

THE ROLE OF *SITUA-TUA* IN DIVORCE MEDIATION: A STUDY OF CUSTOMARY DISPUTE RESOLUTION IN DESA KARING, KECAMATAN BERAMPU, KABUPATEN DAIRI

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Abstract

This study examines the role of *Situa-Tua* in mediating divorce cases in Desa Karing, Kecamatan Berampu, Kabupaten Dairi, with a focus on customary and religious approaches. The research aims to analyze the effectiveness of *Situa-Tua* in reducing divorce rates and resolving marital disputes outside the formal judicial system. Using a qualitative approach, this study employs in-depth interviews with *Situa-Tua*, religious leaders, and community members, as well as direct observation of the mediation process. The data were analyzed using an interpretive method to understand the strategies and challenges faced by *Situa-Tua* in handling divorce cases. The findings indicate that *Situa-Tua* primarily mediate through spiritual counseling and family involvement, following the principles outlined in Q.S. An-Nisa: 35. Their approach emphasizes privacy, cost efficiency, and reconciliation, making it a preferred alternative to litigation. However, the success of mediation depends on the willingness of both parties to cooperate and adhere to religious and customary values. This study contributes to the existing literature by highlighting the integration of customary and Islamic mediation practices in divorce resolution. Unlike formal legal proceedings, *Situa-Tua* mediation fosters a communal approach to dispute resolution, reinforcing local traditions and religious teachings. The findings suggest that strengthening non-litigation mediation mechanisms, particularly those rooted in local wisdom, can enhance social harmony and reduce the burden on religious courts. Future studies should explore the applicability of this model in other cultural contexts.

Keywords: *Situa-Tua*, Divorce Mediation, Customary Law, Religious Mediation, Non-Litigation Dispute Resolution

INTRODUCTION

Disputes arise due to differences in viewpoints or opinions between two parties within society.¹ Consequently, institutions for dispute resolution have been established.

¹ Efrinaldi et al., "Revealing the Enforcement of Mbasuh Dusun Tradition for Pregnant Women Outside of Marriage in Indonesia," *Al-Istinbath: Jurnal Hukum Islam* 8, no. 2 (2023): 617-44, <https://doi.org/10.29240/jhi.v8i2.8437>.

Dispute resolution can be pursued through two channels: litigation and non-litigation.² The litigation route involves resolving cases through the courts using a legal approach, whereas the non-litigation route is an alternative resolution method conducted outside the courts, typically through family-based discussions and deliberation.³ Non-litigation dispute resolution is commonly known as an alternative resolution, where a neutral third party acts as a mediator. This mediator provides advice and guidance to the disputing parties, but the final decision remains in their hands.

The principle of consensus-based deliberation serves as a fundamental value for disputing parties in seeking solutions, particularly outside the courts. This principle is embedded in various forms of alternative dispute resolution, such as mediation.⁴ Even today, many people prefer and prioritize the non-litigation route for resolving disputes, especially family-related issues. Several factors contribute to this preference, including the common perception that court proceedings are costly and that the distance to the court is often considered too far.⁵ These factors discourage people from pursuing litigation and encourage them to resolve their disputes through non-litigation means.

Moreover, court procedures are often perceived as complex and time-consuming, leading communities to favor non-litigation methods by involving customary leaders as third-party mediators.⁶ These leaders are seen as capable of resolving conflicts, particularly in family matters. This practice is also evident in the community of Karing Village, Berampu Subdistrict, Dairi Regency. When facing household issues, particularly divorce cases, the local community turns to traditional leaders, known as *situa-tua*, to mediate between the spouses—a process called *pesellohken rumah tangga*. Given this tradition in Karing Village, the author is interested in conducting a study on the role of

² Sari Wahyuni Amanda, "Penyelesaian Sengketa Pertanahan Melalui Jalur Non Litigasi Di Badan Pertanahan Nasional Kota Jakarta Selatan" (Universitas Pembangunan Nasional Veteran Jakarta, 2019).

³ Adi Muliawansyah Malie et al., "Urgensi Penyelesaian Non Litigasi Online Dalam Sengketa Bisnis Layanan Pendanaan Bersama Berbasis Teknologi Informasi," *UNES Law Review* 6, no. 1 (2023): 667–80.

⁴ Hendri Saleh, "Urgensi Mediasi Dalam Diskursus Konseling-Sosial," *Al-INSAN Jurnal Bimbingan Konseling Dan Dakwah Islam* 3, no. 1 (2022): 43–58.

