



***Bapalas* as Alternative Dispute Resolution of Fighting on Muslim Dayak Community in Muara Teweh, Central Kalimantan**

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Abstract: This study discusses the tendency of the Muara Teweh Muslim Dayak community, who prefers *bapalas* in resolving fighting disputes over other legal remedies. *Bapalas* is a traditional dispute resolution of fights with the help of *mantir* and community leaders and is attended by the families of both parties. In the Dayak community, there are various *bapalas*, such as midwives *bapalas*, marriages *bapalas*, births *bapalas*, death *bapalas*, and fights *bapalas*. This research focuses on studying the fight *bapalas* as an alternative dispute resolution for fights in the community. Fighting is part of criminal law, usually resolved through litigation by repressive settlements. However, it is different in the Muslim Dayak community in Muara Teweh. They prefer to settle the dispute through this *bapalas* tradition. The research was conducted using empirical legal research methods using an Islamic law approach. The theory used is the theory of *'urf* and the concept of *iṣlāḥ* in Islam. The study result indicates that the Muslim Dayak community in Muara Teweh prefers this settlement because, first, it has become customary law that has been passed for generations. Second, *bapalas* minimize the grudges between the conflicting parties. Third, compared to other resolutions, primarily through litigation, *bapalas* are much easier dan more effective in resolving conflicts, especially in terms of time. This dispute resolution model aligns with Islamic law according to *'urf* and the concept of Islam. *'Urf* can be a source of law as long as it does not conflict with sharia and is in line with the *sadd al-zarī'ah* method, which means if the customs in society can prevent or block the harm, then it is allowed. It is also in line with the concept of *iṣlāḥ* that *bapalas* is a conflict resolution method that can eliminate and stop hostility and conflict between humans.

Keywords: Alternative dispute resolution, *Bapalas*, Dayak customary law, Islamic Law.

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Abstrak: Penelitian ini bertujuan untuk membahas kecenderungan masyarakat Dayak Muslim Muara Teweh yang lebih memilih bapalas dalam menyelesaikan sengketa perkelahian daripada upaya hukum lainnya. Bapalas merupakan sebuah tradisi penyelesaian sengketa perkelahian dengan bantuan mantir adat maupun tokoh masyarakat dan dihadiri oleh keluarga kedua belah pihak. Pada masyarakat Dayak memang dikenal sebagai jenis bapalas, seperti bapalas bidan, bapalas pernikahan, bapalas kelahiran, bapalas kematian, dan juga bapalas perkelahian. Penelitian ini fokus pada kajian bapalas perkelahian sebagai sebuah alternatif penyelesaian sengketa perkelahian di masyarakat. Perkelahian merupakan bagian dari hukum pidana yang biasanya diselesaikan melalui jalur litigasi dengan cara penyelesaian secara represif. Namun berbeda dengan masyarakat Dayak Muslim di Muara Teweh yang lebih memilih menyelesaikan melalui tradisi bapalas ini. Penelitian dilakukan dengan metode penelitian hukum empiris dengan menggunakan pendekatan hukum Islam. Teori yang digunakan adalah teori 'urf dan konsep *islāh* dalam Islam. Hasil penelitian menunjukkan bahwa masyarakat Dayak Muslim di Muara Teweh lebih memilih penyelesaian ini karena pertama, sudah menjadi hukum adat yang telah dilakukan secara turun-temurun. Kedua, melalui bapalas akan meminimalisir munculnya dendam di antara para pihak yang berkonflik. Ketiga, dibandingkan penyelesaian lainnya khususnya melalui jalur litigasi, bapalas jauh lebih mudah dan efektif dalam menyelesaikan konflik khususnya dari segi waktunya. Model penyelesaian sengketa ini sejalan dengan hukum Islam menurut 'urf dan konsep *islāh*. 'Urf dapat menjadi sumber hukum selama tidak bertentangan dengan syariah dan sejalan dengan metode *sadd al-zarī'ah* yaitu jika adat dalam masyarakat dapat mencegah atau menutup jalan munculnya kemudaratan maka hal itu dibolehkan. Hal ini sejalan juga dengan konsep *islāh* bahwa bapalas merupakan cara penyelesaian konflik yang dapat menghilangkan dan menghentikan permusuhan dan pertikaian antar manusia.

