Dan PT. Agro Indomas Terhadap Lahan Perkebunan Kelapa Sawit Di Kecamatan Sepaku Kabupaten Penajam Paser Utara," *Jurnal Lex SUPrema*, 2 (2020), 203-18.

⁵ Ahmad Zaini, "Mediasi Sebagai Salah Satu Bentuk Alternatif Penyelesaian Sengketa," *Al Qisthas: Jurnal Hukum Dan Politik*, 9.2 (2020), 53-86 <<https://doi.org/10.37035/alqisthas.v9i2.1573>>.

⁶ Jefry Tarantang Ni Nyoman Adi Astiti, "Penyelesaian Sengketa Bisnis Melalui Lembaga Arbitrase," *Jurnal Al-Qardh*, 5.2 (2018) <<https://doi.org/DOI:https://doi.org/10.23971/jaq.v3i2.1179>>.

The out-of-court dispute resolution process which is the focus of this study is a mediation rooted in local culture, more accurately called as a *traditional mediation* to resolve household disputes that occurred in Central Katingan, Central Kalimantan by traditional figure (referring to *mantir adat* in Kalimantan; henceforth [mantir adat]). Furthermore, there is a uniqueness within Central Katingan, Central Kalimantan society when mediating household disputes, which the society commonly refers to *mahurui hatulang kabalim*. The dispute resolution process through *traditional mediation mahurui hatulang kabalim* is a method that is included into the *tripartite* category because it involves assistance or third party.⁷ This shows the role exposed by a third party (mantir adat) as a figure who carries out mediation to resolve disputes between parties, has a neutral and impartial position and have to be able to maintain the interests of the disputing parties fairly, as to foster *trust* among disputing parties.⁸

Several studies on customary mediation still have not specifically discussed traditional mediation for resolving household disputes among indigenous Dayak society, especially in Central Katingan, Central Kalimantan. So far, studies conducted was damang's (a person in charge of customary law) decision on Dayak society in resolving divorce cases in Central Kalimantan,⁹ Huma Betang: the cultural moral identity of Ngaju Dayak tribe, Central Kalimantan,¹⁰ interconnection of Central Kalimantan's Huma Betang values with Pancasila,¹¹ the costum existence in social order of Dayak ethnic group in Bonsor Binua Sakanis Dae village,¹² regulation of land rights of indigenous people (a case study of recognition of land rights of customary law Dayak society in Central Kalimantan),¹³ legal protection of customary lands of Central Kalimantan,¹⁴ the role of customary heads in resolving land disputes through mediation among society in East Kotawaringin

⁷ Mardalena Hanifah, "Perbandingan Tugas Mediator Pada Pengadilan Agama Indonesia Dengan Mahkamah Syariah Malaysia," *ADHAPER: Jurnal Hukum Acara Perdata*, 6.2 (2021), 101 <<https://doi.org/10.36913/jhaper.v6i2.134>>.

⁸ Selamat Lumban Gaol, "Pengaturan Hukum Mediasi Di Pengadilan Oleh Mahkamah Agung," *Jurnal Ilmiah Hukum Dirgantara*, 7.1 (2016), 77-110.

⁹ I Made Kastama and Ni Putu Paramita Dewi, "Keputusan Damang Pada Masyarakat Adat Dayak Dalam Menyelesaikan Kasus Perceraian Di Kalimantan Tengah," *Kertha Patrika*, 43.2 (2021), 182 <<https://doi.org/10.24843/kp.2021.v43.i02.p05>>.

¹⁰ Chris Apandie and Endang Danial Ar, "Huma Betang: Identitas Moral Kultural Suku Dayak Ngaju Kalimantan Tengah," *Journal of Moral and Civic Education*, 3.2 (2019), 76-91 <<https://doi.org/10.24036/8851412322019185>>.

¹¹ Ibnu Elmi Achmat Slamet Pelu and Jefry Tarantang, "Interkoneksi Nilai-Nilai Huma Betang Kalimantan Tengah Dengan Pancasila," *Jurnal Studi Agama Dan Masyarakat*, 14.2 (2018), 119 <<https://doi.org/10.23971/jsam.v14i2.928>>.

¹² Edy Agustinus Efriani, Jagad Aditya Dewantara, Meliya Fransiska, Iwan Ramadhan, "Eksistensi Adat Dalam Keteraturan Sosioetnis Dayak Di Kampung Bonsor Binua Sakanis Dae," *Refleksi Hukum: Jurnal Ilmu Hukum*, 6.1 (2021), 87-106.

