EFFECTIVENESS OF MEDIATION IN THE DISPUTE RESOLUTION OF ISLAMIC ECONOMICS IN INDONESIAN RELIGIOUS COURTS

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Abstract
Mediation is a mandatory procedure in the resolution of civil cases in the courts since 2003. In the implementation of the Islamic banking dispute settlement after the Constitutional Court decision No. 93 / PUU-X / 2012 in the Religious Courts, mediation mechanisms demonstrates increasing success, to an average of 10%. Based on this phenomenon, it is important to do research to know the depth of the effectiveness of mediation in the settlement of disputes in the Indonesian Religious Courts. This study aims to discover the reasons for the selection of mediation as a dispute resolution mechanism syariah economic cases, and to analyze the factors that may affect the success of mediation in the Religious Courts in Indonesia. Some theories used to analyze in this research is the theory of operation of the law by Robert B. Seidman and sibenertika theory of Talcot Parson, as well as the effectiveness of law enforcement concepts according Soerjono Soekanto. This study is a socio-legal or juridical empirical research, using qualitative analysis and approach to philosophical, historical, and juridical. Based on this research, it was found that the concept of mediation is appropriate to be applied to the Religious Courts in Indonesia. It thus known from the cultural aspects of law enforcement with the parties to the dispute in the Religious Courts. Moreover, the attitudes of the Muslim community who like peace provide a positive stigma and support to the judiciary, as well as encourage the compliance of parties to implement the decision. Professionalism among judges as mediators maintained sidiq nature, mandate, sermons and fathonah is one of the factors that influence the success of mediation Religious Courts in Indonesia.

Keywords: Effectiveness, Mediation, Dispute Resolution Islamic Economics, Religious Court of Indonesia.

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INTRODUCTION

The development of economic transactions of sharia in Indonesia grow well, especially in supporting the needs of the community. However, based on data\(^4\) from the Financial Services Authority (FSA) in 2016 the growth of the Islamic economic transactions slowed. The slowing growth of Islamic banking transactions was one of them caused the disharmony between regulation, sharia contract, guarantees and dispute resolution process until its completion institutions. The Supreme Court (MA) is a major stake holder that is closely related to this issue, in addition to the Islamic banking industry, the FSA, academics economic law of sharia, Islamic banking associations, as well as the Indonesian Ulema Council (MUI). In the context of improving the quality of dispute settlement, one of the efforts that have been made Supreme Court is the Supreme Court issued Regulation No. 1 Year 2016 on Procedures for Mediation in the Court.

Basically, the mediation mechanism is integrated in the courts has been in effect since 2003. The use of these mechanisms is a mandatory procedure in the resolution of civil cases. Whereas in the context of the Islamic economic dispute resolution, such a mechanism was implemented in line with the expansion of the Religious Courts competence in handling disputes, through Law No. 3 of 2006 on the Amendment of Act No. 7 Year 1989 About the Religious Courts (UU PA). Utilization mediation mechanism in the Religious Courts continues. Even the release of the decision of the Constitutional Court No. 93 / PUU-X / 2012 that strengthen the dispute settlement Islamic banking institutions Religious Courts, the use of mediation mechanism shows its success in several cases have increased. This can be seen from some of the cases that go and can finish with a mediation mechanism.

This study is part of the research, which aims to discover the reasons for the selection of mediation as a dispute resolution mechanism syariah economic cases, and to analyze the factors that may affect the effectiveness of the mediation mechanism in the Religious Courts in Indonesia. This study is a socio-legal or juridical empirical research, using qualitative analysis and approach to philosophical, historical, and juridical. Some theories used to analyze in this research is the theory of operation of the law by Robert B. Seidman and sibenertika theory of Talcot Parson, as well as the concept of effective law enforcement by Soerjono Soekanto.

