

THE IMPLEMENTATION OF *KALOSARA* CUSTOM IN MEDIATING MEDICAL DISPUTES

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Abstract

This study aims to determine and analyze the constitutionality of Kalosara custom in mediating disputes between doctors and patients in Konawe Regency. The method in this research uses a sociological juridical approach. The results of this study are The role of the Kalosara as customary law has a broad scope as a legal sub-system in society, as the Kalosara is known to prioritize unity and peace through mediation by means of deliberation and consensus. The Sara Medulu procession carried out by doctors from Konawe Hospital came to the victim with the intermediary of a Tolea as a form of seriousness to settle by custom. Customary settlement with a family atmosphere makes both parties feel defeated by each other. This condition is far more beneficial than legal settlement through the litigation process where there are parties who are won and defeated.

Keywords: *Constitutionality; Doctor; Kalosara; Mediation; Patient.*

A. INTRODUCTION

Customary law is one of the norms or recognized in the legal system in Indonesia.¹ The legal system itself is an integral part of the constitution of the 1945 Constitution of the Republic of Indonesia, hereinafter referred to as the 1945 Constitution. Customary law as positive law and regardless of its form hierarchically must be subject to the 1945 Constitution. What needs to be understood is that its validity is limited to certain communities, namely customary law communities. The form is written or unwritten because the customary societies in Indonesia are very diverse so that customary law adapts to the conditions of the community. For communities that have recognized the culture of writing, customary law is easily found because it is passed down from generation to generation in written form. Customary law is highly obeyed and respected because it is the values that apply in the

1 Iftitah Kurnia., Pluralisme Hukum Waris di Indonesia: Pengaruh Sistem Kekerabatan Masyarakat Adat terhadap Corak Hukum Waris Adat di Indonesia, *Jurnal Ilmu Hukum*, Vol. 1, No. 2 2024, page. 234-242

local indigenous community so that it is very useful for organizing life together.²

The Tolaki tribe is one of the indigenous peoples in Southeast Sulawesi Province. Geographically, the Tolaki tribe is located in the mainland of Southeast Sulawesi which inhabits several districts, namely Konawe Regency, Kendari City, South Konawe, North Konawe, North Kolaka Kolaka and East Kolaka.³ The Tolaki people still uphold their customs. The customary law that is generally known in the community is the *Kalosara* customary law. The existence of legal principles contained in *Kalosara* customary law which guides the Tolaki customary institution in giving decisions on dispute resolution is the reason for the parties to prefer to resolve their disputes through this institution. In addition, every decision of the Tolaki customary institution by individual Tolaki tribesmen is felt to be the best decision because of the conformity with the values they believe to be true So that the implementation of the decision is carried out with full awareness and does not require the existence of an executor.

Settlement of disputes, whether criminal or civil, within the Tolaki community has often been carried out and the results are very acceptable to the parties to the dispute. Not only those involving individuals, even between the government and its citizens, the settlement also uses the *Kalosara* customary means. One of the empirical evidence that can be seen is the settlement of a dispute between a doctor at the Unaaha Regional General Hospital in Konawe Regency and the patient's family. This dispute resulted from baby MZA (23 days old) having a defect of losing cartilage in his nose.

The incident on May 28, 2021 in Konawe It is certainly interesting because it evokes sympathy for the suffering experienced by the baby. The doctor who serves at the Konawe Hospital Regional Public Service Agency (BLUD) is in the spotlight. The baby's suffering was then associated with the professionalism of handling the baby during treatment. The case of the baby who lost his soft bones has the potential to become a criminal offense.

On the other hand, the dispute between the patient and the doctor, which is currently being processed in the police and mediation facilitated by the Konawe Regency government, is also being tried with the *Kalosara* customary settlement. Although the dispute initially took place with a deep sense of disappointment by the patient. It turned out that the dispute was able to be resolved properly after the customary settlement was initiated. Mediation initiated by *Kalosara* custom is perceived to be more effective in resolving disputes peacefully."⁴

Mediation initiated by *Kalosara* custom is felt to be more effective in resolving disputes based on the facts revealed above, proving that *Kalosara*

2 Kosmas Minggu., Kebudayaan Tradisional Sebagai Pilar Pembangunan, *Jurnal Inovasi Penelitian*, Vol. 3, No. 3, August 2022, page. 5205-5212

