Publisher: Institute Hukum Sumberdaya Alam (IHSA Institute)

LEGAL BRIEF

journal homepage: www.legal.isha.or.id/index.php/legal

Dispute Settlement Mediation Marriage Problems and Solutions

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Abstract

Mediation in Indonesia is regulated based on PERMA No. 1 of 2016 concerning Mediation Procedures in Courts. One of these regulations is used for mediation to resolve marital disputes. Mediation is a process of dispute resolution through the process of negotiation or consensus between the parties, assisted by a mediator who does not have the authority to decide or force a settlement. Should there be mediation at the Religious Court, dispute resolution is more towards reuniting the two conflicting parties. However, in the process of mediation in divorce cases, it was found that half of the mediation was carried out in divorce cases, and from the mediation that was carried out only a small proportion managed to make peace. So it can be said that the mediation process is still ineffective. There are many aspects that can affect the success of mediation, so there is a need for better evaluation and solutions from the relevant agencies in an effort to increase the success of mediation from the implementation of mediation, which in the end can reduce divorce cases.

Keywords: Effectiveness, Mediation, Divorce.

1. Introduction

Based on data from the Religious Courts of the Supreme Court, in the period 2015-2019 there has been an increase in divorce cases that have been decided by Religious Courts throughout Indonesia. In 2015 there were 418,047 cases, in 2016 there were 444,350 cases, in 2017 there were 446,397 and in 2018 there was a decrease of 419,268 cases. However, in 2019 there was an increase again, namely the number of divorce applications that came in as many as 604,997 cases, 79% (480,618 cases) of the requests have been granted by the court. Divorce cases filed from the wife's side (Cerai Gugat) totaled 355,842 cases. Meanwhile, divorce cases filed from the husband's side (Cerai Talak) reached 124,776 cases. The highest divorce cases in all of Indonesia were in Surabaya, which reached 136,261 cases. The next city is Bandung with 133,981 cases, and the third is Semarang with 112,399 cases[1].

Court annexed mediation has come into force in Indonesia since the issuance of the Supreme Court Regulation (PERMA) No. 2 of 2003 concerning Mediation Procedures in Courts[2].

In 2008, PERMA No. 2 of 2003 replaced with PERMA No. 1 of 2008. In this part of considering PERMA, it states "that after an evaluation of the implementation of the mediation procedure in the Court is based on PERMA No. 2 of 2003, it turns out that several problems were found which originated from the PERMA. 2 of 2003 needs to be revised with a view to making more efficient use of the mediation related to court

[1] Data Statistik Perceraian. https://badilag.mahkamahagung.go.id. Diakses Tanggal 17 Mei 2020.
[2] PERMA No. 1 tahun 2003 tentang Prosedur Mediasi di Pengadilan.

proceedings[3]. After six years of the entry into force of PERMA No. 1 of 2008, finally the Supreme Court of the Republic of Indonesia issued PERMA No. 1 of 2016.[4]

Difference between PERMA No. 1 of 2008 with PERMA No. 1 of 2016 consists of 12 points.[5] Two main points in the mediation process are PERMA No. 1 of 2008 states that the mediator who comes from the court is only a judge who has a mediator certificate and the mediation process lasts a maximum of 40 working days from selecting the mediator, and the mediation period can be extended by no more than 14 working days from the end of the 40 day period. While in PERMA No. 1 of 2016 states that mediators who come from within the court other than judges are also court employees who have mediator certificates and the mediation process lasts a maximum of 30 working days from choosing a mediator based on the agreement of the parties, the mediation period can be extended by a maximum of 30 working days and can still be extended back at the request of the parties.

Procedures are normative provisions regarding stages and procedures or steps for implementing or organizing something. Perma No.1 of 2016 regulates the stages and procedures for using mediation in three contexts. The first context, mandatory mediation at the beginning of the trial as a strengthening of peace efforts based on Articles 30 HIR and 154 Rbg. The second context is voluntary mediation, which is after compulsory mediation and the case has entered the stage of examination by the judge. The third context is the Judge's strengthening of the peace agreement through mediation outside the court. However, most of the provisions in Perma No.1 / 2016 are more related to the use of mediation in the first context, namely compulsory mediation. The mediation procedure can be differentiated into the terms of the pre-mediation stage and the stage of the mediation process and the final stage of mediation.