Kata Kunci: Alternatif penyelesaian sengketa, Bapalas, hukum adat Dayak, hukum Islam.

Introduction

Conflicts are generally based on differences. The difference is an inseparable part of the reality of life. Differences can be a potential, but on the contrary, they can be a problem in society. It has the ability to enrich the meaning of life if it is adequately understood and managed in a constructive manner. However, differences can become a problem if they are resolved violently. Conflict can also have a positive value when conflict can be managed wisely. In addition, conflict can make social processes more dynamic and

constructive for social change in society and does not bring violence so that conflict can be connoted as a source of change.¹

The cause of the conflict must be resolved immediately. It is to anticipate prolonged conflicts that cause disharmony in social life. According to positive Indonesian law, there are generally two methods for resolving conflicts: litigation and non-litigation or alternative dispute settlement.² The litigation approach entails dispute settlement through the judicial system. Alternative dispute resolution techniques, such as mediation, conciliation, negotiation, and arbitration, are utilized to resolve disputes outside of court.

Islamic law, like positive law, acknowledges two conflict resolution models: court institutions (*al-qaḍā'*) and family settlements (*iṣlāḥ* and *tahkīm*).³ Dispute settlement through non-litigious methods is quite popular since it provides a win-win result. Indonesian society is rich in customs and tends to resolve conflicts amicably through collaborative discussion (non-litigation). Similarly, the Dayak community in Muara Teweh, Barito Utara Regency, Central Kalimantan Province, resolves various conflicts—especially fighting or brawling—through the *Bapalas*.

Bapalas, as a custom practiced from generation to generation, is a reconciliation process between the two warring parties. Based on initial observations, this community has something unique; they prefer to resolve various disputes through *bapalas* custom⁴ despite the availability of numerous alternative dispute resolution, both litigation and non-litigation.

There are still a few research exploring the custom of the *bapalas*. In 2017, Yuliyanto, for instance, focused his research on the position, role, and influence of traditional institutions in avoiding and resolving conflict in the Dayak community, as well as its relevance to Law Number 7 of 2012.⁵ Then Resviya concentrated on the newborn's *bapalas*.⁶ Ahmad Harisuddin did the

¹ Abdul Jamal Wahab, *Manajemen Konflik Keagamaan: Analisis Latar Belakang Konflik Keagamaan* (Jakarta: Elex Media Komputindo Kompas Gramedia, 2014).

² Akhmad Kamil Rizani, "Musyawarah Sebagai Alternatif Penyelesaian Sengketa Waris Beda Agama: Avidence Based Solution From Indonesia," *El-Mashlahah* 10, no. 2 (2020): 52–64, <https://doi.org/10.23971/maslahah.v10i2.2063>.

³ Nasrullah, "Islah dan Tahkim Sebagai Penyelesaian Sengketa Perbankan Syariah," *Al-Munqidz* 9, no. 1 (2021): 98–112, <https://jurnal.unugha.ac.id/index.php/amk/article/view/38>.

⁴ Observation, (1-30 September 2020)

⁵ Yuliyanto Yuliyanto, "Peranan Hukum Adat Masyarakat Dayak dalam Menyelesaikan Konflik Untuk Mewujudkan Keadilan Dan Kedamaian," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 6, no. 1 (2017): 37.

⁶ Resviya, "Tradisi Bapalas Bidan dan Dinamikanya pada Masyarakat Suku Dayak Bakumpai di Kabupaten Barito Selatan," *Meretas: Jurnal Ilmu Pendidikan* 7, no. 1 (2020): 94–103, <https://jurnal.upgriplk.ac.id/index.php/meretas/article/view/168>.

same thing.⁷ Apart from those studies, no more studies have examined the *bapalas* to the author's knowledge. Likewise, research examining Dayak customary law is uncommon. Ibnu Elmi's research examined the legitimacy of giving Central Kalimantan residents Dayak customary titles.⁸ Sandi also focuses on the customary rights of the Dayak in Central Kalimantan.⁹

From the studies above, no research specifically examines *bapalas* in dispute resolution of fights in the Muara Teweh Dayak community. In fact, non-litigation dispute settlement, such as that used by the community, is crucial to examine. The community also loves the settlement of this type of dispute at this time.

This paper used empirical legal research, using an Islamic legal approach through the theory of *'urf* and the concept of *ishlah* in Islam.¹⁰ This study collected data through interviews, observation, and documentation.¹¹ The data results were filtered using data triangulation techniques and analyzed through Islamic legal theories.

