

Problems of Mediation Implementation in Divorce Case Settlement at the Medan Religious Court

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Article Info	Abstract
Article History Received : 2026-07-02 Revised: 2026-07-14 Published: 2026-07-30 Keywords: Mediation, Divorce, Religious Courts, Dispute Resolution, Effectiveness of Mediation.	Mediation is a dispute resolution mechanism that must be taken before the examination of the subject matter in court as an effort to realize a peaceful settlement of disputes. Although it has been regulated in Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts, the success rate of mediation in divorce cases in Religious Courts is still relatively low. This study aims to analyze the problems of the implementation of mediation in the settlement of divorce cases at the Medan Religious Court and examine efforts to optimize its implementation. This research uses an empirical legal research method with an empirical juridical approach. Primary data was obtained through interviews with mediator judges of the Medan Religious Court, while secondary data was obtained through literature studies of laws and regulations, books, and scientific articles related to mediation. All data were analyzed qualitatively using a descriptive-analytical method. The results of the study showed that the low success rate of mediation was influenced by long-standing domestic conflicts, the strong desire of the parties to divorce, the perception of the public that considered mediation as a procedural formality, and the limited time of mediation implementation. This study also found that the effectiveness of mediation is not only determined by the existence of regulations, but also influenced by the competence of the mediator, institutional readiness, and legal awareness of the parties. Optimizing the implementation of mediation can be done through increasing the capacity of mediators, using mediation time more effectively, and strengthening legal education to the public through synergy between the Supreme Court, Religious Courts, and the Office of Religious Affairs. Thus, mediation can function optimally as a dispute resolution instrument that supports the realization of a simple, fast, low-cost, and peace-oriented judiciary.

I. INTRODUCTION

Marriage is a birth and mind bond between a man and a woman that aims to form a happy and eternal family based on the One Godhead as regulated in Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019. However, in the practice of domestic life not all marriages can be maintained so that they end in divorce. Divorce not only has legal consequences for the status of the parties, but also has an impact on family relationships, children's rights, and the division of rights and obligations between ex-husbands and wives. Therefore, before the divorce case is further examined, the judicial system in Indonesia requires the parties to first go through the mediation process as an effort to realize a peaceful settlement of disputes (Abbas, 2009).

Mediation is a form of *Alternative Dispute Resolution* (ADR) that aims to help the parties

reach an agreement through the help of a neutral third party. In the judicial environment, the obligation to pursue mediation is regulated through Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court. The presence of mediation is a manifestation of the principle of justice that is simple, fast, and low-cost as well as an instrument to reduce the accumulation of cases in court. However, in divorce cases, the success rate of mediation is still relatively low, so the goal of establishing such a mechanism has not been fully achieved (Harahap, 2011).

The low success rate of mediation shows that the existence of regulations is not necessarily followed by the effectiveness of their implementation. In practice, the failure of mediation is influenced by various factors, both from the parties, mediators, and the characteristics of the case being examined. In

divorce cases, conflicts that have lasted for a long time, loss of trust between husband and wife, and a strong desire to end the marriage often cause the mediation process to only become a formal stage before the examination of the subject matter is continued. This condition shows that there is a gap between the normative purpose of mediation and the reality of its implementation in court (Abbas, 2009).

A number of previous studies have discussed mediation as a dispute resolution mechanism in court. Syahrizal Abbas (2009) emphasizes the discussion on the concept and principles of mediation in the Indonesian legal system, while Gatot Soemartono (2006) examines mediation as part of alternative dispute resolution. Other studies have discussed the effectiveness of mediation in general without elaborating in depth on the empirical factors that lead to the failure of mediation in divorce cases in Religious Courts. Thus, there is still a research space that examines the problems of the implementation of mediation based on empirical facts in the Medan Religious Court so that it can provide an overview of the obstacles faced by mediators as well as formulate efforts to increase the effectiveness of the implementation of mediation.

Based on this background, this study aims to analyze the problems of the implementation of mediation in the settlement of divorce cases at the Medan Religious Court and identify efforts that can be made to improve the success of mediation. This research departs from the argument that the success of mediation is not only determined by the existence of regulations, but also influenced by the readiness of the mediator, the characteristics of the parties, and institutional support in the implementation of mediation. Therefore, the results of this study are expected to be an input for the development of mediation policies in the religious justice environment in order to realize more effective and peace-oriented dispute resolution.

II. RESEARCH METHODS

This research is an empirical legal research with an empirical juridical approach. This approach is used to assess the effectiveness of the implementation of mediation in resolving divorce cases at the Medan Religious Court through an

analysis of the applicable legal provisions and its implementation in practice. The juridical approach is used to examine the laws and regulations that regulate mediation in court, especially Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts, Law Number 48 of 2009 concerning Judicial Power, and other regulations related to dispute resolution through mediation. Meanwhile, an empirical approach was carried out to obtain an overview of the implementation of mediation, the factors that cause mediation failure, and the efforts made by mediators in increasing the success of mediation in the Medan Religious Court (Soekanto, 2008).

