

## The Role of Mediators in Resolving Divorce Cases at The Serang Religious Court Under Supreme Court Regulation No. 1 of 2016

<sup>1</sup>Aldestianah Putri Abu Bakar, <sup>2</sup>Fathullah, <sup>3</sup>Santy Fitnawati WN

<sup>1,2,3</sup>Universitas Primagraha, Kota Serang, Banten, Indonesia

<sup>1</sup>[aldestianahputri05@gmail.com](mailto:aldestianahputri05@gmail.com), <sup>2</sup>[fathasyim@gmail.com](mailto:fathasyim@gmail.com) <sup>3</sup>[santyfitnawati.notaris@gmail.com](mailto:santyfitnawati.notaris@gmail.com)

### ABSTRACT

*Mediation is one of the mandatory dispute resolution efforts in civil cases, including divorce cases handled by the Religious Court. This mechanism serves as an alternative that allows the parties to reach a peaceful settlement without going through a lengthy, complex, and costly litigation process. Supreme Court Regulation (PERMA) Number 1 of 2016 concerning Mediation Procedures in Court strengthens the mediator's role as a facilitator of peace and reinforces the obligation of mediation in civil dispute resolution. This study aims to analyze the role of mediators in resolving divorce cases at the Religious Court of Serang based on the provisions of the regulation. The research employs a normative juridical method with a statutory approach, supported by empirical data obtained through interviews with mediators at the Religious Court of Serang. This combination aims to provide a comprehensive understanding of the mediator's role from both normative and practical perspectives. The results of the study indicate that mediators play an important role in facilitating communication between parties, managing the mediation process, identifying each party's interests, exploring possible settlement options, and assisting in formulating final and legally binding agreements. However, the success of mediation is greatly influenced by factors such as the parties' willingness to reconcile, the mediator's communication skills, and the existence of clear and consistent regulations*

**Keywords:** Divorce, Mediation, Role of Mediator

### Introduction

Divorce represents the final legal avenue for resolving marital conflict when efforts to preserve the integrity of the household can no longer reasonably be sustained (Latupono and Jamaa 2023). From a legal standpoint, divorce constitutes a civil matter adjudicated before the court to obtain a legitimate ruling on the termination of the marital bond between husband and wife. The dissolution of marriage does not merely sever the legal relationship between the spouses; it also generates further legal implications, including the division of joint marital assets, the determination of parental rights and responsibilities for child custody, and the provision of post-divorce financial support (Laila Azizah and Anwar Hafidzi 2025). In Indonesia, divorce proceedings constitute one of the most prevalent case categories within the jurisdiction of the Religious Courts, including the Religious Court of Serang, encompassing both *cerai talak* (husband-initiated divorce) and *cerai gugat* (wife-initiated divorce) applications.

In the practice of religious courts in Indonesia, divorce may be filed in two legal forms, namely *cerai talak* and *cerai gugat*. *Cerai talak* refers to a petition submitted by the husband to declare divorce upon his wife through a judicial ruling. This process begins with the registration of the divorce petition, followed by a mandatory mediation session as an effort to encourage reconciliation. Should mediation fail to produce an agreement, the proceedings will continue to trial until the judge renders a decision. Although the prerogative to pronounce *talak* rests with the husband, Islamic law provides the wife with the right to challenge the declaration or claim her legal entitlements. Consequently, the husband must substantiate the grounds for divorce before the judicial panel if objections are raised by the wife (Siti Rohmatul Ilahiya and Ahmad Musadad 2023). Unlike *cerai talak*, which is initiated by the husband, divorce may also be sought by the wife through the *cerai gugat* mechanism.

Meanwhile, *cerai gugat* refers to a divorce action generally filed by the wife on the grounds that her rights have not been fulfilled during the marriage. The procedure for *cerai gugat* begins with the submission of a divorce claim to the Religious Court, followed by a mandatory mediation process as an effort to resolve the dispute amicably. If mediation fails to produce a settlement, the case proceeds to trial until a legally binding judgment is issued. In this type of case, the plaintiff bears the burden of proving the allegations underpinning the claim, such as the husband's failure to provide financial support, the occurrence of domestic violence, or prolonged marital disharmony, which constitute legally recognized grounds for dissolving the marriage (Abror 2019).