Implementation of *Bapalas* in Dispute Resolution for the Muslim Dayak Community of Muara Teweh

Bapalas is a custom practice carried out from generation to generation by Muslim Dayak tribes in the Muara Teweh, North Barito Regency, Central Kalimantan. *Bapalas* is a reconciliation process between the two warring parties with the help of a *mantir* or a traditional community leader and attended by the families of both parties.¹² Many types of *bapalas* are known by the people of Muara Teweh, such as *bapalas* of fights, marriage, childbirth, and death. In this study, the author focuses on *bapalas* of fights to provide in-depth research results.

⁷ Ahmad Harisuddin, "Islamic Spiritual Education in the Tradition of Bapalas Bidan in Banjar Tribe, Indonesia," *Dinamika Ilmu* 21, no. 1 (2021): 81–100.

⁸I E A Pelu, "The Conferment of Customary Dayah Title in Central Kalimantan: Authority and Legal Implications," *Journal of Legal, Ethical and Regulatory Issues* 23, no. 5 (2020): 19, <https://www.scopus.com/inward/recordurl?recordid=85099794439&partnerID=40&md5=51d20bf27229f305c7b232eeca785ebb>.

⁹J R A Sandi, "The Underlying Motives of the Central Kalimantan Dayak Indigenous Council to Actualize the Dayak Customary Rights," *International Journal of Advanced Science and Technology* 29, no. 5 (2020): 2563–70, <https://www.scopus.com/inward/record.uri?eid=2-s2>.

¹⁰Sabarudin Ahmad, "Hukum Aborsi Akibat Perkosaan: Analisis Hukum Islam Terhadap Peraturan Pemerintah Nomor 61 Tahun 2014 Tentang Kesehatan Reproduksi," *El-Mashlahah* 8, no. 2 (2018): 162–83, <https://doi.org/https://doi.org/10.23971/el-mas.v8i2.1321>.

¹¹Jonaedi Efendi and Johnny Ibrahim, *Metode Penelitian Hukum: Normatif dan Empiris* (Jakarta: Kencana, 2018).

¹²Interview with YM, Muara Teweh, January 21, 2020.

Before discussing the process of implementing bapalas, it is necessary to explain in advance the parties involved in the process. According to RH as the party who has been involved in the *bapalas*, he said: The people involved in the Bapalas are the family of the person in the dispute, especially the parents, the perpetrator, and the victim. If there are no parents, then they should be relatives. For big problems, there are other parties involved, such as the head of the local RT, a traditional leader or the village chief, but for small-scale problems, only the family gets involved without any help from village officials or anything.¹³

Similarly, DMN, as the same party said that “certainly, there are the traditional leaders and community leaders and the traditional *mantir awen ji berperan helu*”.¹⁴ The parties involved in the *bapalas* are:

- a. The perpetrator and his family: the party starting the fight or attacking the victim.
- b. The victim and his family: The victim that is attacked by the perpetrator.
- c. *Mantir*: traditional leaders in charge of *bapalas*.
- d. Village chief or community leader: a neutral party who assists in the implementation of bapalas, especially in big cases.

The initial stage of *balalas* is by preparing the necessary materials. The materials are free-range chicken eggs, coconut, coins, *kambat* leaves, and nails. TN then added and detailed the required materials and explained the philosophy of using these materials. As he said the following: In the implementation of the *Bapalas* in the Bakumpai custom in villages like ours here, usually, the material needed for the *Bapalas* are eggs which are used for *memalas* (purification) then coconut and rice placed into a white plate because it has meaning, this *bapalas* is already good then it is even better if you add rice oil because it has a certain meaning then as a habit of people doing *memalas*, they have to use a knife but it must be a compound knife because it also has a certain meaning as well.¹⁵

After the materials have been prepared, then the *bapalas* is started. The *bapalas* process is detailed as follows:

- a. The warring parties are united by the *mantir*, and witnessed by community leaders and their families.
- b. The *mantir* then starts the *bapalas* by breaking the egg and separating the white into a glass. Then water and perfume are added and then stirred using banana leaves.¹⁶ Some people also add *likat* oil.¹⁷ Some also use coconut and rice.¹⁸

¹³Interview with RH, September 23, 2020.

