

Local Wisdom for Marriage Conflict Mediation in Muslim Minahasa, Indonesia

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ABSTRACT

This research aims at exploring the use and role of local wisdom of *Sitou Timou Tomou Tou* by the Counseling Agency for Development and Preservation of Marriage (BP4) among Muslims in North Minahasa, in North Sulawesi, Indonesia. This research asks how did the BP4 in North Minahasa mediate conflicts in a family. This research is qualitative research, with the type of empirical legal research in the form of normative juridical. The participants of this research are local leaders and parties who registered their case to the BP4 in North Minahasa. The data are obtained through observation, interviews, documents and literature. The findings of the research are the following. First, BP4 in North Minahasa implemented the more progressive and responsive model, namely by accepting the values of wisdom that live in the community (*local wisdom*). Second, the implementation of the aspects of *sitou timou tomou tou* model, which are social interaction, tolerance, team work, economic aspect. Based on the improvisation of BP4 in North Minahasa, all cases included the mediation can be completed optimally. So that all couples (husband and wife) who have conflicts can be reunite in order to create the happy family, of the framework of *sakinah, mawaddah and rahmah*.

Keywords: *Marriage mediation, BP4 North Minahasa, Islamic happy family*

1. INTRODUCTION

God Allah [1]. Based on this statement, Article 1 of Marriage Law No. 1 of 1974, the state interprets the word marriage as "an inner and outer bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family based on the Godhead of the Almighty." in the marriage which then forms a whole called family [2].

However, although religion has provided direction and strengthened principles about the meaning of a marriage, but at a practical level, there are marriages that are broken in the middle of the road due to various problems that come. To legitimize the family's problems, religion provides instructions in the form of mediation (*ishlah*) to maintain family integrity or divorce (*thalaq*) to end the relationship (husband and wife). In the context of mediation, Allah gives direction in [QS. an-Nisa' (4): 35].

The verse above shows that Allah has explained the good way to be applied when there is a fight and is afraid if there is division (divorce) in the family. So Imam al-Maraghi gave his comments, where disputes between husband and wife are sometimes caused by *nusyuz* or wife's disobedience and sometimes also due to bad behavior from the husband. Therefore, to bring back households based on calmness, love and affection, the both husband and wife and relatives must present two wise men (*hakam*) who have the ability to restore relations between the two [3].

The explanation from Imam al-Maraghi gives a clue, how God is very concerned about the norms and good household order towards *sakinah, mawaddah and rahmah*, or in the terms of the Marriage Law that is a happy family [4]. So, Allah Almighty in the verse does not mention the word divorce in resolving family disputes, this is because Allah hates divorce [5].

Based on this *ilahiyah* information, the Muslims in Indonesia through the State present a work system to reunite married couples who are in conflict with the term mediation, both conducted by mediators from the Religious Courts [6], as well as mediators from the Marriage Counseling and Conservation Advisory Board (here in after referred to as BP4) [7], [8].

Wildana in her research stated that the effectiveness of BP4 in the formation of *sakinah* family in Jember district showed very significant result between before and after the intervention of BP4 by providing an understanding of *sakinah* family knowledge [9].

In the context of North Minahasa Regency, North Sulawesi Province does not differ from the above conditions, where cases handled by the Religious Courts were more numerous than cases handled by BP4. This can be seen from the number of divorce cases handled by the Manado City Religious Court [10] as many as 125 cases until January 2018 [11], while BP4 of North Minahasa Regency in 2017 only handled 20 cases [12].

Even though the number of cases handled by BP4 is less than the cases handled by the Religious Courts, the

mediation process carried out by BP4 is more effective with very good quality, because of all the existing cases all can be reconciled and not proceed to divorce. This is inversely proportional to what happened in the Religious Courts, because of all the cases that exist almost entirely continued in the trial and ended in divorce status.

However in the context of problem solving in a household Haris and Laily's [13] research showed the different data, where BP4 in Jombang does not play role maximally and is merely a structure in each KUA and does not have a clear function after mediation, because all cases are delegated to Religious courts. Abdul Fuad [14] also showed the same research results, where BP4 in Langkat Regency in carrying out its role in resolving marital disputes was not optimal.

The results of the study above, paradoxical to the results of Noval Besse's [12] research that mentions BP4 of North Minahasa Regency in 2017 are able to handle all cases well and end in peace. The success carried out by North Minahasa BP4 in mediating family problems turned out to be not only based on applicable legal norms, but out of box by adopting local wisdom that lives in the North Minahasa community, but what kind of local wisdom is implemented? This is the urgency of this article that needs to be answered, so it has an output of family law problems in Indonesia.

2. RESEARCH METHOD

This research is a field research with a qualitative method with the type of empirical legal research [15], with a view to describing, describing, exploring and describing the mediation model carried out by BP4 in North Minahasa Regency which not only uses the legal norms applicable as a reference, but also by adopting the values of local wisdom that live in Minahasa. The nature of this research is *normative juridical* [16], where the legal norms about mediation in BP4 become a reference to be investigated so that problems are seen in it and then analyze the data and information obtained to produce more objective research answers.