¹³ Yusuf Selamat, "Pengaturan Mengenai Hak Atas Tanah Masyarakat Hukum Adat (Studi Kasus Pengakuan Terhadap Hak Atas Tanah Masyarakat Hukum Adat Dayak Di Kalimantan Tengah) (Case Study of Recognition of the Dayak Adat Law Community Land In," *Jurnal Legislasi Indonesia*, 13.04 (2016), 411-20.

¹⁴ Yul Ernis, "Perlindungan Hukum Atas Tanah Adat Kalimantan Tengah," *Jurnal Penelitian Hukum De Jure*, 19.4 (2019), 435 <<https://doi.org/10.30641/dejure.2019.v19.435-454>>.

district,¹⁵ A traditional *hinting pali* ritual as an alternative conflict resolution: a strategy to open communication on customary land conflict between indigenous society of Tamanggung Doho and Karya Dwi Putera, inc. in Tumbang Marak village, Central Kalimantan,¹⁶ the authority of the Dayak Customary Council (DAD) in protecting customary land rights in Central Kalimantan Province,¹⁷ the meaning of *Manuhir* in the life of Ngaju Dayak society in Palangka Raya City,¹⁸ and legal regulations and consequences for not implementing the decisions of Dayak customary courts.¹⁹ Meanwhile, a study on *traditional mediation mahurui hatulang kabalim* is a study that examines local wisdom of indigenous Dayak community in Central Katingan, Central Kalimantan possessing a traditional mentality and belief in resolving household disputes rooted on conciliation and deliberation culture as society values transforming into the character which is manifested into *mechanical solidarity*. So it is clear that this research is different from previous research. In this research, what is discussed are: how legal portrait of dispute resolution in Indonesia? and, how philosophy of *mahurui hatulang kabalim*?

2. Research Method

This study was an empirical legal study or so-called non-doctrinal sociological legal study.²⁰ The approaches applied in this study were *explanatoris approach*, *conceptual approach*²¹ and *philosophical approach*.²² This study did not justify legal experts' opinions and relevant legal regarding customary mediation but emphasized the findings of traditional mediation *mahurui hatulang kabalim* as a pattern of household dispute resolution existing in Central Katingan society, Central Kalimantan

3. Result and Discussion

¹⁵ I Komang Darman, "Peranan Kepala Adat Dalam Penyelesaian Sengketa Tanah Melalui Mediasi Pada Masyarakat Di Kabupaten Kotawaringin Timur," *Satya Dharma: Jurnal Ilmu Hukum*, 3.2 (2020).

¹⁶ Yuliana Yuliana, "Ritual Adat Hinting Pali Sebuah Resolusi Konflik Alternatif: Strategi Membuka Komunikasi Pada Konflik Tanah Adat Antara Komunitas Adat Tamanggung Doho Dengan PT Karya Dwi Putera (PT KDP) Di Desa Tumbang Marak, Kalimantan Tengah," *Jurnal Sosiologi Nusantara*, 5.2 (2019), 157-70 <<https://doi.org/10.33369/jsn.5.2.157-170>>.

¹⁷ J Jalianery, "Kewenangan Lembaga Dewan Adat Dayak (DAD) Dalam Melindungi Hak Atas Tanah Adat Di Provinsi Kalimantan Tengah," *ADHAPER: Jurnal Hukum Acara Perdata*, 3.1 (2018).

¹⁸ Desi Natalia, Jefry Tarantang, and Ni Nyoman Adi Astiti, "Makna Manuhir Dalam Kehidupan Masyarakat Dayak Ngaju Di Kota Palangka Raya," *Jurnal Studi Agama Dan Masyarakat*, 16.1 (2020), 24-34 <<https://doi.org/10.23971/jsam.v16i1.2077>>.

¹⁹ Citranu, "Pengaturan Dan Akibat Hukum Tidak Dilaksanakannya Putusan Peradilan Adat Dayak," *WIDYA KERTA JURNAL HUKUM AGAMA HINDU*, 4.1 (2021), 1-22.

²⁰ Johnny Ibrahim Jonaedi Efendi, *Metode Penelitian Hukum Normatif Dan Empiris* (Depok: Prenada Media Group, 2018). H. 149.