3 Atma Amalia Ramadhani (*et. al.*), Etnobotani Dalam Upacara Adat Pernikahan Suku Tolaki Kabupaten Konawe Sulawesi Tenggara, *Jurnal Educatio*, Vol. 9, No. 2, 2023, page. 472-477

4 Interview with Dr. H.M. Agus S. Lahida, M.M.R., Director of Konawe General Hospital, Monday, September 19, 2022

custom contributes to non-litigation dispute resolution involving patients and doctors. On the other hand, what needs to be understood is that the 1945 Constitution explicitly does not find the existence of "customary law". If so, what is the binding force of customary law that has been applied today given the existence of constitutional weaknesses. Based on the phenomenon of disputes to further examine the Constitutionality of *Kalosara* Custom in mediating disputes between doctors and patients in Konawecara Regency peacefully.

Previous research from Andriady Saidi Nasution in the Indonesian Health Law Journal with the title "mediation as legal communication in the settlement of medical disputes between doctors and patients" states that in the event of a medical dispute, legal communication should be prioritized such as mediation to resolve medical disputes that occur. Mediation as legal communication in resolving medical disputes requires effective communication efforts by optimizing the value of win-win solutions between the parties to the dispute both from the doctor and the patient in achieving the goal of resolving medical disputes, especially outside the court.⁵

Other previous research from Kamaruddin in Samarah: Journal of Family Law and Islamic Law entitled Justice, Mediation, and the Kalosara Customs of the Tolaki Community in Southeast Sulawesi in an Islamic Legal Perspective states that the Kalosara Customs carried out through a mediation process have been able to reduce internal cases of indigenous communities. . Dispute resolution carried out in land cases has also succeeded in creating social order in society. The philosophical principles in Kalosara consist of *ate pute penao moroha* (purity and justice), namely values that are able to bind the parties to a dispute according to custom so as to create justice.⁶

Based on the description of the background above, the purpose of this study is to find out the *Kalosara* Customs in Tolaki Community Life, analyze how to resolve disputes using *Kalosara* customs, and analyze the implementation of *Kalosara* customs in mediating disputes between doctors and patients in Konawe district.

B. RESEARCH METHODS

This research uses a juridical sociological approach considering that researchers must go directly to the field. The specification of this research is descriptive analytical because it tries to describe existing conditions or facts. The types of data include primary data and secondary data. Primary data is obtained directly through the interview process. Secondary data is library research and document studies. The data analysis method used in this research is qualitative analysis method. This research is expected to produce descriptive data in the form of written or oral data from the object of

5 Andriady Saidi Nasution (et. al.), Mediasi Sebagai Komunikasi Hukum Dalam Penyelesaian Sengketa Medik Antara Dokter Dan Pasien, *Jurnal Hukum Kesehatan Indonesia*, Vol. 1, No. 2, 2021, page. 86-96.

6 Kamaruddin (et. al.), Justice, Mediation, and Kalosara Custom of the Tolaki Community in Southeast Sulawesi from the Perspective of Islamic Law, *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, Vol. 7, No. 2, 2023, page. 1077-1095

research holistically (whole) in connection with the Implementation of *Kalosara* Custom in mediating disputes between doctors and patients in Konawe Regency.

C. RESULTS AND DISCUSSION

The reality of *Kalosara* custom in mediating disputes between doctors and patients in Konawe Regency in this study will be reviewed based on the existence of *Kalosara* custom itself constitutionally. This existence is a form of recognition and respect for the rights of the Tolaki tribe community constitutionally stated in Article 18B paragraph (2) of the 1945 Constitution which states, "The State recognizes and respects the unity of customary law communities along with their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated by law."