In the Indonesian legal system, the family is regarded as a fundamental institution responsible for preserving marital harmony and stability (Amalia, Akbar, and Syariful 2017). This principle is reinforced in Article 1 of Law Number 1 of 1974 on Marriage, which stipulates that marriage aims to establish a happy and enduring family founded upon the belief in Almighty God. However, in practice, many couples file for divorce when their psychological condition and marital relationship have deteriorated to a point where reconciliation is no longer feasible. As a result, the mediation process intended as a mechanism to foster peaceful settlement often becomes merely a procedural formality that must be completed prior to trial, thereby preventing mediation from achieving its optimal purpose of restoring the marital relationship.

Mediation constitutes one of the forms of Alternative Dispute Resolution (ADR), which emphasizes peaceful and collaborative settlement efforts (Nurwahidah et al. 2025). This principle is expressly regulated under Supreme Court Regulation of the Republic of Indonesia Number 1 of 2016 on Court Annexed Mediation Procedures, particularly in Article 1(1). The mediator plays a crucial role in facilitating communication, assisting the parties in identifying key issues, and encouraging them to explore mutually agreeable solutions on a voluntary basis. Accordingly, mediation holds a strategic position as a dispute resolution mechanism that prioritizes consensual settlement over adversarial outcomes or the victory of one party through a court judgment.

In divorce proceedings, mediation constitutes a mandatory stage that must be undertaken at the first level of the court process, in accordance with Supreme Court Regulation (PERMA) Number 1 of 2016 on Court-Annexed Mediation Procedures. This policy primarily aims to provide an opportunity for reconciliation and foster peace between spouses, thereby preventing divorce and preserving the integrity of the family. In addition, mediation serves a strategic function in realizing a judicial process that is simple, speedy, and low-cost, given its confidential nature, relatively shorter duration, and ability to reduce case congestion in the courts. Beyond its role as a formal legal instrument, mediation plays a crucial part in achieving a more humane resolution that prioritizes the best interests of children affected by divorce, particularly in matters concerning custody and financial support, in line with the principles of family law (Winriadirahman 2024).

The role of the mediator is particularly vital in divorce cases before the Religious Courts, as the mediator does not merely act as an intermediary but also serves as a facilitator who assists the parties in identifying a fair and mutually acceptable resolution. However, in practice, mediation has not been fully effective. This may be attributed to several factors, including the parties' firm intention to proceed with the divorce, the mediator's limited capacity to uncover the root causes of the conflict, and various procedural or technical obstacles encountered during the mediation process. As a result, the primary objective of mediation namely, preserving the marriage and preventing divorce often remains unachieved, leading to divorce becoming the final course of action. Therefore, it is necessary to conduct research that provides an empirical understanding of the effectiveness and role of

mediators in divorce mediation, including the challenges faced and the efforts required to enhance the success of mediation at the Religious Court of Serang.

## Research Methods

The type of research employed in this article is normative juridical legal research supported by empirical data. According to (Efendi Jonaedi dan Ibrahim Johnny 2016) in their book *Metode Penelitian Hukum Normatif dan Empiris (Legal Research Methods: Normative and Empirical)*, normative juridical legal research examines law as a set of norms (law in books), focusing on the study of legal principles, legal systematics, the degree of legal synchronization, and comparative law through the analysis of primary, secondary, and tertiary legal materials. The primary legal materials used in this study include statutory regulations related to mediation, particularly Supreme Court Regulation No. 1 of 2016, while the secondary legal materials consist of scholarly doctrines and relevant court decisions.

## Research and Discussion

### Definition of Divorce

Divorce constitutes the termination of a marital relationship, which may only be carried out before a court and formalized through a judicial decision based on legally recognized grounds. This principle is strictly regulated under Law Number 1 of 1974 on Marriage, in which Article 39 explicitly stipulates that divorce may only proceed after the competent court has attempted, but failed, to reconcile the parties. The judge's obligation to pursue reconciliation is imperative and constitutes a legal duty, underscoring the State's firm commitment to preserving marital unity and stability. Accordingly, divorce is treated as a measure of *ultima ratio*, meaning it may only be pursued once every available mechanism for reconciliation whether through formal mediation or other court-facilitated settlement efforts has been exhausted without yielding a constructive outcome for both parties (Shofi, Royani, and Alifah 2023).