⁵ Dewi Tuti Muryati and B Rini Heryanti, "Pengaturan Dan Mekanisme Penyelesaian Sengketa Nonlitigasi Di Bidang Perdagangan," *Jurnal Dinamika Sosbud* 3, no. 1 (2011): 49–65.

⁶ Sarlito Wirawan Sarwono, "Teori-Teori Psikologi Sosial," 1995.

religious or traditional leaders (*situa-tua*) in resolving marital conflicts and the strategies they employ to successfully reconcile divorcing couples.

Several previous studies related to this research serve as references to highlight the differences from the current study Mifthahurrahmi (2024), "*The Role of Customary Figures as Mediators in Community Dispute Resolution in Minangkabau: A Case Study in Nagari Muaro Paneh, Solok Regency.*" This study examines the role of *Ninik Mamak* and the *Kerapatan Adat Nagari* (KAN) in resolving community disputes, including divorce cases, emphasizing the importance of family-based mediation and justice. Gempa Maulana, Aldy Darmawan, Elfia, Zulfan (2023), "*The Importance of the Role of Rangtuo Kaum in Divorce Mediation in Nagari Damar Lapan Batang Inderapura.*" This article explores the role of *Rangtuo Kaum* as mediators in divorce mediation, focusing on the implementation of fair and participatory mediation to achieve the best solutions for both parties. Charlens Elmaden Manit, Karolus Kopong Medan, Darius Antonius Kian (2023), "*The Role of Customary Figures in Resolving Cases of Violence Against Women in Saukibe Village, Amfoang Barat Laut Subdistrict.*" This study investigates how customary leaders mediate in cases of violence against women, which are often linked to household conflicts and divorce, highlighting the significance of mediation in achieving reconciliation between the involved parties.

Although various studies have highlighted the role of customary figures as mediators in resolving family disputes, most research has focused on regions such as Minangkabau, Lombok, and other areas. There has been no in-depth study specifically examining the effectiveness of *Situa-Tua* in divorce mediation in Karing Village, Berampu Subdistrict, Dairi Regency. The research gap lies in the lack of empirical data on the mediation methods employed by *Situa-Tua*, their success rate in reducing divorce cases, and the extent to which the community continues to respect and comply with customary mediation decisions amidst social and legal transformations.

METHOD

In this study, the researcher employs a qualitative method with a case study approach.⁷ This approach is chosen as it allows for an in-depth exploration of social phenomena within a specific context, namely the role of *Situa-Tua* in resolving divorce-related issues in Karing Village, Berampu Subdistrict, Dairi Regency. To obtain relevant data, this research utilizes data collection methods through in-depth interviews with four informants, consisting of two village officials and two community members. The informants are selected purposively, considering their direct involvement in the divorce resolution process and their understanding of the prevailing customary norms and values. To ensure data validity, this study applies source triangulation, which involves comparing information from various informants to enhance the accuracy of findings. Additionally, *member checking* is conducted, where interview results are reconfirmed with the informants to ensure that the researcher's interpretation aligns with their intended meaning.

To avoid bias, the researcher applies a reflexivity strategy, critically evaluating their position and subjectivity throughout the research process. Additionally, data is analyzed inductively to ensure that findings are not influenced by the researcher's initial assumptions but instead emerge from patterns within the field data. From an ethical perspective, this study adheres to the principle of *informed consent*, whereby each informant is provided with a clear explanation of the research objectives, its benefits, and their rights to refuse or withdraw participation at any time. The confidentiality of informants' identities is also ensured to protect their privacy. Data analysis is conducted using a qualitative descriptive technique, involving the examination, interpretation, and presentation of data in a narrative form. This approach allows the researcher to understand the patterns and dynamics of divorce resolution by *Situa-Tua* while uncovering the meanings and values embedded in this customary practice in Karing Village.

⁷ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Prenada Media, 2005).