The concept of efficiency and effectiveness in running the business, is something that must be implemented by every Islamic banking. It is the fifth principle of the 10 (ten) kinds principle / principle the concept of Good Corporate Governance (GCG) which shall be applied. More broadly, the study of corporate governance (corporate governance) based on the perspective of Islam has done a

\(^4\) Moelyadi, *Indonesian Islamic Banking Development Policy*, National Training Content Development Financing Akad In Islamic Banking Practice, Cooperation APPHEISI-Pengda INI, 2-3 September 2016, at the Hotel Grasia, Semarang, p.11.
lot to do, among other things by: Umer Caphra⁵ and Rodney Wilson⁶ that discuss corporate governance in financial institutions. Liabilities considering the question of efficiency and effectiveness meant to ensure the implementation of services to the community by using the available resources optimally and responsibly.

Related to effectiveness in the context of law enforcement, Soerjono Soekanto⁷ believes there are five (5) factors, namely: a. Factors law (Law); b. Areas of law enforcement; c. Factors supporting different facilities or facilities; d. Community factors and e. Cultural factors. Soekanto Soerjono outlook is consistent with the theory of operation of law in the society, which was introduced by Robert B. Seidman. Some of the important points in the theory states that any laws tell about how a holder of the role (role occupant) is expected to act. Furthermore, basically a person will act in response to the rule of law. Where it is a function of regulations aimed at him, either in the form of sanctions, as well as the activities of the implementing agencies are related to the complex social, political and others. In addition, how the legislators will act, is also a function of the rules that govern their behavior, along with the sanctions, and the overall complexity of the social, political, ideological and others. Meanwhile, the feedback came from the stakeholders and bureaucracy. The use of the theory of operation of the law of Robert B Seidman will be more effective if it is supported by the theory of Talcoot Parson sibenertika stating that a social system is basically a synergy between the various sub-systems experiencing social mutual dependence and connection with one another. Or in other words, in theory, cybernetics, acknowledged their mutual relations linkages, interactions and interdependencies. Sibenertika theory of Talcoot Parson can be seen in the image below.

Based on these images can be seen that the law as a social sub-system can not stand alone. Working of the law in the community in carrying out its functions will always interact and require cooperation from other disciplines such as political, cultural, economic and social. All five will complement and enhance each. The element of “Law” in the system is the law that could ultimately provide shelter for citizens to obtain justice, expediency and legal certainty. Similarly, the operation of the law in the community to apply all three functions as mentioned above, also must work systemically, their regularity, continuity, always pay attention to the principles of law which should also be implemented. Systematization of legal material is determined by the content of the law itself and by the theories of influence and serves as a paradigm in the systematization⁸.

⁷ Soerjono Soekanto, Faktor-faktor yang Mempengaruhi Penegakan Hukum, Jakarta, PT RajaGrafindo, 2005, p. 9.
In the practice of settlement of civil disputes, especially disputes sharia economy, when the legal arrangements were incomplete or unclear, the parties can make interpretation of existing laws and relevant. Whereas in the case of legal arrangements do not exist, then it can do the construction of new laws or provide arguments relating to urgency is setting. Furthermore, in order to unravel more about the theme of this study, will be described several sub topics on: 1) the dispute settlement mechanism in general; 2) mediation in the dispute settlement mechanism, and 3) implementation constraints on judicial mediation of religion in Indonesia.

**DISPUTE SETTLEMENT MECHANISM IN GENERAL**

Model resolving disputes using mediation mechanism, is part of a model of alternative dispute resolution (ADR) or alternative dispute resolution (APS). The existence of developing mediation in addition to other models such as the negotiation and conciliation born gradually. Theoretically, there are two (2) models are often used to resolve disputes, namely:

a. First, the model of dispute resolution is adjudicative. This approach is an approach to justice through the system resistance (the adversary system) and the use of force (coercion) in managing disputes and to produce a decision win-lose solution, for the parties to the dispute. In this adjudicative models in addition to the court (litigation settlement) were born in the first wave, also arbitration born in the second wave.

b. Second, the model dispute resolution nonajudicatif. In this model, achieving justice prefer the approach of “consensus” and attempt reconcile the interests of the parties to the dispute and aims to get the dispute towards a win-win solution. Non-litigation dispute resolution is often called the ADR.