The termination of a marital relationship through divorce is a normative provision expressly affirmed within Indonesia's legal framework, thereby requiring that its implementation adhere to the applicable legal procedures (Nurmayani Nurmayani et al. 2025). Article 38 of Law Number 1 of 1974 stipulates that a marriage may be dissolved by death, divorce, or a court decision. This provision is further elaborated in Government Regulation Number 9 of 1975, which regulates the procedural requirements for divorce, including the rule that a divorce is considered valid and legally binding only once it has been declared by a court in an open hearing. Accordingly, every divorce must be conducted through a structured judicial mechanism to ensure legal certainty and protection for the parties involved.

Within Indonesia's national legal framework, the principles of family unity and resilience remain central objectives. This foundational doctrine is explicitly affirmed in Article 1 of Law Number 1 of 1974, which stipulates that marriage aims to establish a happy and enduring family based on the belief in the Almighty God. However, in practice, reconciliation efforts including mandatory mediation are often perceived merely as procedural formalities, without genuine good faith or sincere willingness from the parties to achieve substantive peace, particularly when both parties are already firmly committed to pursuing divorce (Rahyu and Sugitanata 2022). The ineffectiveness of reconciliation initiatives arising from the perception of mediation as only an administrative requirement highlights a significant gap between the legal ideal that seeks to promote settlement and the social reality in court proceedings, which is marked by high caseloads and limited commitment from disputing parties to resolve marital conflicts constructively.

Consistent with national legal principles, Islamic law likewise places strong emphasis on resolving domestic disputes through peaceful settlement. In Surah An-Nisa, verse 35, Allah SWT commands that when a dispute arises between husband and wife, mediators should be appointed from each side to seek reconciliation and restore harmony. Furthermore, although divorce is permissible under Islamic law, a well-known hadith states that divorce is “the most disliked of all lawful acts before Allah,” underscoring the moral preference for preserving marital unity. Empirical legal studies indicate that in the Indonesian context, both the Compilation of Islamic Law and national legislation affirm that the process of *islah* or mediation must first be undertaken before a decree of divorce is issued or a divorce petition is granted by the court (Erni Erni and Tajul Arifin 2025). Therefore, the mediation mechanism within the religious court system not only fulfills the requirements of positive law but also reflects the substantive implementation of Islamic legal principles aimed at maintaining family cohesion.

Overall, divorce is understood as the termination of a marital bond through a lawful judicial process, intended to safeguard order and legal certainty within the family institution. For Muslim communities, provisions regarding divorce are further regulated in the Compilation of Islamic Law (KHI), which affirms that divorce is permissible (*mubah*) but discouraged, and therefore must be preceded by reconciliation efforts to minimize its adverse consequences, particularly for children and family stability. Accordingly, before a court may issue a decision, the parties are required to undergo mediation as an attempt to resolve the conflict amicably. This requirement demonstrates that mediation holds a strategic role as an instrument to preserve marital integrity and reduce divorce rates within religious courts.

Divorce, in general terms, refers to the termination of a legally recognized marital bond between husband and wife, which must be carried out through specific procedures established by statutory regulations. Under Indonesia’s positive legal framework, the provisions governing divorce are set forth in Law Number 1 of 1974 on Marriage, which stipulates that divorce may only be conducted before a court of law and must follow the procedures prescribed by applicable legal norms. This requirement aims to maintain legal order within the institution of marriage and to prevent unilateral divorces conducted without state oversight.

### **Factors Determining the Success of Divorce Mediation at the Religious Court of Serang**

The mediation process in divorce cases at the Religious Court of Serang is influenced by multiple interrelated factors, both substantive and procedural in nature. The dispute resolution theory offers a relevant analytical framework for understanding this phenomenon, as it emphasizes the crucial role of the mediator, the active participation of the disputing parties, and the support of a legal system that facilitates the attainment of a mutually agreed settlement. In addition, the legal communication barrier theory provides insight into communication obstacles that may hinder the effectiveness of mediation, including differing levels of understanding regarding legal procedures and consequences, heightened emotional states of the parties, and limitations in conveying and receiving information (Firman Rofiqi , Firdhini Julia Anugerah 2025). Empirical observations regarding mediation in divorce cases within religious courts further indicate that the mediator’s competence, the parties’ willingness to reconcile, and their psychological readiness serve as significant determinants of successful mediation outcomes.

