

## **DISPUTE SETTLEMENT BASED LOCAL LAW IN INDONESIA**

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### **Abstract**

In everyday social life, community with one another is not separated from the issues of dispute, both disputes were complaints, conflicts and disputes caused by a series of social interaction between members of the society itself. The concept of locally based Dispute Settlement can be done by negotiation, mediation, arbitration. The purpose of the local-based concept to produce a decision set with wisdom and justice based on God.

### **A. Introduction**

Disputes, conflicts, disputes and other actions that can be categorized as acts violated the order of moral, social order and the orders of other similar, even other similar actions which can be categorized as a crime. Quality disputes almost always adjust the development of society itself, a development that can be classified into three stages: the first stage of a simple society; The second complex society, and third multi-complex society. In everyday social life, community with one another is not separated from the issues of dispute, both disputes were complaints, conflicts and disputes caused by a series of social interaction between members of the society itself.

As an alternative solution, resolving conflicts or disputes involving parties directly involved to organize the process and find its own decisions with or without involving a third party. This is a dispute resolution that can be categorized as a form of dispute resolution based on local potential. Thus the completion of this can

be found in (1) the social community (gemeinschaft) and do not have a uniform national courts and institutionalized; in social community, model solution thus seen as a continuation of traditional or customary practices; (2) gessellschaft community, local wisdom is widely used because it is deemed efficient, enough to satisfy the parties to the dispute.

### **B. Issues**

1. How does the concept of locally-based dispute resolution ?
2. How determination process decision based dispute locally in Indonesia ?

### **C. Discussion**

#### **1. Concepts of Locally-Based Dispute Resolution**

The concept of locally based dispute settlement can be done by negotiation, mediation, and arbitration. Negotiation is the process of settlement of disputes or disputes which emphasizes a verbal com-

munication that the parties involved in a dispute resolves itself without the involvement of a third party as a mediator, both of which are not authorized to take decisions (mediation), or an authorized third party take a decision (arbitration, litigation). Arbitration is a dispute resolution process or dispute that emphasizes communication authorized third-party decision-making.

While mediation is a dispute resolution process or dispute which emphasizes a verbal communication between the parties involved in a dispute with a third party involvement, but neutral and does not have the authority to decide besides facilitating dispute resolution process based on local wisdom. Mediation is usually do after a settlement through negotiations deadlocked. Thus, the real dispute based on local wisdom requires the presence of a third party as a mediator.

All was done to achieve a sense of justice. Settlement of disputes based on local wisdom above shows that if there is a dispute among members of the community, they tend to be handed over to traditional leader to settled by traditional law. It also shows that the settlement of disputes based on local wisdom outside the formal court has long existed and is still alive in Indonesian society.

## **2. Determination Process Decision Based Dispute locally in Indonesia.**

According to the justice system in Indonesia is not known to the system as well as judicial precedent in the state of Anglo-Saxon countries so the judge is not bound by the judge's ruling earlier even in the same case. In this case the judge acting as mediator the parties.

So in decision making based on local wisdom, the judge can make a decision as follows. 1) Equalize decision, 2) Adjust decision, 3) Deviate decision, 4) Waive decision, 5) Fair decision, 6) Alter decision , 7) Novelty decision 8) Denied decision. All that decisions set with wisdom and justice based on God above decision taken.

## **D. Conclusion**

From the description above can be concluded:

1. The concept of locally based dispute settlement can be done by negotiation, mediation, arbitration aiming to achieve a sense of justice.
2. Determination process decision based dispute local Indonesia, judges are not bound by the judge's ruling earlier even in the same case. In this case the judge acting as mediator the parties.

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