Ehrmann in Benny Riyanto and his friends as quoted by Steven Vago revealed that “There are two principal forms of resolving legal Disputes throughout the world. Either the parties to a conflict Determine the outcome Themselves by negotiation, the which does not preclude that a third party acting as a mediator MIGHT assist them in their negotiations. Or, the conflict is adjudicated, the which means that a third, and ideally as impartial party decides the which of the disputants has the superior claim”. The forms mentioned above, used and sometimes intertwine to disputes over civil, criminal, and administrative. Accordingly, Steven

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13 *Ibid*
Vago confirms that the main dispute resolution mechanisms that can be described in a continuum range (series) of the negotiation to adjudication. In negotiations, voluntary participation and the disputing parties prepare for their own settlement. In the circuit (continuum) is the next mediation, in which a third party to facilitate a settlement and assist the parties in reaching an agreement voluntarily (voluntary agreement). At the end of the series, namely adjudication (whether judicial or administrative) - the parties are forced to participate, and the case was decided by a judge. In this case, the parties may be represented by legal counsel (advocate) with a formal procedure, and the results can be enforced by law. Meanwhile, adjacent to adjudication is arbitration, which is more informal14.

Islamic economic dispute settlement through mediation that is integrated in the Religious Courts have not been effective. It is caused by several things, among others: a). litigation for dispute resolution infestation excessive formalities, b). Expensive; c) there is a potential sati siding with one party; and d) the results of the judge’s decision is disappointing there are still seeking justice. In that context, ADR (alternative dispute resolution) be an alternative that offers the processes more efficient and effective, simple and confidential, whether in the form of negotiation or mediation. In practice, when negotiation or mediation fails to offer, the choice of the parties engaged in arbitration or court.

In Indonesia, the general provisions on mediation based on Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution (Arbitration Act and APS). However, in the APS Act, are not regulated in detail related to the implementation of the mediation mechanism. Moreover, it is not mentioned that the mediation mechanism should be integrated in the judiciary. The new provisions on mediation in courts governed by the Rules of the Supreme Court No. 1 of 2016 on Mediation in the Court Procedure (hereinafter referred to Supreme Court Regulation).

Arbitration Act and APS at the level of ideas to contain the controversy with the Supreme Court Rules. Related to the mechanisms of mediation, on the one hand gives freedom of mediators to use variations of the model. But on the other hand turned out to be a model of mediation offered is very limited. Thus, technically, a mediation mechanism to be very tight. The impression created about the freedom of mediators to use variations of the model is actually a wrong impression because liberated by APS and the Arbitration Act and the Supreme Court is a technical regulation of the model has been specified limited. That is, the Arbitration Act and Regulations and APS Supreme Court adheres to the paradigm of “limited model” and open “space of freedom models and technical”. This is evident in Article 6 paragraph (2) of the Arbitration and APS which confirms that: Settlement of disputes or differences of opinion through alternative dispute resolution referred to in paragraph (1) resolved in the meeting directly by the parties within a period of 14 (fourteen) days and the results are set forth in a written agreement.

14 Ibid., p. 258-259.
Regulation of the Supreme Court actually set wider than the provisions of Article 6 paragraph (2) of the Arbitration and APS regarding the possibility of applying the model of mediation. Article 5 (3) of the Regulation of the Supreme Court, provides that “The meeting Mediation may be through communications media, audio visual remote that allows all parties were seen and heard in person and participate in the meeting.” The provisions of the Regulation of the Supreme Court can be said to be more advanced than the Arbitration Act and the APS, but leaves the question “whether it is by no means the Regulation of the Supreme Court and the law on Arbitration and APS?” Apart from this conflict means legally, it shows that the Arbitration Act and APS’s time to be revised so as not to cause multiinterpretasi top the contradiction. Preferences to select the APS changes Arbitration Act and the resulting incompatibility with the nature of mediation as a dispute resolution more flexible - and technical models - compared to court or arbitration that is adjudicative.