These findings are consistent with the perspective of the Mediator Judge at the Religious Court of Serang, Mr. (Agus Sopyan ), who emphasizes that the success of mediation largely depends on the psychological readiness of the parties to reconcile, their openness in communication, and the mediator’s ability to foster a conducive and objective dialogue

environment. According to him, many cases fail to reach an agreement not merely due to substantive legal issues, but primarily because the parties are unable to manage their emotions and already possess a strong desire to divorce from the outset, resulting in mediation being conducted merely as a procedural formality. By integrating both theoretical frameworks and taking into account the practical insights of the mediator, a more comprehensive understanding can be obtained regarding the determinants of successful divorce mediation within the Religious Court of Serang.

#### **a) Role of the Mediator**

The mediator holds a central position in determining the success of mediation, acting as a neutral party who bridges the interests of disputing parties. The effectiveness of the mediation process is strongly influenced by the mediator's ability to manage communication and conflict dynamics, both through verbal communication (including listening skills, the ability to explain, and the capacity to reformulate the parties' statements) and non verbal communication, such as body language, facial expressions, and vocal intonation. From the perspective of dispute resolution theory, the mediator functions not only as a facilitator but also as a problem solver who assists parties in identifying win-win solutions without imposing a particular outcome. This approach aligns with (Ichsan 2023) and is consistent with the principles of confidentiality, voluntariness, and neutrality as stipulated in Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court. Mediation can be deemed successful when the mediator is able to maintain balanced communication, effectively manage the parties' emotions, and guide the process toward a fair and mutually beneficial resolution.

#### **b) Good Faith of the Parties**

Good faith constitutes a key factor in determining the success of mediation, as the mediator essentially serves only as a neutral facilitator of dialogue, while the achievement of an agreement ultimately depends on the willingness of the parties to reconcile. Parties who participate with openness, emotional self-control, and a genuine commitment to seek a mutually acceptable solution generally find it easier to reach an effective settlement. Conversely, when a party adopts a defensive or rigid stance, or lacks willingness to reconcile from the outset, the mediation process tends to encounter significant obstacles and is unlikely to produce optimal results. This is consistent with the view expressed by the Mediator Judge at the Religious Court of Serang, Mr. (Agus Sopyan), who stated that "the key to mediation does not lie solely with the mediator, but in the willingness of the parties to open their hearts first. If from the beginning they are already determined to divorce, mediation typically becomes a mere formality with a very small chance of success." Accordingly, sincerity and openness on the part of the disputing parties constitute fundamental pillars for successful divorce mediation in religious courts.

#### **c) Involvement of Third Parties**

In the practice of divorce mediation at the Religious Court of Serang, the involvement of third parties such as family members, community leaders, or individuals with emotional closeness to the disputing parties can play a significant role in facilitating the achievement of a peaceful agreement. Their presence often helps reduce emotional tension, strengthen the motivation to reconcile, and provide broader perspectives regarding the continuity of the marriage and the social implications of divorce (Saifullah et al. 2024). This mechanism is also consistent with Supreme Court Regulation Number 1 of 2016, which allows mediators to involve relevant third parties to clarify issues and expand possible settlement alternatives. Recent studies indicate that the success of mediation in divorce cases is partly determined by social support and the involvement of trusted third parties, which can enhance the parties' good faith and reinforce the legitimacy of the resulting agreement.

#### **d) Sociological and Psychological Factors**

The success of mediation in divorce cases is also strongly influenced by the sociological and psychological conditions of the parties. Sociological aspects such as economic circumstances, parental responsibilities, family support, and societal perceptions of divorce may affect whether a couple chooses to continue the marriage or terminate the relationship. Meanwhile, psychological conditions, including levels of stress, trauma, profound disappointment, and limited capacity for healthy communication, often serve as obstacles during the negotiation process (Takdir 2023). This situation is understandable, as parties attending mediation generally experience emotional and psychological instability. Therefore, the mediator plays an essential role in managing the parties' emotions, fostering a conducive mediation environment, and maintaining focus on shared interests, particularly regarding the welfare of the family and the future of children. This role requires the mediator to adopt a warm and empathetic approach, engaging in sincere and heartfelt communication to cultivate positive psychological responses, enabling the parties to express their grievances openly and remain receptive to peaceful solutions.