Primary data in this study in the form of words and images obtained through observation, interviews, and documentation, by distributing questionnaires, making field notes, collecting notes or memos, taking photos and videos, collecting mediation documents or other official documents, and taking information from parties related to the mediation process, such as BP4 management in North Minahasa Regency, local leaders, and parties who registered their case with BP4 in North Minahasa. The secondary data obtained through the literature, books or books related to the research studied, including the internet.

3. DISCUSSION AND RESULT

3.1. Profile of the BP4 in North Minahasa

Initially, the term BP4 was interpreted as the Advisory Board for Marriage in Disputes and Divorce, but after the Decree of the Minister of Religion of the Republic of Indonesia No. 417 of 2004, there was a change in the name BP4 to the Board of Advisory, Coaching and Preservation of Marriage (BP4). Changes also occur according to the results of the 14th National BP4 Conference in 2009 and also followed by all BP4 throughout Indonesia including North Sulawesi Province.

BP4 which is a professional organization and working partner of the Ministry of Religion and related institutions, including BP4 of North Minahasa Regency, has the main goal of improving the quality of marriage in realizing a happy and prosperous household, that is, a confident household, *mawaddah and rahmah* by developing the *Sakinah* Household Movement Program. This is done because the duties of BP4 with regard to legal and ritual aspects that really touch the daily lives of the community, for that refreshment of the organization by hacking local wisdom that is built up in the community is needed for the optimization of BP4's work in North Minahasa Regency.

3.2. BP4's Model of Mediation in North Minahasa

Mediation in Islamic terms is called as *ash-shulh* or *al-ishlah* which means a contract that produces peace or a contract with the intent to end a dispute between two parties in dispute. This is referred to in QS. an-Nisa '(4) verse 35, and Ibn Kathir has interpreted the verse by explaining the opinion of the fiqh expert who explained that if there is a dispute or dispute between husband and wife, then a judge or mediator must calm both of them by finding the root of the problem, then directing both of them to trust and accept each other so as to prevent negative behavior between the two. If the dispute continues, the judge looks for someone who can be trusted (*hakam*) on the women's side and also on the men's side to see the problem and look for constructive solutions for both, namely separation or reunification, both may be elected but religious shari'ah tends to reunite, so that Allah in this verse says; "*If the two hakam people intend to make improvements, surely Allah gave taufik to the husband and wife*" [17].

Based on the mediation model, BP4 Utara Minahasa Regency runs a more progressive and responsive model, namely by accepting the values of wisdom that live in the community (*local wisdom*). The principle is that humans must be able to formulate ideas and values that can be embodied in social life both personally and collectively. It is on the basis of human creativity that wisdom is born locally and internationally [18].

In the context of local wisdom or local wisdom which is a big theme that is never obsolete to be examined, given the importance of responsiveness in the results of his studies. Local wisdom in Islamic terminology is known as *al-'urf* or *al-'adah* which means a good habit, which is accepted by the mind, and the soul becomes calm towards it, so that people accept and practice it voluntarily [19]. The conception reinforces the cultural thesis as a system that cannot be ascribed, but the system must be obtained by humans through a continuous learning process. The value of local wisdom implemented by BP4 in North Minahasa Regency is *sitou timou tomou tou*, which is humans are born to make other human beings become humans. The term was popularized by Indonesian independence fighters from Minahasa namely Dr. Saul Samuel Jacob Ratu-Langi [20]. This philosophy contains many meanings in social life, including: Social interaction, tolerance, cooperation, and economic aspects.

In order to get a comprehensive understanding of the Minahasa local wisdom, it is necessary to understand the explanation from Geertz, where it offers interpretative (or can be interpreted) cultural concepts, culture must be seen as a text that needs to be interpreted in its meaning, and culture is not actually solely a concrete pattern of behavior [21]. Therefore, when the value is implemented in the realm of family conflict mediation in North Minahasa Regency, the pattern developed is : (1) A warm welcome from the mediator to the conflicting partner at the BP4 office. In this initial aspect, the mediator will only collect information from each party, directly or indirectly. This pattern is in line with the words of Allah in the Qur'an al-Hujurat: 10. *As-Sa'di* interpreted that the verse is a statement of Allah that binds Muslims in one family bond despite different places and conditions so it is obligatory to help each other when there is a dispute between each other, then Allah also commands that believers who litigate each other to together fear (fear) of Allah swt for what has been done before the mediation is carried out [22]. (2) Bring in the elder and highly respected people in the village to listen to his advice. In this case, the mediator must be active as a facilitator in finding information and then compiling the entire identity of the elder and influential in his place according to their respective expertise. That is, the elder is not just understanding about religious values, but the values of local wisdom that are able to break the hearts of married couples who are in trouble. This conception is in line with the command of Allah, in the Qur'an of al-Anbiya: 7. Based on that verse, the mediator will always accompany a husband and wife who are in conflict when undergoing therapy from a local figure brought in. Instilling the value of *sitou timou tomou tou* in Islamic interpretations. The value of local wisdom, *sitou timou tomou tou*, is certainly not born from Islamic cultural and religious customs, because Islam is a minority group in North Minahasa Regency. However, the philosophical value of *sitou timou tomou tou* which emphasizes the existence of good interaction between husband and wife, tolerance in attitude, cooperation in family, and not detrimental to one another in building the family economy, all in line with the teachings of the