¹⁴Interview with DMN, September 27, 2020.

¹⁵Interview with TN, in Muara Teweh, September 22, 2020.

¹⁶Interview with NI, in Muara Teweh, September 22, 2020.

- c. The *mantir* then rubs the potion water using banana leaves onto the head, right and left shoulders, right and left knees, and the two palms of the disputed parties.
- d. In this *bapalas* practice, there are incantations used by the *mantir*. It consists of traditional oaths and prayers for the good of the disputed parties and the local community.¹⁹ This incantation is to provide hope and calm the emotions of the parties as represented by the cold egg philosophy.²⁰
- e. The parties take traditional oaths²¹ and avoid prohibitions.²² On this oath, both disputed parties have an obligation to follow and obey the customary oath that has been pronounced.

There is no time limit for the *bapalas*. When there is a dispute, for example, the *bapalas* can be carried out immediately²³ or according to the agreement of the disputed parties.²⁴ In fact, it should be as soon as possible.²⁵ Because it will result in protracted problems and can grow into a bigger problem if it is procrastinated.

Bapalas as a Dispute Resolution Options for the Traditional Muslim Dayak Community of Muara Teweh

An interesting thing to explore further is why the Muslim Dayak community in Muara Teweh prefers to resolve their disputes through *bapalas* compared to other dispute resolutions. Based on the author's search, the community's reasons can be classified as follows:

a. Implementing Customary Law ('Urf)

In Muara Teweh, *Bapalas* has evolved into a customary law that has been passed down from generation to generation by the ancestors.²⁶ This is a tradition that they believe may resolve conflicts in society while keeping friendships. In their culture, it has become customary to utilize *bapalas* to resolve disputes.

¹⁷Interview with RH, in Muara Teweh, September, 23 2020.

¹⁸Interview with TN, in Muara Teweh, September 22, 2020.

¹⁹Interview with DN, in Datai Nirui Village, September 20, 2020.

²⁰Interview with TN, in Muara Teweh, September 22, 2020.

²¹Interview with DN, in Datai Nirui Village, September 20, 2020.

²²Interview with DMN, in Muara Teweh, September 27, 2020).

²³Interview with JN, in Muara Teweh, September 15, 2020.

²⁴Interview with DMN, in Muara Teweh, 27 September 27, 2020.

²⁵Interview with DN, in Datai Nirui, September 20, 2020.

²⁶Interview with JN, in Muara Teweh, September 15, 2020.

Out-of-court settlement methods are more effective than court settlements because they can resolve disputes without leaving harm to the involved parties. It is in line with the spirit of Islam, which Umar bin Khattab implicitly explained; "Return the settlement of the case to relatives so that they can make peace because actually, the settlement of the court can cause discomfort."²⁷

Indigenization of Islam is accommodation to customs which in the language of *uṣūl al-fiqh* is called '*urf*'. '*Urf*' is a custom that applies in a certain community and is one of the considerations of Islamic law.²⁸ '*Urf*' has become a tradition, either in words or actions and or things that leave something is also called '*ādah*' (custom).²⁹ Because according to the term *syara'* there is no difference between '*urf*' and '*ādah*'.³⁰

In addition to being derived from the Qur'an and hadith, Islamic law continues to incorporate positive cultural components and *maslahah* (something that benefits the people). Consequently, the formation of Islamic law emanating from the community is also a component of the system of Islamic law development that employs an *ijtihad* (independent reasoning) approach that relies on '*urf*'.³¹

Therefore, customary law is the entire positive code of conduct that, on the one hand, contains sanctions (thus, it is a law), but is not codified (that is why it is a custom). This conforms to customary rules, which are deemed legal benchmarks when they are widely recognized; if they deviate, they cannot serve as legal benchmarks.³²

'Urf can be a legal basis with the following conditions:

²⁷ Abu Rokhmad, "Paradigma Hukum Islam Dalam Penyelesaian Sengketa," *International Journal Ihya' 'Ulum Al-Din* 18, no. 1 (2016): 49–64, <https://doi.org/10.21580/ihya.17.1.1731>.

²⁸ M. Noor Harisudin, "'Urf Sebagai Sumber Hukum Islam (Fiqh) Nusantara," *Jurnal Ushuluddin: Media Dialog Pemikiran Islam* 20, no. 1 (2016): 66–86, <http://journal.uin-alauddin.ac.id/index.php/alfikr/article/view/2311>.