#### **e) Moral and Spiritual Factors**

Moral and spiritual awareness among the parties is an important determinant of the success of divorce mediation at the Religious Court of Serang. Individuals who possess strong religious consciousness and understand that divorce, although permissible in Islam, is considered the most disliked of lawful acts by Allah (abghadhul halal), tend to exercise greater caution in making the decision to separate and are more inclined to pursue reconciliation as a primary effort. Sound moral judgment and spiritual values encourage parties to think more clearly, restrain personal ego, and appreciate the integrity of the family as a trust that must be preserved. Conversely, low moral awareness and insufficient religious understanding may result in rigid attitudes and unwillingness to cooperate, thereby complicating the mediation process. This perspective aligns with the view expressed by Mr. (Agus Sopyan), the Mediator Judge at the Religious Court of Serang, who emphasized that the success of mediation rests not only on legal mechanisms but also on spiritual approaches. As he stated, "The foundation of a strong marriage is not only love, but also worship; a family that remains close to God will be more easily guided toward peace." Such a spiritual approach serves as a supportive factor for fostering peaceful and sustainable dispute resolution.

Overall, the success of mediation in divorce cases at the Religious Court of Serang is shaped by a combination of interacting internal and external factors. The presence of a competent mediator, the attitude and good faith of the parties, support from family members or third parties, socio-psychological conditions, as well as moral and religious awareness, all serve as key determinants in achieving a peaceful settlement. When these factors operate positively, mediation has the potential to serve as an effective conflict-resolution mechanism, not only reducing divorce rates but also safeguarding family stability as an essential social and religious institution. Conversely, when legal communication barriers exist and strong emotional resistance arises from one of the parties, mediation tends to fail in fulfilling its primary objective, leading the case to proceed to evidentiary stages and judgment. Therefore, strategic efforts are required to ensure that mediation at the Religious Court of Serang does not merely function as a procedural formality, but truly operates as a preventive mechanism to minimize divorce cases.

### **The Role of Mediators in Divorce Mediation at the Religious Court of Serang Under PERMA No. 1 of 2016**

Within the framework of court-annexed mediation regulated by Supreme Court Regulation (PERMA) No. 1 of 2016 on Mediation Procedures in Court, the role of mediators

is grounded in a clear and detailed normative foundation. Article 1 paragraph (2) of PERMA No. 1 of 2016 defines a mediator as a judge or certified individual appointed to act as a neutral party in the negotiation process, whose primary function is to assist disputing parties in reaching an amicable settlement without the authority to adjudicate or impose a decision. This provision firmly underscores that mediators do not serve as adjudicators, but rather as facilitators who bridge communication and guide the interaction between parties in dispute to achieve a voluntary and mutually acceptable resolution, particularly within the context of divorce cases adjudicated at the Religious Court of Serang.

The role of mediators in divorce mediation at the Religious Court of Serang is guided by Supreme Court Regulation (PERMA) No. 1 of 2016 on Mediation Procedures in Court. Under this framework, mediators are positioned as neutral facilitators responsible for enabling constructive communication between the disputing parties, assisting them in identifying key issues in the dispute, and directing the process toward a peaceful settlement without imposing any particular outcome. As highlighted in (Maryani et al. 2025), mediators handling divorce cases must be capable of managing power dynamics between the parties, implementing each stage of the mediation process systematically, and maintaining strict impartiality in order to achieve a fair and consensual resolution. These duties underscore the importance of professionalism and mediator competence as foundational elements for effective dispute resolution within the religious court system.