The constitutional guarantee of *Kalosara* custom is a fulfillment of constitutional principle. Academically, constitutional principles recognize that there is no country in the world whose constitutional/governmental system is not based on a constitution,⁷ which is the basis and source of all sources of law in a country. Therefore, it is common to say that a state of law must also be a constitutional state.⁸

The implementation of *Kalosara* custom in mediating disputes between doctors and patients in Konawe Regency is interesting to study. The study of the constitutionality of *Kalosara* custom in disputes between doctors and patients is a rare phenomenon. To examine further, the legal events will be reviewed from the following aspects:

1. *Kalosara* Custom in the Life of Tolaki People

Tolaki indigenous people highly uphold *Kalosara*, a symbol of unification and peace, which is considered very sacred in the daily life of the Tolaki tribe. Upholding *Kalosara* collectively is a form of social solidarity that cannot be separated from social morals. Legal theory introduced by Emile Durkheim stated that law as social morality is essentially an expression of social solidarity that develops in a society.⁹ *Kalosara* is also called *Kalo* which is used in various customary laws such as in government, marriage, inheritance, debt and credit, conflicts and their resolution and various other fields.

According to Basaula Tamburaka, one of the Tolaki traditional leaders in Kendari stated that *Kalosara* custom in absolute competence has a broad scope because it includes five *sara* namely *Sara Wonua* (customs in government), *Sara Medulu* (customs related to family

7 Nita Ariyani., Perbandingan Konstitusi Negara Indonesia Dengan Negara Swiss Berdasarkan Prosedur Perubahan Konstitusi, Bentuk Pemerintahan, Bentuk Negara Serta Sistem Pemerintahan, *Kosmik Hukum*, Vol. 17, No. 2, 2017, page. 118-136

8 Bobi Aswand and Kholis Roisah., Negara Hukum Dan Demokrasi Pancasila Dalam Kaitannya Dengan Hak Asasi Manusia (HAM), *Jurnal Pembangunan Hukum Indonesia*, Vol. 1, No. 1, 2019, page. 128-145

9 Achmad Siddiq., Law in a Transitional Society: Discussing Emile Durkheim's Thoughts on Law and Society in an Indonesian Context, *International Journal of Science and Society*, Vol. 5, No. 2, 2023, page. 244-258.

relations and unity in general), Sara Mbe ombu (Basic customs in religious activities and beliefs), Sara Mandarahia (Customs in work related to expertise and skills) and Sara Monda'u, Membopahe, Membekani, Melambu, Dumahu, Meoti-oti (Customs in farming, gardening, animal husbandry, hunting and fishing).

"There are five in all, and the most commonly used are Sara Wonua and Sara Mbedulu. This traditional procession is led by a person called Tolea. For example, in the procession of Sara Wonua or Medulu"¹⁰

Physically, *Kalosara* is realized with a circular rattan strand whose two ends are knotted and then placed on a square piece of cloth. The *Kalosara* tradition is still preserved and held in resolving a dispute between parties in the Tolaki tribal community. The preservation of this customary tradition is because the Tolaki people show the existence of customary law which is indeed needed. This condition is certainly in line with the adage *ubi societas ibi ius* (where there is society there is law) because it is able to answer the legal needs of the Tolaki people. Based on empirical legal theory.

Kalosara custom is also not solely for conflict resolution but also a means of unification, so it is not surprising that the Kendari City Government has made *Kalosara* a means to become a city attraction. This strategy is applied, among others, in the plan to build a *Kalosara* park in front of the Kendari Mayor's Office. *Kalosara* Park was built as a symbol of unifying the pluralistic community of Kendari City. *Kalosara* Park was developed into an informal place for social, sports, and even economic activities.

"One of these strategies is implemented in the *Kalosara* park development plan in front of the Kendari Mayor's Office. *Kalosara* Park was built as a unifying symbol for the pluralistic community of Kendari City."¹¹

One important aspect of the *Kalosara* custom is that it is strictly adhered to because it has major consequences if there is a refusal from the party to whom the custom is presented. If the party to whom the custom is presented refuses, the consequences do not only last immediately but continue forever. The party who refuses will receive the title *matesara* which means customary death. This means, if in the future all forms of kinship involving customary settlement will never again be resolved through custom. As the Tolaki tribal elders said, "Whoever does not comply with Sara will become *bere-bere olutu ruru mbenao*, which means being excluded from the general community so that they can be categorized as *Mbirito*, namely people who have no self-respect."¹²

10 Interview with Basaula Tamburaka, Thursday, June 15, Anduonohu Village, Poasia Sub-district, Kendari City

11 Hairani Idrus (*et. al.*), The Development of Sustainable Tourism in Kendari City, Indonesia, During the COVID-19 Pandemic Based on the Local Wisdom Approach, *KnE Social Sciences*, Vol. 8, No. 2, 2023, page. 56–66.