²⁹ '*Urf*' is something (both action and expression) where the soul feels calm in doing it because it is in line with logic and can be accepted by human nature. Sucipto, "'Urf Sebagai Metode Dan Sumber Penemuan Hukum Islam" 7, no. 1 (2015): 25–40, <https://doi.org/https://doi.org/10.24042/asas.v7i1.1376>.

³⁰ Abdul Wahhab Khallaf, *Kaidah-Kaidah Hukum Islam (Ilmu Ushulul Fiqh)* (Jakarta: RajaGrafindo Persada, 1996).

³¹ Sirajuddin M, "Eksistensi 'Urf Sebagai Sumber Pelembagaan Hukum Nasional," *Madania: Jurnal Kajian Keislaman* 19, no. 1 (2015), <https://ejournal.iainbengkulu.ac.id/index.php/madania/article/view/25>.

³² Sucipto, "'Urf Sebagai Metode Dan Sumber Penemuan Hukum Islam."

1. *'Urf* does not conflict with *qat'i nash* (clear legal injunction). it is not justified if something that has become commonplace is contrary to the *nash* that *qath'i*.
2. *'Urf* must generally apply to all events or is generally applicable.
3. *'Urf* must last forever. So it's not justified *'urf* that comes later. Therefore, the person who gives a waqf must be brought to *'urf* at the time of giving the waqf, even though it is contrary to *'urf* which comes later.
4. There is no specific proof for this case in the Qur'an or Hadith.
5. Its use does not result in the exclusion of *nash* and does not result in harm and difficulty.³³

According to Sulfan Wandī, *'urf* is like two sides of a coin in addition to functioning as a methodology of Islamic law, it can also be a source of law as long as it does not conflict with sharia.³⁴ In addition, the validity of *'urf* can also be studied from the perspective of *sadd al-zarī'ah*. As the research conducted by Yuni Roslaili, it was found that if the customs in the community can prevent or block the harm then it is allowed.³⁵ Based on the above study, it shows that the *Bapalas* custom can be categorized as *'urf*, because it is not against the sharia.

b. Preventing Revenge Between the Disputing Parties

The people's perception of the tradition of the *bapalas* is already anchored in social life. In addition, the community is compelled to preserve the inherited traditions practiced by the ancestors of its local community.

One of the advantages of the *bapalas* tradition in resolving disputes is that it can minimize the resentment between the two parties.³⁶ This is because dispute resolution through the *bapalas* is resolving problems amicably. The Muslim Dayak community of Muara Teweh feels that fellow local residents who live in one village are family. If there are problems, including fights between residents, efforts are made to resolve them peacefully through this *bapalas* tradition.³⁷

Through the *bapalas*, people involved in the dispute will pronounce the customary oath. The oath consists primarily of a peace agreement and a pledge

³³ Iim Fahimah, "Akomodasi Budaya Lokal ('Urf) dalam Pemahaman Fikih Ulama Mujtahidin," *Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 5, no. 1 (2018): 9–18, <https://doi.org/10.29300/mzn.v5i1.1433>.

³⁴ Sulfan Wandī, "Eksistensi 'Urf dan Adat Kebiasaan sebagai Dalil Fiqh," *Samarah* 2, no. 1 (2018): 181–96, <https://doi.org/10.22373/sjhc.v2i1.3111>.

³⁵ Yuni Roslaili, "Study of 'Urf on The Custom of Ranub Kong Haba and Its Cancellation in Aceh," *Samarah* 3, no. 2 (2019): 417–37.

³⁶ Interview with JN, in Muara Teweh, September 15, 2020.

³⁷ Interview with TN, in Muara Teweh, September 22, 2020.

not to repeat the same conduct. The community holds that the oath must be upheld and that its violation is unacceptable. So that the people who have attended the *bapalas* always try to maintain the best possible traditional oath that has been said.