Supreme Court Regulation (PERMA) No. 1 of 2016 explicitly outlines the roles, authorities, and obligations of mediators in court annexed mediation, encompassing the stages of explaining procedural rules, facilitating communication between the parties, and preparing the final mediation report. This regulatory framework affirms that mediators are not merely neutral actors bridging communication between disputing parties, but also bear a professional responsibility to ensure that the mediation process is conducted effectively, fairly, and with a genuine orientation toward achieving an amicable settlement. The provision aims to safeguard the integrity and sustainability of the mediation process, thereby positioning mediators as a central element in realizing equitable reconciliation and promoting mutually beneficial, win-win solutions for the parties involved. The obligations imposed on mediators are further elaborated in several provisions of the regulation, including:

**a. Initial Integrity and Procedural Explanation (Articles 13 and 15)**

To safeguard independence and objectivity throughout the mediation process, the mediator is obligated to avoid any conflict of interest and must decline the appointment if there exists any relationship, affiliation, or personal interest whether direct or indirect with either party to the dispute (Article 13 paragraph (3)). This requirement serves as an essential condition to ensure neutrality. Furthermore, the mediator is required to provide a comprehensive explanation to the parties regarding the mediation stages, their respective rights and obligations, and the fundamental principles governing mediation, including confidentiality, voluntariness, and neutrality (Article 15 paragraph (1)). Effective procedural briefing at the initial session is crucial for fostering a proper understanding of the process and encouraging good faith from the disputing parties.

**b. Establishing Balanced and Conducive Communication (Article 14 Paragraph (1))**

The mediator's primary obligation in practice is to create an open, balanced, and impartial communication environment throughout the mediation process (Article 14 paragraph (1)). This requirement is particularly critical in divorce cases, where power imbalances and emotional pressure commonly arise. The mediator must ensure that each party has an equal opportunity to express their perspectives, interests, and emotions without feeling intimidated or dominated by the other party. Such efforts serve as an essential

foundation for facilitating constructive dialogue and neutralizing tensions carried into the mediation forum from external circumstances.

**c. Active Facilitation and Exploration of Settlement Options (Option Generating) (Article 14 Paragraph (2))**

The mediator is not permitted to adopt a passive stance. Rather, the mediator is required to actively facilitate the parties in exploring a range of potential settlement options (option generating), as mandated under Article 14 paragraph (2). This responsibility includes clearly explaining the advantages of mediation such as cost and time efficiency assisting the parties in identifying the core issues underlying their stated positions, and guiding the exploration process toward a resolution based on mutual interests rather than a coerced compromise. Such proactive engagement is particularly crucial in divorce cases involving complex issues, including joint property division and child custody arrangements, where strategic option development significantly contributes to the likelihood of achieving a sustainable and equitable settlement.

**d. Upholding Confidentiality of Mediation Information (Article 16 Paragraphs (1) and (3))**

The principle of confidentiality constitutes one of the core ethical foundations of mediation. The mediator bears an absolute obligation to preserve the confidentiality of all information obtained throughout the mediation process, including statements disclosed during private caucus sessions, from both the adjudicating panel and external parties (Article 16 paragraphs (1) and (3)). This confidentiality safeguard is essential to fostering a safe and trustworthy mediation environment, encouraging parties to communicate openly and disclose their interests and concerns without fear that such information may later be used against them in subsequent litigation proceedings. By ensuring strict protection of sensitive information, the mediator strengthens the integrity of the mediation process and enhances the likelihood of achieving a candid and mutually beneficial resolution.

**e. Preparation and Submission of the Mediation Report (Articles 21 and 23)**

As a form of institutional accountability, once the mediation process concludes whether it results in a successful settlement or fails to reach an agreement the mediator is required to prepare an official mediation report in accordance with Articles 21 and 23. This report must then be submitted to the Panel of Judges handling the case as a formal basis for judicial consideration in issuing a decision. In the event that mediation is successful, the report serves as the foundation for the Panel of Judges to ratify the settlement agreement into a court-sanctioned peace judgment, which carries legally binding force. This obligation emphasizes that the mediator's role formally concludes upon the submission of the report, thereby establishing a procedural link between the mediation process and the formal judicial proceedings.