12 Syaifudin Suhri Kasim (*et. al.*), Kalo Sara-Based Development Planning Model And Its Influence On Community Participation In Village Development, *Etnoreflik: Jurnal Sosial dan Budaya*, Vol. 11, No. 1, 2022, page. 106-119

2. *Kalosara* Custom as a Means of Dispute Resolution

It is known that disputes are unavoidable in relationships between individuals and groups socially.¹³ Disputes are also understood as problems or issues within the Tolaki indigenous community. This is very open to be resolved through the *Kalosara* custom. The *Kalosara* procession involves traditional leaders, community leaders including the government, who will sit together in a circular formation. They discuss the problems that occur and find the best solution. The decision made in the *Kalosara* custom is not only binding on the parties to the dispute but includes all the people related to the problem.¹⁴ Many criminal and civil cases have been resolved by the legal power of the *Kalosara*. This shows that the community's trust in *Kalosara* settlements is still worth maintaining, even if the *Kalosara* will have to deal with positive law.¹⁵

The strength of the law and the community's trust in the legal products embodied through the *Kalosara* custom have been going on for generations. This condition illustrates the soul of the Tolaki people for their cultural customs (*volkgeist*). Theoretically, according to Savigny, There is an organic relationship between law and the character of a nation, therefore customary law that grows and develops in the womb of *volkgeist* must be seen as the true law of life, true law is not made, it must be found.¹⁶

Basaula Tamburaka said that disputes that occur in the Tolaki tribal community are resolved by *Kalosara* custom, which has undergone adjustments based on social dynamics. Likewise, when it comes to state institutions, there has been a good precedent because there is positive coordination. As with the settlement of disputes that would involve the competence of the state. the police then before proceeding with customary law, the police will be involved.

" During the process the police will be involved for this to be known. The parties involved in the dispute will resolve it through customary processes or at the police. If it is resolved by custom, the police will invite it to be resolved according to custom facilitated by the Tolaki customary institution."¹⁷

The fact stated by the customary elders is not merely a social reality. A scientific study has also proven the existence of *Kalosara* customary law in the life of the Tolaki people. *Kalosara* customary law is recognized as having a very vital role in resolving disputes in the

13 Sarah L Crowley (*et. al.*), Conflict in invasive species management, *Frontiers in Ecology and the Environment*, Vol. 15, Issue 3, 2021, page. 133-141

14 Shinta Arjunita Saputri (*et. al.*), Tradisi Kalosara Dalam Penyelesaian Sengketa Tanah Di Kecamatan Baito Kabupaten Konawe Selatan, *Lisani: Jurnal Kelisanan Sastra dan Budaya*, Vol. 3, No. 2, 2020, page. 63-76

15 Syaiful Arpin, Efektivitas Adat Suku Tolaki (Kalosara)., Sebagai Mediasi Penal Terhadap Pelanggaran Lalu Lintas Di Wilayah Hukum Konawe Provinsi Sulawesi Tenggara, *Ganaya: Jurnal Ilmu Sosial Dan Humaniora*, Vol. 2, No. 2, 2019, page 379-395

16 Wiratmadinata Wiratmadinata., Konstruksi Teoritis Pembentukan Teori Negara Hukum Pancasila (NHP), *Jurnal Hukum Samudra Keadilan*, Vol. 17, No. 1, 2022, page. 40-52

17 Interview with Basaula Tamburaka, Thursday, June 15, 2023 in Andunohu Village, Poasia Sub-district, Kendari City

community. "In relation to how the *Kalosara* customary law system builds a harmonious law, it is argued that the *Kalosara* customary law has a vital role in society in resolving disputes. Dispute resolution based on the customary values of the *Kalosara* is carried out through a mediation process, involving deliberation and consensus between the parties to disputes to find the best way for them."¹⁸

Based on this fact, it shows that the *Kalosara* customary settlement has strong legitimacy. This is evidenced by the fact that traditional leaders are recognized in the *Kalosara* customary settlement. It is also accompanied by the trust of the police who provide opportunities for the community to resolve disputes that occur by custom. The existence of *Kalosara* customary law is reinforced by research that proves that this customary settlement is not only quite important but also the best way out in resolving disputes in the Tolaki tribe community.¹⁹