MEDIATION IN DISPUTE RESOLUTION MECHANISM

Conceptually, the applicability of “mediation remotely” by the Supreme Court Regulation is one of the only types of models associated with “joint meetings”. Thus, the question, “why this type of ‘joint meetings’ more is not adopted? More essential questions that should be put forward, namely “why other models were not adopted anyway, so mediation is integrated on the court became more varied?” There should to give freedom to the mediator build strategy, the Supreme Court Regulation do not call “joint meeting” which is a contrario means also limiting strategy. It has been the cause of ineffectiveness of mediation in a religious court if viewed in terms of the model or type of mediation. This condition is confirmed one of the factors that influence the effectiveness of mediation as stated by Tobias Böhmelt15 that:

> With regard to mediation effectiveness, the existing literature frequently emphasizes three factors. The first one pertains to characteristic of the dispute, i.e. its intensity and duration or the issues at stake. The third factor describes the mediators as such or the type of mediation pursued.

Variation concept of the mediation process, according to Laurence Boulle16, can be grouped by three (3) models or types, namely: (1) the variation in relation to the number of mediators (variations in relation to the number of mediators), (2) variations in relation to the a joint meeting (variations in relation to the joint meetings), and (3) variations in relation to a separate meeting (variations in relation to the separate meetings).

The first model (variation in relation to the number of mediators) are

distinguished in some kind of process, namely: (a) the mediation process solo (solo mediation) and (b) the process komediasi (the co-mediation process). Mediation solo essence is the use of a single mediator (singgle mediator). While komediasi process used in the situation of more than one mediator.

The second model (variation in relation to the joint meeting) divided into several types of processes, among others: (a) meeting of doubles (multiple meetings), (b) a mediation different (different venues), and (c) meetings with teleconferencing (telephone conferences). Meetings multiply has significance as most mediation does not reach the final in one sitting (meeting) and delays become necessary. Delays can have multiple functions in the mediation process. The meeting doubles enable the parties to obtain further information, such as assessment, professional advice, to reassess their situation, and is planning and response. In addition, it also allows (the) mediator, filed a confidentiality restrictions, assess progress and plan the strategy of the next session. However, delays have weaknesses among regression to things that have been agreed.

Regarding the mediation of different may arise regarding the reasons of space and logistics. The statements from each side of the rotation can be used to indicate the side of the parties. As for meetings with teleconferencing can be done telefonik either for reasons of geographical distance, lack of resources, as well as requirements or legal requirement.

The third model (variation in relation to a separate meeting) includes: (a) mediation back and forth (shuttle mediation), (b) a separate meeting with the advisor and the parties (separate meetings with advisers and parties). Mediation alternating means separate meetings without the parties meet together. Mediator move from one party to another party; solely as a vehicle of communication and negotiation between the parties. This is achieved when in a state of antagonism and if a meeting will take at the meeting were counterproductive. The second type, ie separate meetings with advisors and stakeholders to explain the flexibility of the mediation process. This type allows the mediator did separate meetings with attorneys (lawyers) or advisor of the parties. This type of process be allowed to teach advisors about his role right in mediation, without losing face on the client. When the mediator an advocate, he may discuss legal issues with the advisor of the parties.

In the context of the strategic freedom and flexibility to choose the model, which is integrated with the mediation of the court undoubtedly allow mediators to choose among models and strategies appropriate to the situation in Indonesia. Joint meeting could fit a particular situation, but it does not guarantee compliance with certain other case situations. In many cases the side do not want to see any reason other than the model would require a joint meeting.