**Barriers Faced by Mediators in Divorce Mediation at the Serang Religious Court**

The effectiveness of divorce mediation within the Religious Court system, although grounded in the normative framework of Supreme Court Regulation No. 1 of 2016, continues to encounter substantive challenges that influence the optimal performance of mediators. These challenges extend beyond procedural limitations and encompass psychological, sociological, and institutional dimensions, reflecting the complex nature of dispute resolution in marital dissolution cases. This finding aligns with prior research, which underscores that the success of mediation is shaped by the readiness of disputing parties, the mediator's communication and facilitation skills, and the availability of adequate institutional support (Nasution, Lubis, and Idris 2024) Empirical observations from field practice further confirm the presence of such constraints in the Serang Religious Court, as evidenced through an interview with Judge-Mediator Agus Sopyan, who emphasized recurring issues originating

from both disputants and institutional dynamics. In general, these barriers can be categorized into four principal aspects, demonstrating that mediation outcomes are not solely determined by legal provisions but are also contingent upon interpersonal engagement, behavioral factors, and systemic capacity:

### **1) Substantive Barriers from the Litigating Parties**

A primary obstacle in divorce mediation arises from the limited participation and lack of good faith demonstrated by the disputing parties, which contradicts the mandatory obligation contained in Article 3 of Supreme Court Regulation No. 1 of 2016. In practice, according to Judge-Mediator Agus Sopyan, many parties attend the mediation forum merely to fulfill procedural requirements, with the sole objective of accelerating the commencement of the main trial. This perception of mediation as a mere administrative formality frequently emerges because couples have already formed a firm psychological and emotional determination to divorce. Such a final and irreversible mindset closes the space for compromise and significantly undermines the fundamental purpose of mediation as a substantive mechanism for promoting reconciliation and peaceful dispute resolution.

### **2) Internal Constraints on Mediators' Capacity**

Another significant challenge stems from internal factors related to the mediator's capacity, particularly limitations in time allocation and professional competence. Judge mediators at the Religious Court of Serang face strict time constraints because, in addition to conducting mediation, they also bear primary judicial responsibilities in examining and deciding cases. This situation is further complicated by the normative limit stipulated in Article 24 paragraph (2) of Supreme Court Regulation No. 1 of 2016, which sets a maximum mediation period of 30 working days. Moreover, limited non legal skills such as conflict psychology, counseling techniques, and empathetic communication also pose an obstacle. These limitations hinder mediators' ability to effectively manage complex emotional dynamics and facilitate constructive dialogue, thereby reducing the overall effectiveness of the mediation process.

### **3) Social and Cultural Environmental Factor**

Social and cultural environmental factors also contribute as obstacles. In several cases, the involvement of family members or relatives present during the mediation process has, in fact, exacerbated tensions. Instead of providing calming support, these non legal third parties often reinforce stubborn attitudes or encourage the acceleration of divorce in the name of preserving family dignity, which contradicts the mediator's efforts to achieve consensus. Strategies involving community leaders or religious figures may indeed serve as a solution to reduce the parties' egos; however, such approaches require exceptional skill and caution from mediators to ensure that the principles of neutrality and confidentiality are maintained amidst the complexity of external interventions.

### **4) Normative and Institutional Obstacles**

Normatively, the effectiveness of mediation is hindered by regulatory loopholes that do not provide strict sanctions for parties who attend mediation without good faith, even though Article 3 paragraph (1) of Supreme Court Regulation (PERMA) No. 1 of 2016 requires it. This weakness in enforcement reinforces the perception that mediation is merely a formality. Institutionally, Mr. (Agus Sopyan) highlighted that mediation reports produced so far tend to function only as administrative documents of court proceedings, without being followed up through systematic evaluations of the quality and challenges of mediation. These limitations indicate the need for a policy reformulation that not only clarifies sanctions but also strengthens institutional support and evaluation mechanisms to ensure that the noble objectives of mediation can be sustainably achieved.

## Conclusion

In general, the implementation of mediation in divorce cases at the Religious Court of Serang has been carried out in accordance with the procedures stipulated in Supreme Court Regulation No. 1 of 2016. The mediator plays an essential role as a facilitator of communication, an issue manager, and a promoter of peaceful settlement. However, the effectiveness of this process still faces significant challenges arising from both internal and external factors. Internally, the quality and capacity of mediators need improvement, particularly in applying interest-based mediation techniques, managing emotional dynamics, and enhancing interpersonal communication, given the limited formal training in psychology and counseling. Externally, the lack of good faith and inadequate understanding among the parties regarding the urgency of mediation where it is often perceived merely as a formality remain the main obstacles to achieving peaceful and sustainable dispute resolution. Therefore, to ensure that mediation can achieve its objectives optimally, strategic support is required through comprehensive mediator training and more intensive outreach efforts to foster awareness and good faith among the disputing parties.

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