3. Implementation of *Kalosara* Custom in Mediating Disputes between Doctors and Patients in Konawe Regency

One of the legal events about the implementation of *Kalosara* custom in mediating disputes between doctors and patients is the RM dispute between a doctor at Konawe Regional Hospital and the patient's family because a baby MZA (23 days old) has a defect of losing cartilage in his nose. In addition, the hospital's response in the mass media is also considered to have offended the victim. It should be understood as one of the regional institutions that Konawe Hospital is a state administrative body. The legal consequence is that verbal or non-verbal actions to people or civil legal entities can have a legal impact.²⁰ Officials who act to voice the interests of Konawe Hospital and have harmed citizens, from a constitutional aspect can be categorized as "Faute de Service" (fault of office) as the theory of responsibility put forward by R. Kranenburg and W.G. Vegtig in his book entitled "Inleiding In Het Nederland Administratief Recht".

Muh. Jefry as the biological parent of the baby patient MZA, said that he had reported the incident to the police. During the reporting process, mediation efforts continued. The patient's family held the hospital accountable. The hospital must promise to handle the baby so that he can recover. The patient's parents objected to the news in the media that cornered the patient's family.²¹ Parties who voice the interests of Konawe Hospital in a number of news reports should prioritize caution so as not to harm others because basically humans are

18 Kamaruddin (et. al.), Justice, Mediation, and Kalosara Custom... *Loc. Cit.*

19 Ashadi L. Diab (et. al.), Accommodation of local wisdom in conflict resolution of Indonesia's urban society, *Cogent Social Sciences*, Vol. 8, Issue. 1, 2022, page. 1-14

20 Chandra Aquino Tambunan and Christabella Gunawan., Problematika Komunikasi Dokter dan Pasien Menyebabkan Kesalahpahaman Pasien Terhadap Pelayanan Dokter di Rumah Sakit, *Jurnal Hukum Dan Dinamika Masyarakat*, Vol. 21, No. 1, 2023, page. 39-49

21 Interview with Muh. Jefry as the biological parent of baby patient MZA in Unaaha, Konawe Regency, Monday, September 19, 2022

a source of error as the adage *maximus erroris populus magister*.

According to Dr. H.M. Agus S. Lahida, M.M.R., as the President Director of Konawe Hospital that initially the doctors and nurses mediated but failed. This was due to two perceptions, namely that according to the doctor it was in accordance with the procedure but according to the family it was not. The failure of the mediation was then followed up with the traditional settlement of *Kalosara* which was initiated by the arrival of Dr. H.M. Agus S. Lahida, M.M.R., who positioned himself as part of the family.²²

The dispute that occurred between the family of the baby patient MZA and Dr. RM from Konawe General Hospital was resolved by the Kolasara customary settlement by *Sara Medulu*. According to Basaula Tamburaka, a Tolaki traditional leader, the *Sara Medulu* procession carried out is that Dr. RM from Konawe Hospital must come to the victim with the intermediary of a Tolea as a form of seriousness to settle by custom. The victim himself has also prepared a customary intermediary called Pabitara who will welcome Tolea to initiate customary settlement. The most important thing in the *Kalosara* customary settlement is the agreement of the parties to the dispute. The settlement was not only attended by the families of both parties but also witnessed by elements of the local government.

"In our meeting the patient's family held the hospital accountable. The hospital promised to take care of our baby so that he would be completely cured."²³

The dispute between the family of the infant patient MZA and Dr. RM from Konawe Hospital was resolved by the Kolasara custom, as evidenced by the agreement reached by both parties. Although the agreement was customary, the agreement was also written in a written agreement. The agreement was witnessed by those present who also signed, namely: Vice Chairman of the Konawe DPRD (Rusdianto, S.E., M.M.), Director of BLUD RS. Konawe (dr. H.M. Agus S. Lahida, M.M.R.), Head of the Legal Section of the Konawe Regional Government (Andreas Apono, S.H.), Konawe Police (Aipda Hendrawan, S.H.), Patient's Family (Lukman Amrin)

The Kolasara customary settlement between the family of baby patient MZA and Dr. RM from Konawe General Hospital above appears to be not only a dispute about the alleged malpractice of the doctor but also involves losses due to the emergence of mass media coverage that is detrimental to the patient. This study only focuses on disputes arising from medical services by doctors to their patients. The patient felt harmed because the soft bone in the nose of baby MZA had been damaged. On the other hand, the doctor felt that the actions taken against baby MZA were in accordance with the procedure. Each party felt