²¹ Ibnu Elmi Achmat Slamet Pelu and Jefry Tarantang, "Fatwa Majelis Ulama Indonesia Sebagai Solusi Permasalahan Umat Islam Di Indonesia," *Al-Manahij: Jurnal Kajian Hukum Islam*, 14.2 (2020), 307-16 <<https://doi.org/10.24090/mnh.v14i2.3927>>.

²² Jefry Tarantang, "Teori Dan Aplikasi Pemikiran Kontemporer Dalam Pembaharuan Hukum Keluarga Islam," *Transformatif*, 2.1 (2018), 315 <<https://doi.org/10.23971/tf.v2i1.882>>.

3.1 A Legal Portrait of Dispute Resolution in Indonesia

Sociologically, there were at least two dispute resolution models which developed and were found in society lives, namely modern mediation and traditional mediation, as stated by Nadja Alexander:²³

*“Mediation is a process which is both new in terms of its emergence in the legal arena and old in terms of its timeless universality. For this reason there is a need at the very outset of this chapter to distinguish modern mediation from traditional forms of dispute resolution and other settlement forms as justices of the peace, judges de paix, schiedsleute, conciliation courts and the settlement function of civil law judges. Modern mediation refers to a movement that gathered momentum in 1970s in the US, in the 1980s in Australia and the UK, and in the 1990s in much of civil law Europe and South Africa.”*²⁴

Modern Mediation is none other than what is now popularly known as *Alternative Dispute Resolution (ADR)*, which is getting quite a lot of attention in various countries. According to Jacqueline M. Nolan Haley, ADR is an “*umbrella term*”, to mention various alternative forms of dispute resolution through the courts. Meanwhile, according to Kusno: Mediation rooted in local culture is more appropriate when called Traditional Mediation which is the topic of this discussion. Mediation which is now widely discussed as a form of ADR refers to Modern Mediation. However, between those two, there have no principal differences, because they are rooted in the same principle that the Japanese writer Yoshiro Kusano calls as “*The Basic Principles of Compromise*”.²⁵

According to research results, in Indonesia, the values of harmony, tolerance, and communalism or togetherness take precedence over individualism. Therefore, why the management nature that emphasizes consensus a *win-win solution* is more appropriate rather than dispute resolution through litigation, resulting a *win-lose solution*. Because according to Jack Ethridge²⁶ “*Litigation paralyzes people. It makes them enemies. It pits them not only against one another but against the other's employed combatant*”. On the other hand, Thomas E. Carbonneau stated that justice obtained through litigation is “*dehumanizing and riddled with abusive interpretations of truth.*”²⁷

Based on studies by several experts, basically the culture for conciliation or deliberation is a widespread societal value in Indonesia. Various ethnic groups in Indonesia have a

²³ Emmy Latifah, Anis Bajrektarevic, and Moch Najib Imanullah, “Digital Justice in Online Dispute Resolution: The Shifting from Traditional to the New Generation of Dispute Resolution,” *Brawijaya Law Journal*, 6.1 (2019), 27–37 <<https://doi.org/10.21776/ub.blj.2019.006.01.02>>.

²⁴ Nadja Marie Alexander, “Global Trends in Mediation,” *SSRN Electronic Journal*, 6.3 (2003), 41–42 <<https://doi.org/10.2139/ssrn.3765908>>.

²⁵ Candra Irawan, “Problematika Penerapan Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2008 Dalam Penyelesaian Sengketa Perdata Di Indonesia,” *JHAPER*, 1.2 (2015).

²⁶ Lovenheim Peter, *Mediate Don't Litigate* (New York: Mc Graw-Hill Publishing Company, 1989). h. 23

²⁷ Susana Andi Meyrina, “Perlindungan Hak Asasi Manusia Bagi Masyarakat Miskin Atas Penerapan Asas Peradilan Sederhana Cepat Dan Biaya Ringan,” *Jurnal HAM*, 8.1 (2017), 25 <<https://doi.org/10.30641/ham.2017.8.25-38>>.

culture of peaceful dispute resolution, for example the people of Java, Bali,²⁸ including Kalimantan.²⁹ Thus, Durkheim attempted to make a distinction between the two types of society. *First*, a simple society characterized by *mechanical solidarity*, orienting towards equality, likeness and consensus. Since individuals have the same knowledge and experience, so they act, think and feel the same way. In this society, they will perceive deviant behavior as a threat to their group identity, not only individually but also as a group as a whole. Besides, they merely understand and know themselves due to ways of acting, thinking and feeling the same way among them. *Second*, a *civil society* characterized by *organic solidarity*, based on specialization, differences and interdependence. This society is formed as a logical consequence of social change process, through functional specialization and structural differentiation caused by social division of labor.³⁰

In general, society groups characterized by *mechanical solidarity*, in which face-to-face relationships are more prominent, they tend to emphasize settlement amicably (*reconciliation*) and peace (*mediation*). On the other hand, in societies characterized by *organic solidarity*, in which the relationship among individuals is not very close, third-party decisions with official status carried out by state power are often preferred.