Theoretically, a mediation model can also be grouped into a model settlement (settlement model/compromise), facilitation (facilitative model), therapeutic
(therapeutic style), and evaluative (evaluative model). Acceptance strictly categorization model in Indonesia has caused distortion in the court mediation evaluative models. Susanti Adi Nugroho\(^\text{17}\) determined that the court mediation is more focused on evaluative models. This model is characterized by several things: (a) the parties come and expect the mediator gives an understanding that if this case continues, then determined between winning and losing, (b) is more focused on the rights and obligations, (c) mediators are usually experts in their fields or an expert in the field of law because of the focus on the right approach. Mediators tend to provide a way out and get the legal field in order to lead to a final result that is inappropriate, (d) provide advice or counsel to the parties in the form of legal advice or the way out offered by the mediator, so that it contains weaknesses (e) the parties were not has signed an agreement together. This makes the determination of the court mediation is less soft. Failure resulting models are not compatible with the situation of the parties to the dispute - which harmed the interests, demands, psychological conditions, legal relationships underlying the dispute - can not be resolved variations of the model, so there is no other way to accomplishing.

The above description leads to the understanding that a mediation model that is integrated in the courts require reconstruction for the purpose of achieving optimal results, the success of a dispute settlement efforts is significant. Based on a model that has been developed, possible variations in practice in Indonesia needs to be relaxed. That means changing the settings of mediation tight on the model and strategy into the open on the choice of mediator in accordance with the unique conditions of the case at hand.

**IMPLEMENTATION OF THE MEDIATION ON RELIGIOUS COURTS IN INDONESIA**

Issues that are integrated on the court mediation does not work effectively which is caused by failure to make a model of integration, including the failure of a mediator in the mediation process. Mediation is confidential should be integrated with civil judicial models are open to the public. This has caused some problems for the legal culture mediators, advocates and the parties to the dispute in mediation practice. As revealed by Tony Whatling\(^\text{18}\) that cultural assumptions affect the success of a mediator in the practice of mediation. Steven E. Barkan\(^\text{19}\), based on socio-legal view suggests the influence of social factors as well as individuals. Communities have differences in certain aspects of the structure and their culture, which helps explain the difference in preference method of dispute resolution processes. As explained


why some communities or individuals prefer mediation than other communities. If it is considered as a special situation, then as stated by Christopher W. Moore, a strategy is needed to respond to that particular situation.

Moore in Benny Riyanto also mentions several authors among others Fisher, Maggiolo, and Wall describing a unique situation and potential contingency strategies that can be selected by a mediator to address the issue of failures in the practice of mediation. The situation and strategies meant, among other things:

1. Problems with parties working together in joint sessions that may require private meetings or Caucuses;
2. Situations involving time and timing that may require time management by mediators
3. Situations requiring mediator influence and potential strategies and techniques;
4. Problems with parties’ bases of power and means of influence, and mediator techniques to address and manage them;
5. Issues related to gender, working with women, and women as mediators;
6. Problems related to past, resent, and future causes of conflicts, and grand strategies to address them;
7. The presence of strong values and how they may be handled.

Seven of the situation and the strategies, the Supreme Court Rules is strictly regulated, so as mediator in the Religious Court can not have the creativity to adjust to the conditions of the parties to the dispute. In addition, the number and skills of Judge Mediator is still limited. Each justice there are only 1-3 Judge Mediators are certified. Even still there are courts that do not have Judge Mediator. In case of any violation of the procedures which must be carried out as intended in PERMA No. 1 of 2016, then it can lead to the imposition of sanctions, so that the court decision becomes null and void.

Placement mediation mechanism is integrated in the Religious Courts is a means to replace and optimize the provisions of Article 130 HIR / Article 154 Rbg. Articles specify peace. Meanwhile, the “peace” under Article 130 HIR, in its implementation should be through the registers case and the announcement by the Religious Courts. This last is in fact quite serious impacts. These conditions cause the defendant to feel embarrassed, even challenged. The next result, Defendants in particular, is very difficult to give concessions in the process of bargaining/negotiating when mediation. Reality, in reality is one reason the birth of ADR mechanisms. ADR is present and growing, due to the inability of such mechanisms in the judicial process to maintain confidentiality (confidential) of the parties in legal

20 Ibid.
22 Benny Riyanto et al., op. cit., p. 21.
23 Ibid.
relations arising from the dispute. Thus, when mediation is also placed in a process that has been open since been announced by the court, the mediation process also creates cynicism on the parties. It thus Laurence Boulle said as quoted by Benny that “mediation is Often promoted in terms of the privacy of the mediation sessions and the confidentiality of what transpire there.”