The data used in this study consisted of primary data and secondary data. Primary data was obtained through interviews with mediator judges of the Medan Religious Court who have experience in handling the mediation process of divorce cases. The secondary data was obtained through literature studies of laws and regulations, books, scientific articles, and other documents related to mediation and dispute resolution in court. All data are then analyzed qualitatively using a descriptive-analytical method, which is to connect the applicable legal provisions with empirical facts in the field to gain an understanding of the effectiveness of the implementation of mediation and the obstacles faced in practice.

III. RESULTS AND DISCUSSION

A. Problems of Mediation Implementation in Divorce Case Settlement at the Medan Religious Court

Mediation is a stage that must be taken before the examination of the subject matter as stipulated in Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court. The arrangement shows that mediation is not only positioned as a procedural formality, but as an instrument to realize the peaceful settlement of disputes through the agreement of the parties. In divorce cases, mediation is expected to be able to minimize the breakdown of marital ties and provide opportunities for husbands and wives

to improve domestic relations through the help of neutral mediators (Abbas, 2009).

However, the results of research at the Medan Religious Court show that the implementation of mediation has not been able to achieve the goals as expected by PERMA Number 1 of 2016. Based on the results of interviews with the mediator judge, most divorce cases that enter the Medan Religious Court end in mediation failure because domestic conflicts have lasted for a long time before the case is registered with the court. In general, the parties have a unanimous decision to end the marriage so that the mediation process is no longer seen as a means of seeking peace, but only as a stage that must be passed before the examination of the case continues. The findings show that empirically the success of mediation is not only influenced by the ability of the mediator, but also highly dependent on the psychological conditions and level of conflict of the parties.

Another factor that causes the low success rate of mediation is the public's perception of the Religious Court. Most of the parties who file lawsuits or divorce applications come to court with the aim of obtaining a divorce decree with permanent legal force. This condition results in the parties lacking motivation to reconcile even though the mediator has tried to bring together the interests of both parties. Thus, mediation often loses its substantive function as a dispute resolution mechanism and is better understood as an administrative obligation in the litigation process. This phenomenon shows that there is a gap between the normative goal of the formation of mediation and the reality of its implementation in the field (Harahap, 2011).

Based on the results of the interview, the mediator has basically applied various persuasive approaches according to the characteristics of the case at hand. This approach is carried out through a religious, social, and familial approach so that the parties are willing to open a space for dialogue and reconsider the decision to divorce. In certain cases, the mediator also extends the mediation process if there is still a chance of achieving peace. However, the effectiveness of this

approach is still influenced by the level of conflict and the readiness of the parties to resolve disputes through deliberation. In other words, the success of mediation cannot be measured solely by the competence of the mediator, but is also determined by the willingness of the parties to reach an agreement.

This study also found that the duration of the implementation of mediation was relatively short when compared to the complexity of the domestic problems faced by the parties. In practice, mediation generally lasts about fifteen to thirty minutes, so the space for dialogue available becomes very limited. This condition causes mediators to have difficulty digging the root of the problem and rebuilding communication that has been cut off between husband and wife for a long time. In fact, divorce disputes are disputes that are closely related to emotional aspects so that their resolution requires a more in-depth approach than civil disputes in general.

Based on these findings, it can be analyzed that the problems of the implementation of mediation at the Medan Religious Court are not only sourced from normative aspects, but are also influenced by sociological and psychological factors of the parties. Therefore, the effectiveness of mediation is not enough to be improved through the improvement of regulations alone, but also requires a change in the paradigm of society regarding the function of mediation as a means of resolving disputes that prioritize peace. Thus, the success of mediation is the result of an interaction between the quality of regulations, the competence of the mediator, the institutional readiness, and the willingness of the parties to resolve disputes through deliberation.

B. Optimizing the Implementation of Mediation in Settlement of Divorce Cases at the Medan Religious Court

The results of the study show that the success of mediation in divorce cases does not only depend on the existence of regulations, but is also influenced by the quality of the implementation of mediation itself. Although

the Supreme Court Regulation Number 1 of 2016 has regulated the stages and procedures of mediation systematically, its implementation in the Medan Religious Court still faces various obstacles that cause the goals of mediation to not be achieved optimally. This condition shows that the effectiveness of mediation cannot be measured solely by the implementation of the procedure, but also by the ability of the mediation process to produce an agreement that is able to end the dispute peacefully (Abbas, 2009).

One of the factors that needs to be optimized is the role of the mediator as a facilitator of dispute resolution. Based on the results of the interviews, the mediator has used various approaches, such as religious, social, and familial approaches to build communication between the parties. This approach shows that the resolution of divorce cases is not enough to be done through a normative approach alone, but requires the ability of the mediator to understand the psychological conditions, conflict background, and relationship dynamics of the parties. Thus, the success of mediation is greatly influenced by the mediator's competence in building trust and encouraging the parties to reopen the dialogue space.