22 Interview with Dr. H.M. Agus S. Lahida, M.M.R., Director of Konawe General Hospital, Monday, September 19, 2022

23 Interview with Muh. Jefry as the biological parent of baby patient MZA in Unaaha, Konawe Regency, Monday, September 19, 2022

right according to their perception because of their different backgrounds. This condition certainly makes it very difficult to find common ground to resolve the dispute between the two parties. When the doctor is proven to have followed the procedure, it is legally difficult to impose legal responsibility on him. The doctor's actions in accordance with the procedure that affected the nasal cartilage of MZA's baby are legally valid actions so that they must be interpreted as accidents. At least legally there is the principle of *actus dei nemini facit injuriam* which states that no one can be held liable for losses due to unavoidable accidents, in layman's terms this is certainly difficult to understand by the patient. On the other hand, the condition of MZA's baby who lost soft bones is one thing that is difficult to dispute.

The different understanding between the patient and the doctor in the dispute certainly requires a third party who is considered capable of providing solutions to the problems that occur.²⁴ The implementation of *Kalosara* custom in the problem is a settlement process that is considered fair. The implementation of customary instruments as a third party as an act of mediation is actually not something that is prohibited in Law Number 36 of 2009 concerning Health (Health Law), Article 29 of the Health Law explicitly states that: "In the event that a health worker is suspected of committing negligence in carrying out their profession, the negligence must first be resolved through mediation."

Each party is willing to accept the *Kalosara* customary settlement so that whatever is produced through the customary settlement. Customary settlement with a family atmosphere makes both parties without feeling defeated by one another. This condition is far more useful than legal settlements through the litigation process where there are parties who are won and lost. This is in accordance with the purpose of the law itself, which is not merely to pursue legal certainty by ignoring aspects of benefit and justice. The settlement of the dispute between the patient and the doctor in this case has legal certainty because it has been carried out consistently for generations.²⁵ On the benefit side, by reaching an agreement, the relationship is maintained. The customary settlement was felt to be very fair because each party received the results of the customary decision which was documented in writing through an agreement.

The findings of this study are The role of the *Kalosara* as customary law has a broad scope as a legal sub-system in society, as the *Kalosara* is known to prioritize unity and peace through mediation by means of deliberation and consensus. *Kalosara* customary settlement is a form of conflict resolution, in *Kalosara* customary conflict resolution, there are several processes in its implementation, starting from the

24 Daniel Thomas Suryadisastra (et. al.), Juridical Analysis of Dispute Resolution Between Patients and Doctors Based on Indonesian Positive Law, *Indonesian Journal of Contemporary Multidisciplinary Research*, Vol. 2 No. 4, 2023, page. 771–782.

25 Deri Mulyadi., Alternatif Penyelesaian Sengketa Kelalaian Medik Yang Berkeadilan Di Indonesia, *Jurnal Penelitian Universitas Kuningan*, Vol. 11, No. 2, 2020, page. 126-138

victim reporting to the police station or directly to traditional leaders, then the customary spokesperson determines the applicable law, and the process of implementing *Kalosara* customary settlement is carried out at the home of the victim of a conflict.

D. CONCLUSION

The *Kalosara* tradition is still preserved and held in resolving a dispute between parties in the Tolaki tribal community. This customary tradition is still preserved because the Tolaki people show the existence of customary law which is indeed needed. *Kalosara* as customary law has a broad scope as a legal sub-system in society, because *Kalosara* is known to prioritize unity and peace through mediation by way of deliberation and consensus. The dispute that occurred between the family of the baby patient MZA and Dr. RM from Konawe Hospital was resolved by *Kalosara* custom by means of *Sara Medulu*. According to Basaula Tamburaka, a Tolaki traditional leader, the *Sara Medulu* procession carried out by doctors from Konawe Hospital came to the victim with the intermediary of a Tolea as a form of seriousness to settle by custom. Customary settlement with a family atmosphere makes both parties feel defeated by each other. This condition is far more beneficial than legal settlement through the litigation process where there are parties who are won and defeated.

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