To overcome this, need to be rethought liability session “openness” of the process of the court connected mediation, so as not to injure the main character ADR mechanism is more confidential. Mediation should be carried out before the case is registered by the Religious Courts, so it has not made a public announcement by the Religious Courts. This directly reduces the burden on openness disputes, since the parties have not felt defamed as a result of the lawsuit is not necessarily stating his actions against the law, wanprestatie or coercion. In this case, a “purification” remediation that is integrated with the Religious Courts becomes inevitable.

Purification of mediation that is integrated within the Religious Courts is not easy. It is considering for this, Procedural Law Religious Courts in Indonesia are still using HIR / Rbg, governing openness all disputes in court, including a peace which rests on Article 130 HIR / Article 154 Rbg. These conditions reflect the need for immediate reform and Rbg HIR. Conditions of use mediation model that is integrated on the court, still need an open model, to achieve the expected results. As confirmed by Esin Orucu that:

“Cultural diversity’ reflecting on legal systems must be appreciated since ‘diversity’ and ‘flexibility’, being related to freedom of choice, are part of democracy, the one fundamental value upheld by all in at least the Western world. Aims such as ‘harmonisation, ‘integration’ and ‘globalisation’ show acceptance of the existence of differences but, nevertheless, aspire to produce sameness. Yet the distinctiveness and mutuality should also be emphasised within the concept of ‘harmony’."

In the resolution of economic disputes Islamic Religious Court, known mechanism of “deliberation”, which means the effort or the road of peace between the parties. Namu Thus, the mechanism of “deliberation” is not entirely the same as mediation mechanism known in the APS. In certain cases, deliberations have fundamental differences with the mediation. Basically, in terms of reconciling the principle is the same, while there are differences in terms of technical aspects. Therefore, the integrated mediation in courts is not easy, and it requires modifications to the levels of strategies and models.

Based on the results of research in the practice of mediation in seven (7)

24 Ibid., p.41.
religious courts, namely: PA Yogyakarta, Sleman PA, PA Bantul, Gunung Kidul PA, PA Temanggung, PA Bandung and PA Purbalingga, shows the ineffectiveness of the implementation of the mediation. It is based on the evaluation of the Principles of Good Corporate Governance. Based on this principle the notion efficient and effective is ensuring the service to the community by using the available resources optimally and responsibly, should the achievement of the results of the mediation is higher than 18.1% but in fact to this research achievement of mediation has been no improvement even there is a declining trend. Likewise, when evaluated with theoretical effectiveness of law enforcement by Soerjono Soekanto mediation mechanism in the Religious Courts has not been effective. Conclusions are based on the premise that the mediation process should be successful if the five factors, namely a law enforcement. Factors law (Law); b. Areas of law enforcement; c. Factors supporting different facilities or facilities; d. Community factors; e. Optimized and synergized cultural factors in its implementation. However, in reality, the factors referred to is not yet fully functioning optimally and synergy.

Based on the above results, then as a thought solutifnya can be analyzed with the theory of operation of the law. Mediation be integrated into economic dispute resolution sharia in Indonesia easier to obtain results or would be more effective to use the theory of operation of the law of Robert B. Seidman. Supposedly every legal regulations tell about how a holder of the role (role occupant) in this case a mediator was expected to act. How it will act as a mediator in response to legislation that is a function-regulations aimed at him, the sanctions, the activities of the implementing agencies as well as the whole complex of social, political and others about him. Furthermore, how the implementing agencies in this case religious court, will act in response to legislation that is a function of legal rules directed at them, the sanctions, the whole complex of social, political and others are about themselves and feedback coming from the holder role. It should be noted also is, how the legislators will act, in implementing the functions of the rules governing good behavior for judges and mediators as well as his party, the sanctions, the whole complex of social, political, ideological, and others who about themselves as well as the feedback comes from stakeholders as well as the bureaucracy. The series of activities will be more optimal if applied also Sibenerpakia Theory of Talcott Parson that essentially says that a social system is basically a synergy between the various sub-systems experiencing social mutual dependence and connection with one another. Relationship interconnectedness, interaction and interdependence.