RESULT AND DISCUSSION

1. The Origin of Mediators

A mediator is a judge or another certified mediator who acts as a neutral party to assist disputing parties in negotiations, exploring various possible resolutions without making decisions or imposing solutions.⁸ There are two types of mediators: litigation mediators and non-litigation mediators. A litigation mediator is involved in formal legal proceedings, usually in court, with the objective of helping parties reach an agreement before or during the trial. Meanwhile, a non-litigation mediator operates outside the formal judicial system and employs alternative methods such as mediation, negotiation, or arbitration to resolve disputes.⁹

In the Indonesian legal system, court mediation is regulated under Supreme Court Regulation (PERMA) Number 1 of 2016 concerning mediation procedures in court. Meanwhile, out-of-court (non-litigation) mediation is governed by Law of the Republic of Indonesia Number 30 of 1999 on Arbitration and Alternative Dispute Resolution. Article 6, paragraph (1) states that "*Civil disputes or disagreements may be resolved by the parties through alternative dispute resolution based on good faith, bypassing litigation in the District Court.*" However, this law does not explicitly regulate the procedures for conducting non-litigation mediation. As a result, in practice, communities tend to resolve disputes based on local customs and cultural norms.¹⁰

Other legal regulations supporting non-litigation mediation include Law of the Republic of Indonesia Number 48 of 2009 on Judicial Authority. Article 58 states that "*Efforts to resolve civil disputes may be conducted outside the state court through arbitration or alternative dispute resolution.*" Additionally, dispute resolution in villages is also the responsibility of the village head, who holds local authority.

In the context of family law, family relationships are sacred bonds that inherently require interactions among family members. This interaction has the potential to lead to

⁸ Fitri Purnamasari, Diding Rahmat, and Gios Adhyaksa, "Pelaksanaan Mediasi Pada Penyelesaian Perceraian Di Pengadilan Agama Kuningan," *UNIFIKASI: Jurnal Ilmu Hukum* 4, no. 2 (2017): 98-105.

⁹ Tumanda Tamba and Mukharom Mukharom, "Efektivitas Peran Mediator Dalam Penyelesaian Sengketa Non Litigasi Dalam Bidang Bisnis Maupun Hukum," *Jurnal Ilmiah Mahasiswa Perbankan Syariah (JIMPA)* 3, no. 2 (2023): 445-60.

¹⁰ Tamba and Mukharom.

disputes, whether during marriage or after divorce, including issues related to inheritance and endowments. Such disputes often escalate into legal proceedings in court. However, litigation-based resolution has its drawbacks, as court rulings may result in disappointment for one of the parties. A win-lose outcome can foster resentment and hostility between disputing parties.¹¹ Therefore, non-litigation dispute resolution mechanisms, such as mediation, can serve as a more harmonious solution.

2. The Role of Traditional Leaders in Mediation

A traditional leader is an individual who plays a significant role in the social and cultural life of a community, particularly in preserving and regulating customary norms applicable in a specific society.¹² Traditional leaders are often regarded as figures of authority and role models within indigenous communities, holding a respected position and influence in determining and maintaining traditions, cultural values, and customary laws. They are highly esteemed for their deep knowledge of history, rituals, and customary regulations that govern the lives of their people. Generally, traditional leaders are responsible for various aspects of communal life, including dispute resolution, conducting traditional ceremonies, and fostering relationships among community members.¹³ They also contribute to maintaining social harmony by ensuring that all actions taken by the community align with the inherited norms and traditions.

From a legal perspective, the role of traditional leaders is recognized in various Indonesian laws, one of which is Law No. 6 of 2014 on Villages, which provides space for indigenous communities to participate in managing natural and cultural resources in their territories.¹⁴ Traditional leaders play a key role in advocating for the interests of indigenous communities in legal and governmental forums.

¹¹ Awaludin Robi, "Mediasi Non Litigasi Sebagai Alternatif Penyelesaian Sengketa Keluarga Ditinjau Dari Perspektif Hukum Islam Dan Perundang-Undangan Di Indonesia" (UIN RADEN INTAN LAMPUNG, 2022).

¹² Sri Purwaningsih, *Pranata Sosial Dalam Kehidupan Masyarakat* (Alprin, 2020).

¹³ Supriyanto Hadi et al., "Penyelesaian Sengketa Tanah Ulayat Masyarakat Hukum Adat Suku Ngalum Dengan Pemerintah Daerah Kabupaten Pegunungan Bintang," *Socius: Jurnal Penelitian Ilmu-Ilmu Sosial* 1, no. 11 (2024).

¹⁴ Pemerintah Pusat Indonesia, "Undang-Undang (UU) Nomor 6 Tahun 2014 Tentang Desa" (2014).