In addition to the competence of the mediator, the duration of mediation is also a factor that affects the effectiveness of dispute resolution. The findings of the study show that a relatively short mediation time is not sufficient to resolve domestic conflicts that have generally lasted for a long time. In fact, divorce disputes are disputes that are full of emotional aspects so that they require a more intensive communication process than other civil disputes. Therefore, providing more flexible space for the implementation of mediation, as made possible in PERMA Number 1 of 2016, needs to be utilized to the fullest if the mediator considers that there is still a chance of achieving peace.

This study also shows that the low success of mediation is not entirely due to the weakness of the mediation mechanism, but rather to the paradigm of the parties who have come to court with a strong determination to

divorce. This perception causes mediation to be seen only as an administrative stage before obtaining a court decision. Therefore, efforts to optimize mediation cannot only be carried out in the court environment, but must begin before the dispute is filed through increasing legal education to the public regarding the function of mediation as a means of conflict resolution that prioritizes deliberation and peace.

From an institutional perspective, optimizing mediation also requires synergy between the Supreme Court, the Religious Court, and the Office of Religious Affairs (KUA). The marriage guidance program (*marriage guidance for prospective brides*) needs to be maximized as a preventive step to provide an understanding of the rights and obligations of husband and wife, family conflict resolution, and the importance of deliberation in dealing with domestic problems. These preventive efforts are expected to be able to reduce the number of divorces while reducing the number of cases that lead to the litigation process. The findings of the study also show the importance of delivering legal counseling in simple and easy-to-understand language to more effectively reach the community.

Based on the results of the analysis, this study argues that optimizing the implementation of mediation in divorce cases can be done through three steps. First, increasing the capacity of mediators through education and training that focuses not only on legal aspects, but also on communication techniques, family psychology, and negotiation. Second, maximizing the implementation of mediation by providing more proportional time space for mediators to build communication and trust between the parties. Third, strengthening preventive efforts through synergy between the Religious Court, the Office of Religious Affairs, and the government in providing legal education to the public regarding the importance of peaceful dispute resolution.

Thus, mediation optimization is not only interpreted as improving procedures as stipulated in PERMA Number 1 of 2016, but also as strengthening the quality of mediation

implementation through improving the competence of mediators, changing community paradigms, and sustainable institutional support. If these three aspects can be realized in an integrated manner, then mediation is no longer seen as a formality in the litigation process, but as an effective instrument to realize the settlement of divorce cases peacefully, simply, quickly, and at a low cost.

IV. CONCLUSIONS AND SUGGESTIONS

A. Conclusion

Based on the results of the research, it can be concluded that the implementation of mediation in the settlement of divorce cases at the Medan Religious Court has not run optimally even though it has been comprehensively regulated in the Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts. The results of the study show that the low success rate of mediation is influenced by several factors, namely domestic conflicts that have lasted for a long time, the strong desire of the parties to divorce before the case is submitted to the court, the perception of the public that views mediation as only a procedural formality, and the limited time of implementation of mediation to resolve complex conflicts. Thus, the failure of mediation is not only caused by normative aspects, but also influenced by psychological, sociological, and cultural factors of the legal community.

Optimizing the implementation of mediation requires strengthening the aspects of human resources, institutions, and community legal awareness. Improving the competence of mediators through communication, negotiation, and family psychology training is an important factor in increasing the success of mediation. In addition, the implementation of mediation needs to be carried out more optimally by providing adequate space for mediators to build communication and trust between the parties. On the other hand, the strengthening of the legal education function through the Religious Court and the Office of Religious

Affairs needs to be continuously improved so that the public understands that mediation is a dispute resolution mechanism that aims to realize peace, not just an administrative stage in the litigation process. Thus, the effectiveness of mediation can only be achieved if it is supported by adequate regulations, professional mediators, and the awareness of the parties to resolve disputes peacefully.

B. Suggestions

The Supreme Court needs to continue to strengthen the implementation of Supreme Court Regulation Number 1 of 2016 through increasing the capacity of mediator judges, periodic evaluation of the implementation of mediation, and the preparation of more applicable technical guidelines so that the quality of mediation in each court is more uniform. Religious Courts also need to optimize the implementation of mediation by providing adequate space for mediators to carry out facilitative functions effectively according to the characteristics of divorce cases.

In addition, the Office of Religious Affairs together with related agencies need to strengthen the marriage guidance program as a preventive effort in building the understanding of married couples regarding rights and obligations in the household, conflict resolution through deliberation, and the importance of maintaining family integrity. For the next researcher, research on mediation in divorce cases is expected not only to use an empirical approach in one court, but also to conduct comparative studies in several Religious Courts so that a more comprehensive picture can be obtained of the effectiveness of the implementation of mediation in Indonesia.

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