Peace through *bapalas* is in line with the *işhlāḥ* process in Islam, in which every conflict between believers must be resolved peacefully. *Işhlāḥ* is a way of resolving conflicts that can eliminate and stop all forms of hostility and conflict between humans.³⁸ *Işhlāḥ* or *şulḥ* can be interpreted as *sidd al-iqtislad*, an enhancement, which can be used to resolve and stop disputes.³⁹

From a positive legal perspective, the settlement of criminal cases through non-litigation is an alternative way to the main way, litigation. In reality, neither the core rules of criminal procedural law nor the Criminal Procedure Code recognize the existence of this alternative means of resolving criminal cases. Nevertheless, it exists and is accepted by the community, therefore it is utilized to resolve criminal cases.⁴⁰ Similarly, the conflicts that happened in the Muslim Dayak community of Muara Teweh, which constituted a felony, favored the out-of-court option, via the *bapalas*.

M. Kasim's research demonstrates the superiority of the *bapalas* in resolving fighting issues for the Muslim Dayak community of Muara Teweh. He noted that conflict resolution based on custom offers benefits such as preserving brotherhood and removing resentment. This is because of the involvement of traditional institutions as social elites who have both social and juridical legitimacy.⁴¹

c. Easy and Effective

The Muslim Dayak community of Muara Teweh prefers *bapalas* in dispute resolution because it is easier, the implementation process does not take a long time, and the costs are not high. In addition, this family-friendly solution can maintain ties of friendship in the community.

Disputes may be settled in court (in court) or outside of court. Dispute resolution outside of court begins with discontent with the lengthy and

³⁸Ramdani Wahyu, "Model Penyelesaian Konflik Menggunakan Teori Ishlah," n.d., https://www.academia.edu/27969106/Model_Penyelesaian_Konflik_Menggunakan_Teori_Ishlah.

³⁹ Khairuddin Hasballah and Rahmadani, "Studi Pemikiran Ibnu Qayyim Al-Jauziyyah Tentang Hakam dan Relevansinya dengan Mediasi di Pengadilan Agama," *Samarah* 3, no. 1 (2019): 53–68, <https://doi.org/10.22373/sjhc.v3i1.4430>.

⁴⁰A. Raharjo, "Mediasi Sebagai Basis Dalam Penyelesaian Perkara Pidana," *Jurnal Mimbar Hukum* 20, no. 1 (2008): 40649, <https://doi.org/10.20303/jmh.v20i1.225>.

⁴¹ Fajri M. Kasim and Abidin Nuridin, "Study of Sociological Law on Conflict Resolution Through Adat in Aceh Community According to Islamic Law," *Samarah* 4, no. 2 (2020): 375–97, <https://doi.org/10.22373/sjhc.v4i2.8231>.

expensive legal process for resolving disputes. In addition, court decisions frequently result in resentment among the parties or the perception that they are the "losing" party.

To find an alternative dispute resolution, in 1976, a former judge, Chief Justice Warren Burger, in The Roscoe Pound Conference, invited conference participants consisting of academics, judges, and lawyers to look for other ways to resolve disputes.

Since then, Alternative Dispute Resolution (ADR) has been developed as an alternative to out-of-court dispute resolution. The development of ADR is also supported by several factors, including (1) the method of solving is well known in various cultures; (2) the settlement is non-adverse; (3) enables all parties, directly or indirectly related to the dispute, to be included in the negotiations; (4) win-win solution is achieved.⁴²

Islamic and Customary Law in Dispute Resolution

The Dayak Muslim community of Muara Teweh, North Barito Regency, tends to use, accept and apply the *bapalas* tradition. This is in line with the results of Mariatul Kiptiah's research on the peace process through traditional institutions (*Adat Badamai*) in different indigenous peoples, especially in Banjarmasin. Mariatul Kiptiah explained that, first, the people of Banjarmasin have a fairly good and equal understanding of the *Adat Badamai* and already understand its purpose, as local wisdom to resolve conflicts in the community. Second, the *Adat Badamai* in the Banjarmasin community has universal values, such as the value of kinship, unity, and the local value which is the value of not being *Bacakut Padadaan*, which means not to fight or disagree with each other. Third, the pattern or mechanism in the *Adat Badamai* tradition is carried out by bringing together the two conflicting parties with the customary leader, through peaceful discussion and consensus. Fourth, the people of Banjarmasin view *Adat Badamai* as an effective way of resolving conflicts in the community, because it is easy, and does not take long. Fifth, the way of inheriting the *Adat Badamai* tradition from the older generation to the younger generation is through the formal socialization of social values, and community activities, or it could be through mass media, such as LK3 (Institute of Studies and Society) activities, FKUB (Religious Communication Forum), FKDM (Community Early Detection Communication Forum). Sixth, the nation's commitment or nationalism attitude is contained in the *Adat Badamai* tradition that exists in the Banjarmasin community. It is shown in the attitude of love for