According to the Indonesian Dictionary, the term “figure” refers to distinguished individuals, which implies that religious figures are prominent and esteemed individuals who play a significant role in developing religious teachings, particularly in Islam.¹⁵

The position of traditional leaders is highly significant within society, as they are considered individuals with superior knowledge and understanding of their customs compared to other community members. Consequently, they are generally expected to exhibit exemplary behavior, serving as role models in shaping the character of youth and the broader community. Their conduct fosters a peaceful, respectful, and brotherly society, ultimately shaping individuals with noble character.¹⁶ In other words, Islamic religious leaders are distinguished and respected figures who act as informal leaders within society, dedicating themselves to religious causes.

Traditional leaders are often referred to as informal leaders due to their charisma and influence, which attract followers despite not holding official organizational leadership positions. Their presence in society is widely recognized as impactful in the development of Islam.¹⁷ Islamic religious leaders include kyai (Islamic scholars), Muslim intellectuals, preachers (*dai*), and individuals who are deeply committed to the Islamic struggle, willing to make sacrifices – both material and personal – for the sake of their faith.

Religious teachings hold a profound significance for both individual and social life. A religious leader must position themselves within the community and assume social responsibilities according to their capabilities. They should be aware of their strengths and weaknesses, just as they acknowledge the strengths and weaknesses of others.

Malik Bin Nabi describes religious leaders as follows: "*Religious leaders are a group of Muslims whose influence is vast and profound within the Muslim community, both through their knowledge and their efforts in upholding Islamic law. Their commendable behavior and charismatic nature earn them great respect in society.*"¹⁸

This definition highlights the pivotal role of religious leaders in guiding society. With their profound knowledge, they exert a significant influence on the broader community.

¹⁵ “Kamus Besar Bahasa Indonesia (KBBI),” KBBI, 2023.

¹⁶ Purwaningsih, *Pranata Sosial Dalam Kehidupan Masyarakat*.

¹⁷ Sarijok Sarijok, “Peran Tokoh Agama Dalam Pembinaan Majelis Taklim Pada Masyarakat Desa Tanjung Beringin” (IAIN Curup, 2019).

¹⁸ Malik Bin Nabi and H Abdul Adhiem, *Membangun Dunia Baru Islam* (Penerbit Mizan, 1994).

Religious leaders serve as role models, particularly for Muslims, and are expected to demonstrate exemplary conduct in daily life. Their extensive understanding of Islamic teachings surpasses that of the general public, enabling them to provide guidance and leadership.

According to Tarb Tahir Muin, "A religious leader is an individual deemed competent, highly knowledgeable, morally upright, and skilled in religious matters – ranging from religious rituals to broader theological perspectives – making them a role model within their community."¹⁹

Religious knowledge is not solely acquired through formal education but can also be obtained through non-formal and informal environments. Many people gain religious understanding through seminars, religious lectures, reading Islamic literature, watching religious programs on television, and participating in theological discussions.

3. Mediation Strategies Employed by Situa-Tua in Resolving Divorce Cases

To understand the role and strategies employed by Situa-Tua in resolving domestic conflicts in Karing Village, Berampu Subdistrict, Dairi Regency, the author conducted direct interviews with several traditional leaders and community members in the village.

The first interview was conducted with Ustadz Karimin Silalahi,²⁰ a mediator who has served for 30 years and successfully handled 30 divorce cases with a high success rate. According to him, the most commonly used mediation approach is through familial engagement and religious counseling. He emphasized the importance of tailoring mediation methods to the specific situation and the root causes of the conflict.

During the interview, Ustadz Karimin Silalahi explained that three main issues often lead to divorce: alcoholism, infidelity, and gambling. The first strategy in mediation is to listen to the grievances of the couple seeking divorce, such as a husband who gambles and fails to provide financial support. After identifying the root cause, he applies a religious approach by emphasizing that gambling and infidelity are prohibited (haram) in Islam. Additionally, he encourages conflicting couples to engage in dhikr and prayer together to strengthen their spiritual values.

¹⁹ Tarb Tahir Muin, "Membangun Islam" (Bandung: PT. Rosda Karya, 1996).

²⁰ Rakha Dzaky Irvi Nasution, "Wawancara Dengan Ustadz Karimin Silalahi S. Ag" (Desa Karing, Kec.Berampu, Kab.Dairi, 2024).