CONCLUSIONS AND RECOMMENDATIONS
Based on the results of research in the field in seven (7) religious courts, namely: PA Yogyakarta, PA Sleman, PA Bantul, PA Gunung Kidul, PA Temanggung, PA Bandung and PA Purbalingga several factors that affect the success of mediation is a lack of compatibility between the law enforcement with culture developed in

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26 Rata-rata hasil penelitian lapangan di 7 (tujuh) Pengadilan Agama: PA Yogyakarta, PA Sleman, PA Bantul, PA Gunung Kidul, PA Temanggung, PA Bandung dan PA Purbalingga.
Religious Courts with the disputing parties. Attitudes and perceptions Muslims who love peace stigmatize positive and the support of the judiciary to encourage the compliance of parties to implement the decision. In addition to the professional judge mediator preserved nature Sidiq, Amanah, Tabligh and Fathonah provides support for the success of mediation in religious courts. But this success has not reached the desired expectations of people seeking justice.

Some of the factors that cause has not been successful mediation processes in Religion Court is the view of the majority of Indonesian people who have a negative stigma, that if the parties have been summoned by the court as a party to berpekara, then by their penggilan the trial the defendant feels he has been placed as a party guilty. It generated an offense to the parties and the effect on betting the good name and dignity. The lack of skills mediator also be one of the factors that influence the court mediation is less successful in the Religious Courts in Indonesia.

Based on the research conducted, the concept of integrated mediation in accordance Religious Court and can be applied to the Religious Courts in Indonesia although it can be said yet effective, given the level of achievement on average 18.1% (not yet reached ≥ 50%). Nevertheless, the average level of attainment of 18.1% for the mediation mechanism referred to, are also influenced by factors compatibility between law enforcement with the culture that flourished in the Religious Court by the parties to the dispute. Moreover, the attitudes of the Muslim community who like peace stigmatize positive and the support of the judiciary to encourage the compliance of parties to implement the decision. Furthermore, Mediator Judge awake professional Sidiq nature, Amanah, Tabligh and Fathonahnya be one of the factors that influence the success of mediation Religious Courts in Indonesia. However, the number and skills of Judge Mediator remains to be improved.

In addition to some of the above, access to the opportunity to be a non-judge mediator (independent mediator) also need to be increasingly expanded. The synergy of the various aspects in addition to the legal aspect, namely the political, cultural, economic and social need to optimize. The cultural change developing in the community should be prioritized to support adari aspects of political, economic and social.

Based on the above conclusions, some sara necessary in the context of this study were: 1) the concept of mediation that are integrated into the judicial procedure must be re-evaluated, considering that the study was conducted recently achieved a success rate of 18.1%; 2) Establishment of processes and procedures for settling disputes need to be adapted to the character of Indonesian society that emphasizes deliberation; 3) The need of harmonization between Rule of Law APS with the Supreme Court as well as the revision of the HIR adanta and RBg., Which is still valid; 4) required the preparation of human resources with competence as a mediator non judges because judges mindset as decision makers and as a mediator is different; 5) must be prepared for mediators skills for the mediation process to
successful mediation is optimal; 6) Cooperation between the Supreme Court and the Higher Education needs to be done in preparing the HR is also synergies with other relevant institutions. Thus with some recommendations, expectations are integrated with judicial mediation would be more in keeping with the character of the people of Indonesia, it is easier to function effectively provide a sense of justice in the resolution of the banking dispute sharia.
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