According to Daniel S Lev that Eastern people such as China, Korea, including Southeast Asian countries such as Thailand, Malaysia, Indonesia, Papua New Guinea prefer to apply personal dispute resolution, and avoid *formal procedural* settlements.³¹ This typology of society is more accurately described as a society that still uses mechanical solidarity.³²

3.2 A Philosophy of Mahurui Hatulang Kabalim

In customary construction, *mahurui hatulang kabalim* (henceforth [MHK]) is understood as an institution that aims to recover household-relation conflicts between husband and wife. For Central Katingan society, Central Kalimantan, MHK is not only a dispute resolution institution, but also a traditional mental institution and a belief to resolve family disputes as an effort to recover, reconcile and eliminate disputes or damage, and attempting to create peace and household harmony.

The philosophy contained in MHK not only recovers disputing husband-and-wife relationship but also emphasizes the function and role of customary institutions in reconciling among parties in customary law system in Central Katingan, Central

²⁸ Uci Zahrafani, "UPAYA PEMERINTAH DALAM MENANGANI KONFLIK ANTAR SUKU DI KABUPATEN KUTAI TIMUR," *Journal Ilmu Pemerintahan*, 5.4 (2017), 1585-98.

²⁹ Ahmadi Hasan and others, "Modern Law Aspect on Procedural Decision of Sultan Adam Law," *Al-Ahkam: Jurnal Pemikiran Hukum Islam*, 29.2 (2019), 159-66.

³⁰ Fithriatus Shalihah, *Sosiologi Hukum* (Depok: Rajawali Pers, 2017) <<https://doi.org/10.31219/osf.io/5ymwh>>. h. 63-64.

³¹ Jefry Tarantang, *Advokat Mulia (Paradigma Hukum Profetik Dalam Penyelesaian Sengketa Hukum Keluarga Islam)* (Yogyakarta: K-Media, 2018). H. xiii.

³² Abdul Apip and Rahmawati, "Penguatan Solidaritas Sosial Kemasyarakatan Dalam Rangka Pembentukan Satuan Tugas Bencana Di Desa Pamong Kecamatan Ciruas Kabupaten Serang," *Jurnal Pengabdian Dan Pemberdayaan Masyarakat*, 3.1 (2021), 88.

Kalimantan.³³ In MHK, there is the value of local wisdom that subdues problems wisely. In addition, MHK is also an effort and means to maintain households involving functionaries of traditional institutions. The society of Central Katingan, Central Kalimantan prefer to MHK, which means that they use deliberation method in resolving household disputes personally. Certainly, a deliberation is the main method used by indigenous society to resolve dispute, because it is likely to make a peace agreement which indeed benefits both parties.³⁴ MHK is conceptually a tradition carried out by Central Katingan, Central Kalimantan society as a traditional mediation that has been from generation to generation and is recognized and believed as a traditional mediation pattern for resolving household disputes.³⁵

The nature of MHK as a traditional mediation has both advantages and disadvantages. The advantage is that mediation is applied in familial, simple, and quick way. While the weakness refers to mediator roles. Character is as a key actor which has limitations in implementing mediation concept,³⁶ either from his/her understanding,³⁷ or more likely based on empirical experience on MHK practice in Central Katingan, Central Kalimantan. Even, there are still legal gaps that can still be taken to litigation process by the judiciary.³⁸ Nonetheless, it must be admitted that the essence of MHK is a non-litigation dispute resolution pattern, which specifically resolves household-dispute case as a traditional mediation that exists.³⁹ It is maintained and implemented from generation to generation by Central Katingan of Central Kalimantan society in upholding household as a sub-system of customary law that preserves customary mediation,⁴⁰ And it is acknowledged by Indonesian legal system and is contained in Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution.⁴¹ In addition, Article 18B Sec. (2) of the 1945 Constitution states that the state recognizes and respects customary law society units.⁴²

3.3 A Practice of Mahurui *Hatulang Kabalim* as a Social Justice Optic

³³ Wayan Resmini and Abdul Sakban, "Mediasi Dalam Penyelesaian Sengketa Pada Masyarakat Hukum Adat," *CIVICUS: Pendidikan-Penelitian-Pengabdian Pendidikan Pancasila Dan Kewarganegaraan*, 6.1 (2019), 8 <<https://doi.org/10.31764/civicus.v6i1.625>>.