Another strategy involves bringing both families into the mediation process. One method used is to ask whether the couple still has feelings for each other. If they do, Ustadz Karimin Silalahi encourages reconciliation by having them embrace and engage in heartfelt communication. Based on his experience, the primary reason for divorce is the couple's detachment from religious values, such as neglecting prayer.

The main challenge in mediation is interference from parents or family members, who, despite having good intentions, sometimes worsen the situation. Therefore, in certain cases, parents are asked to entrust the mediation process entirely to religious leaders. The success of mediation largely depends on the willingness of both parties to be open and their awareness of the fundamental purpose of marriage: to build a harmonious, loving, and compassionate family (*sakinah, mawaddah, and rahmah*).

The author also interviewed Ustadz Saukum Piliang,²¹ a traditional leader and mediator who has been serving since 2020 and has successfully handled three divorce cases with peaceful resolutions. According to him, the first step in mediation is listening to the couple's complaints and understanding their reasons for wanting a divorce.

Ustadz Saukum Piliang noted that household conflicts often arise when a husband demands his rights but neglects his responsibilities, such as providing financial support and guiding his wife in righteousness. The primary challenge in mediation is when one party wants to maintain the marriage while the other insists on divorce. This often happens when the husband repeatedly makes the same mistakes without change, making it difficult for the wife to forgive. The mediation approach involves religious counseling on the importance of building a harmonious and lasting family. He emphasized that religion is a fundamental aspect of married life; thus, strengthening religious values can help minimize conflicts.

In addition to interviewing religious leaders, the author also spoke with Abdul Karim Kabeakan,²² a community member in Karing Village. According to him, a traditional leader is considered an effective mediator if they can set an example and guide the

²¹ Rakha Dzaky Irvi Nasution, "Wawancara Dengan Saukum Piliang S.H" (Desa Karing, Kec. Berampu, Kab. Dairi., 2024).

²² Rakha Dzaky Irvi Nasution, "Wawancara Dengan Abdul Karim Kabeakan" (Desa Karing, Kec. Berampu Kab. Dairi, 2024).

community in customary matters. Traditional leaders play a crucial role in reconciling couples seeking divorce, helping resolve conflicts without resorting to the courts. This, in turn, helps reduce the divorce rate.

Based on the conducted interviews, the study indicates that the mediation process led by Situa-Tua in Karing Village is conducted peacefully and effectively. Most cases are resolved through religious counseling and family involvement. While economic factors often trigger household conflicts, mediators believe that a strong religious foundation can prevent financial struggles from becoming the main cause of divorce. The residents of Karing Village consider non-litigation mediation by Situa-Tua highly effective and more reassuring compared to mediation in religious courts. They feel more comfortable because the approach is less formal.

Dispute resolution can be pursued through two processes: litigation in court or mediation outside the court. Litigation tends to be time-consuming, costly, and may lead to hostility between the disputing parties. In contrast, non-litigation mediation fosters consensus and mutual agreement through deliberation. The practice of non-litigation mediation is crucial in society, considering the increasing number of family cases in religious courts. Therefore, this study highlights non-litigation mediation as an alternative method for resolving domestic conflicts, particularly in divorce cases.

CONCLUSION

The mediation process led by situa-tua in Desa Karing has proven to be an effective method for resolving household conflicts outside the court system. The findings indicate that community members view situa-tua as reliable mediators who provide confidential, cost-effective, and accessible solutions to marital disputes. Their approach, which focuses on personalized guidance and spiritual counseling, has contributed to reducing the divorce rate and minimizing the number of cases taken to religious courts. By offering private and structured mediation, situa-tua help couples navigate their conflicts while preserving familial harmony. One of the strengths of this research is its in-depth exploration of how traditional mediation aligns with Islamic teachings and cultural values. The study highlights the role of situa-tua in implementing principles found in

Q.S. An-Nisa: 35, where mediators from both sides facilitate reconciliation. Additionally, the study emphasizes the effectiveness of spiritual approaches in strengthening marital relationships. By documenting local mediation practices, this research provides valuable insights into non-litigation dispute resolution and offers an alternative model for conflict mediation in rural communities. Despite its contributions, this study has certain limitations. The findings are specific to Desa Karing, which means that the results may not be directly applicable to other communities with different social and cultural dynamics. Additionally, the study primarily relies on qualitative data from interviews, which may reflect subjective perspectives rather than broad statistical trends. Future research could explore a comparative study across multiple regions to assess the wider applicability of situa-tua mediation and its long-term impact on marital stability.

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