Islamic religion. For this reason, through this approach a mediator can play an active role in reminding the values of local wisdom and subsequently participate in discovering the main problems of husband and wife who are in conflict until giving birth to an agreement between the two that each party can acknowledge their mistakes and reconcile. in a happy household frame. Mediation based on open communication from each party through the frame of local wisdom *sitou timou tomou tou* will hit their hearts, this is because the aspirations communicated are not based on lust but on the basis of their conscience. The final process in the form of a mediation hearing by the mediator BP4. On this side, after the mediator carries out the tasks from *bangs* 1 (one) to 3 (three) above optimally, the hearing conducted based on applicable legal norms, is often only ceremonial, because all core issues have been resolved before the session mediation is done. Through a mediation model that is in synergy with the local wisdom values of *sitou timou tomou tou* which emphasizes good interaction between husband and wife, tolerance in attitude, cooperation in family, and not detrimental to one another in building the family economy, BP4 as a partner The Ministry of Religion's work has implemented the objective of the organization which is to create happy households based on Islam.

The implementation is, when there are problems on the basis of disputes caused by misunderstandings in the household to quarreling, it is enough to be taught about good interactions between husband and wife couples. Sometimes interactions in the household are not optimal because of the work undertaken by each partner. By asserting that as a good partner is able to understand the weaknesses and strengths of each, then by themselves they will be able to strengthen their hearts to be able to "*sitou timou tomou tou*" and re-build households with their "*mapalus*".

Likewise, when the case is an economic problem, it is sufficient to be given a deep understanding of how to avoid harming one another in building a family economy. Besides that, the mediator can provide smart solutions that the wife can also participate in building the family economy, and the husband must also continue to be responsible for "*sitou timou tomou tou*" (his partner) and *mapalus* with their partners in building a family economy. The tolerance referred to above is the attitude of mutual respect and respect between partners to avoid discrimination from each married couple. The essence of the word tolerance is respect, and a good partner is able to respect each other's role from each of their life partners. Sometimes, because of too following the passions due to anger with a partner, then want a new protection from others who are temporary but can be sustainable when unable to control themselves.

This is the core of all these problems, namely self-control to be able to respect their partners. Therefore, by providing input, advice, life paradigms that put forward the values of tolerance in the family will be able to *sitou timou tomou tou* to their respective partners. Someone will be able to humanize other human beings when he has seen the weaknesses and strengths of their respective partners and

then appreciates their existence as it is and undergoing husband and wife relationship with a forward vision of *sakinah, mawaddah and rahmah*.

In the end is, that the concept of *Sitou Timou* refers to "humans bring to life", ie humans not only for themselves but also for the sake of others [23], including life partners. The point is, by making individuals more useful for their partners in the household. The word "turn on" specifically is to give a sense of happiness to the surrounding, including their respective spouses. While *tumou tou* leads to a life full of affection with his partner in togetherness (*sakinah, mawaddah and rahmah*) with the best attitude and behavior (*mu'asyarah bi al-ma'ruf*) as a life partner under the protection and pleasure of Allah Almighty towards the happy family.

Through the mediation model based on the local wisdom of the Minahasa community, that is *sitou timou tomou tou*, then all couples who reported their cases in BP4 North Minahasa can be reconciled in the fabric of the household, feeling afraid to return to thinking about divorce, because divorce is not only part of the thing wrath by God Almighty, but in fact the divorce is also able to make humans not to revive or appreciate other humans, namely their partners. In this case, the mediator acts as a *mapalus* (cooperation) motor in bringing peace or reconciliation to the marriage couples in conflict.

4. CONCLUSION

Marriage Counseling and Preservation Counseling Agency (BP4) in North Minahasa has jurisdiction which covers Airmadidi, Kauditan, Dimembe, Wori, Kalawat, Kema, West Likupang, South Likupang, East Likupang, and Talawaan Districts. However, because the Muslim community in North Minahasa is part of a minority group, BP4's working area only covers Airmadidi, Wori, Likupang, Dimembe, and Kauditan, in which for the three Likupang sub-districts are made into one office namely Likupang BP4.

The mediation model carried out by the BP4 in North Minahasa is in synergy with the local wisdom values of *sitou timou tomou tou*, which emphasizes good interaction between husband and wife, tolerance in attitude, cooperation in family, and not detrimental to one another in developing the economy family. With this synergy, the BP4 in North Minahasa has improvised in carrying out mediation that is not only based on legal norms but also local wisdom. As such is an implementation of progressive and responsive work, because in preventing divorce, BP4 carries out its function not only as an actor in mediation but also as a facilitator of the whole processes of mediation. The BP4 does not give advice that calms the heart, but also finds the deepest side of the heart of the North Minahasa community in the form of local wisdom, that is *sitou timou tomou tou*.

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