³⁴ Resmini and Sakban.

³⁵ Mufid Mufid, "Mediasi Dalam Hukum Adat," *Al-Manhaj: Journal of Indonesian Islamic Family Law*, 2.2 (2020), 128 <<https://doi.org/10.19105/al-manhaj.v2i2.3490>>.

³⁶ Diana Riska, Fitriani, Ledy, "TEKNIK MEDIASI SEBAGAI ALTERNATIF PENYELESAIAN SENGKETA DALAM MASYARAKAT ADAT," *Riau Law Journal*, 3.1 (2019), 149–64.

³⁷ Ristiana Dewi, "Peran Mediator Dalam Proses Mediasi : Upaya Penyelesaian Perkara Perdata (Studi Kasus Di Pengadilan Negeri Pasuruan)," *MLJ Merdeka Law Journal*, 2.1 (2021), 35–41.

³⁸ Inosentius Samsul, "Penguatan Lembaga Adat Sebagai Lembaga Alternatif Penyelesaian Sengketa," *Jurnal Hukum & Pembangunan*, 29.4 (2017), 127–42.

³⁹ Kamaruddin Kamaruddin, "Model Penyelesaian Konflik Di Lembaga Adat," *Walisongo: Jurnal Penelitian Sosial Keagamaan*, 21.1 (2013), 39 <<https://doi.org/10.21580/ws.2013.21.1.236>>.

⁴⁰ Mufid.

⁴¹ Gaol.

⁴² Ibnu Elmi Achmat Slamet Pelu and Jefry Tarantang, *PERBANDINGAN BUDAYA HUKUM (Perdamaian Adat Badamai Di Kalimantan Selatan Dan Barapen Di Papua)* (Yogyakarta: K-Media, 2022). H. 108.

The theory of natural law is a law unconstructed by the state, but is the power of nature, and is universal and unchanging. Then it is described as being eternally valid as a law whose norms originates from universe and from human mind, as an eternal law, and grows in society.⁴³ Furthermore, this is a genuine legal system bound by certain moral principles, and these moral principles are mentioned by Lon Fuller with the term of inner morality of law (... *that any genuine system of law inevitably abides by certain moral principles. He calls these principles the inner morality of law*).⁴⁴ Associated with the results of interviews and observations conducted by the researchers to mantir adat and community figure, several points were found in mediating practice of non-litigation household dispute resolution in Central Katingan, Central Kalimantan, as follows:

First, mangatawan masalah (knowing the problem). In the process of knowing the problem, the mantir adat calls the disputing parties to come to his house or community figure. By having a dialogue by the parties, the problem happening is then known, particularly the initial cause of the problems that leads to a household dispute. In this case, the mantir adat as a mediator has to encourage the parties to explore their interests and seek the best options among parties fairly.⁴⁵

Second, Nyundau ije-ije (visiting respectively). In the process of visiting respectively, the mantir adat meets the disputing parties respectively between one party to another to find out the the parties' causes of problems that occur so that the mantir adat can infer more deeply. In this case, the mantir adat as a mediator facilitates and encourages among parties to explore their interests, seek various best settlement options, and work together to reach a settlement; assist the parties in drafting and formulating a Peace Agreement.⁴⁶

Third, Ngahau ije-ije (calling respectively). In the process of calling respectively, the mantir adat calls the disputing parties for a meeting at a different time to carry out mediation or so-called separated mediation so that the disputing parties do not meet in one place, since it is dreaded that the mediation will not be successful if the parties involved together.⁴⁷ This is known as a caucus in the mediation process.⁴⁸

Fourth, manggau jalan damai (seeking a peaceful way). In the process of seeking a peaceful way, the mantir adat gives an understanding among parties so that they can accept ideas conveyed with good intentions for the sake of goodness among parties so that they are

⁴³ Y M Darusman and B Wiyono, *Teori Dan Sejarah Perkembangan Hukum* (Banten: UNPAM PRESS, 2019), I. h. 78.