⁴²Sri Mamudji, "Mediasi Sebagai Alternatif Penyelesaian Sengketa di Luar Pengadilan," *Jurnal Hukum & Pembangunan* 34, no. 3 (2017): 194, <https://doi.org/10.21143/jhp.vol34.no3.1440>.

diversity and kinship, love for traditional/cultural values, and love for living in harmony and peace.⁴³

Article 1338 of the Civil Code says that all legally binding contracts are binding on the parties involved. A contract can only be terminated with the consent of both parties or for grounds deemed sufficient by law. A contract must be signed in good faith. It indicates that the state permits and recognizes customary law, such as the *bapalas* tradition, which is considered valid, reasonable, and aimed toward peace because the custom contains a peace agreement agreed upon by both parties and witnessed directly by the *mantir adat*, family, and community leaders.

The view that Islam places great emphasis on resolving cases outside the judicial mechanism can be seen from the amicable settlement method. This tradition has long been rooted in Arab society, even before Islam. When Islam was present, Islamic doctrines further strengthened the tradition, which teaches Muslims to create peace and harmony in society.

Based on the explanation above, it can be seen that the *bapalas* tradition is in line with *'urf* in Islamic law. *'Urf* is like two sides of a coin in addition to functioning as a methodology of Islamic law, it can be a source of law as long as it does not conflict with sharia. The *bapalas* process, starting from the materials used and also the readings recited by the customary *mantir*, they do not contain elements that are prohibited in Islam. In fact, these materials are loaded with the philosophy of the importance of peace, such as egg which means to cool down the heads of the conflicting parties because people who fight are full of emotions. Likewise, the prayers are recited so that the people who are injured can get well soon. There is also an oath taken by both parties which in substance contains a promise not to fight again.

In addition, the validity of *'urf* can also be studied from the perspective of *sadd al-zarī'ah*, which means if the customs in society can prevent or block the harm, then it is allowed. Based on the above research, it is evident that the *bapalas* custom can be classified as *'urf*, which is permitted in Islam because there are no practices that contradict the norms of sharia.

Bapalas is also in line with the concept of *iṣlāḥ* in Islam. In Islam, every conflict between believers must be resolved peacefully. *Iṣlāḥ* is a way of resolving conflicts that can eliminate and stop all forms of hostility and conflict between human beings.⁴⁴ *Iṣlāḥ* or *Ṣulḥ* can be interpreted as *sidd al-iqtislad*, an

⁴³Mariatul Kiptiah, "Internalisasi Adat Badamai Sebagai Upaya Resolusi Konflik Dalam Memperkuat Komitmen Kebangsaan Pada Masyarakat Banjarmasin" (Universitas Pendidikan Indonesia, 2018), <http://repository.upi.edu/35505/>.

⁴⁴Ramdani Wahyu, "Model Penyelesaian Konflik Menggunakan Teori Ishlah," n.d., https://www.academia.edu/27969106/Model_Penyelesaian_Konflik_Menggunakan_Teori_Ishlah.

amelioration, which can be used to resolve and stop disputes.⁴⁵ Therefore, the *bapalas* is a means to resolve the fighting conflicts that occur in the Muslim Dayak Muara Teweh community. The virtues of this settlement lead the community to prefer to solve the dispute through this tradition. Although it is undeniable that when this effort cannot resolve the problem, then the dispute should be solved through the litigation process. However, the fact shows that this tradition is still preserved and can be an alternative dispute resolution, especially in the fights that occurred in the Muslim Dayak community of Muara Teweh.

Conclusion

The process of implementing the *bapalas* tradition in resolving fighting disputes in the Muslim Dayak community of Muara Teweh, North Barito Regency has indirectly implemented a mediation process in which the disputing parties and their respective families are brought together to create an agreement, facilitated by the traditional *mantir* and community leaders. They prefer this solution because, first, it has become customary law that has been passed down from generation to generation. Second, *bapalas* minimizes the resentment between the conflicting parties. Third, compared to other resolutions, especially through litigation, *bapalas* is much easier and more effective in resolving conflicts, especially in terms of time. This dispute resolution model is in line with Islamic law according to *'urf* and the concept of *işlāh*.

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Interviews

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