⁴⁴ I Nyoman Putu Budiarta Atmadja, I Dewa Gede, "Teori-Teori Hukum," 2018, 233. h. 19.

⁴⁵ Hanifah. H. 104.

⁴⁶ I Komang Wiantara, "Penyelesaian Perkara Perdata Di Pengadilan Berdasarkan Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2016," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)*, 7.4 (2018), 456 <<https://doi.org/10.24843/jmhu.2018.v07.i04.p04>>. H. 460.

⁴⁷ Kastama and Dewi. h. 187.

⁴⁸ Alfiah Zulia Riyanti, "Implementasi Kaukus Dalam Upaya Maksimalisasi Hasil Mediasi Menurut Mediator Pengadilan Agama Kabupaten Malang," *SAKINA: Journal of Family Studies*, 3.4 (2019), 1-10.

willing to forgive and accept each other again, because mediation prioritizes *bargaining position* by providing a value offer from each of party,⁴⁹ because the goal of it is a peace.⁵⁰ *Fifth, manukep atei* (approaching the heart). In the process of approaching the heart, the mantir adat provides good advice and ideas with an intense approach to the disputing parties, in which they have to think about their families' future, and their children's future if they already had, as they will be neglected. The mantir adat as a mediator provides advice and views if divorce occurs. After discussing all that matter among parties, the mantir adat returns to the parties' decision whether or not they still wish a separation or a reconciliation. In addition, this is conveyed in order that among disputing parties can find out impacts and consequences prior to making decisions.⁵¹ The uniqueness existing in traditional mediation pattern of *Mahurui hatulang kabalim* who succeeded in achieving peace was known as *sarukui haluli*, while those who fail are called *pisah pinja*. The practice of *mahurui hatulang kabalim* is in accordance with what was stated by Dean G Pruitt and Jeffrey Z. Rubin, that dispute resolution or so-called as the theory of dispute resolution strategy refers to: (1) *contending*, attempting to apply a solution that one of the parties prefers, (2) *yielding*, lowering one's own aspirations and willing to accept shortcomings of what are actually desired, (3) *problem solving*, finding a satisfactory alternative for both parties, (4) *withdrawing*, choosing to leave the dispute situation both physically and psychologically, (5) *silence (in action)*, that is not doing anything.⁵²

4. Conclusion

Mahurui hatulang kabalim is a local wisdom of Central Katingan society, Central Kalimantan. In the mediation practice, it is carried out by mantir adat as a mediator in resolving disputes, namely by *mangatawan masalah* (knowing the problem), *nyundau ije-ije* (visiting respectively), *ngahau ije-ije* (calling respectively), *Manggau jalan damai* (seeking a peaceful way), *manukep atei* (approaching the heart). Furthermore, this practice is performed to mediate household disputes in Central Katingan, Central Kalimantan. Once household problems cannot be resolved internally, the mantir adat as a mediator performs his role to resolve it, some are successfully reconciled (*sarukui haluli*) and some are failed to reconcile (*separate pinja*). The essence of *Mahurui hatulang kabalim* is a traditional mediation as a repressive effort in restoring family relations with

⁴⁹ Suwardi, "Korelasi Peran Hakam (Juru Damai) Dengan Mediator Dalam Proses Mediasi Perkara Perceraian Di Pengadilan Agama," *Ensiklopedia Social Review*, 2.2 (2020), 200–210.

⁵⁰ Rayani Saragih and Maria Ferba Editya Simanjuntak, "Efektivitas Mediasi Sebagai Alternative Dispute Resolution Terhadap Perkara Perceraian Di Pengadilan Agama Pematangsiantar," *Journal of Education, Humaniora and Social Sciences (JEHSS)*, 3.2 (2020), 734–42 <<https://doi.org/10.34007/jehss.v3i2.405>>.

⁵¹ Rahmadani Khairuddin Hasballah, "Studi Pemikiran Ibnu Qayyim Al-Jauziyyah Tentang Hakam Dan Relevansinya Dengan Mediasi Di Pengadilan Agama," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 3.1 (2019), 53–68.

⁵² La Syarifuddin, "Sistem Hukum Adat Terhadap Upaya Penyelesaian Perkara Pidana," *Risalah Hukum*, 15.2 (2019), 4.

traditional mentality and beliefs existing in Dayak society in Central Katingan, Central Kalimantan.

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