a. Pre Mediation Stage

The pre-mediation stage includes the following steps. First, the Case Examining Judge in a hearing attended by the parties obliges the parties to take mediation as ordered by the provisions of Article 17 paragraph (1). In the event that there are more than one Plaintiff or Defendant, mediation will still be carried out even though not all of the Plaintiffs or Defendants are present after all parties have been legally and properly summoned. Mediation was still carried out even though the Co-Defendants were not present. Second, the Case Examining Judge is obliged to explain the Mediation Procedure to the parties as instructed in Article 17 paragraph (6). The material that must be explained by the Case Examining Judge to the Parties is as referred to in Article 17 paragraph (7) which includes: (a) the meaning and benefits of mediation, (b) the obligation of the Parties to directly attend mediation meetings and its consequences. the law of mediating in good faith, (c) costs that may arise as a result of the assignment of a non-Judge and non-Court employee mediator, (d) the choice of following up the Settlement Agreement with the Peace Deed, (e) the obligation of the parties or attorneys to sign an explanation form. The Case Examining Judge is obliged to

[3] PERMA No. 1 tahun 2008 tentang Prosedur Mediasi di Pengadilan.
[4] PERMA No. 1 tahun 2016 tentang Prosedur Mediasi di Pengadilan.
[5] Purba, Mariah. 2018. Rekostruksi Perma No. 1 tahun 2016 sebagai Alternatif Penyelesaian Sengketa di Pengadilan. Jurnal Hukum. Samudra Keadilan. Volume. 13 No. 1. Diakses tanggal 17 Mei 2020.

submit a mediation explanation form to the Parties which states that the Parties: (a) have obtained a complete explanation of the Mediation procedure from the Case Examining Judge, (b) understand well the Mediation procedure, (c) are willing to take Mediation with faith good. Third, the Parties sign the Mediation explanation form. An explanation of the Mediation procedure by the Case Examining Judge and the signing of the Mediation explanation form must be published in the Minutes of the Session. Fourth, the parties On the day of the trial they receive an explanation of the Mediation procedure or the next two days are obliged to negotiate to select one or more Mediators who are listed in the Mediator List at the Court including the costs that may arise if they choose a Mediator not a judge and not a Court Employee. Fifth, if the Parties fail to agree to choose a mediator, the chairman of the panel shall appoint a judge and give priority to a judge who is certified as a mediator. Sixth, the chairman of the assembly issues a stipulation which contains an order for the parties to take mediation and the name of the mediator chosen by the parties or assigned by the chairman of the assembly. Seventh. The case examining judge is obliged to postpone the trial to give the parties an opportunity to take compulsory mediation. Eighth, after receiving the appointment as Mediator, the Mediator determines the day and date of the mediation meeting. Ninth, the Mediator, on the power of the case examining Judge through the Registrar, shall summon the Parties with the assistance of a bailiff. The power of attorney is for the sake of law which means without the need to be in the form of a power of attorney. The bailiff or substitute bailiff is obliged to carry out the summoning of the parties ordered by the Mediator of Judges or not the Mediator of Judges.

Perma No.1 of 2016 also requires legal counsel to assist the parties in conducting mediation in the form of: (a) conveying the explanation of the Case Examining Judge regarding the Mediation procedure, (b) encouraging the principal to play a direct role effectively in the mediation process, (c) assisting the parties the parties identify their needs, interests and proposed dispute resolution during the Mediation process, (d) assist the Parties to formulate a Peace Agreement plan and proposal in the event that the Parties reach a peace agreement, (e) explain to the Parties regarding the obligations of a legal attorney. In the event that the Parties are unable to attend based on valid reasons as referred to in Article 6 paragraph (4) of Perma No.1 of 2016, the attorney may represent the Parties to mediate by showing a special power of attorney containing the authority to make decisions.

b. Mediation Process Stage

The mediation process stage includes the following steps. First, within five days of the determination of the mediation order by the case examining Judge to the Parties, the Parties may submit case resumes to each other and to the mediator. Preparation of case resumes by the parties reciprocally and to the mediator is not mandatory, but is suggestive or voluntary in accordance with the formulation of the provisions of Article 24 paragraph (1) of Perma Number 1 of 2016 which reads: "... Parties may submit case resumes to other parties and to the mediator. " The term "other party" means parties to each other in the same case. The word "can" in Article 24 paragraph (1) implies a recommendation or

choice of the parties. The ratio of the need to prepare and submit a case resume is to facilitate and assist the parties and the mediator in understanding the position and interests of each party, as well as the subject matter of the dispute. or cases, so that the parties and the mediator can save time in looking for various possibilities in solving the problem.

Second, the mediator organizes medias sessions or meetings. Perma No. l of 2016 allows mediation meetings to be held via long-distance audio-visual communication media that allows all parties to see and hear each other directly and participate in mediation meetings. The Parties are required to directly attend the Mediation meeting with or without the assistance of their legal counsel. The presence of the parties through long distance audio-visual communication is considered as direct presence. The direct absence of the Parties in the mediation process can only be accepted or justified due to the valid reasons mentioned in the 2016 Mediation Regulation, namely: (a) Due to medical conditions that make it impossible to attend the mediation meeting based on a doctor's certificate; (b) Under interdiction; (c) Residing or domiciled abroad or (d) Currently carrying out state duties, professional demands or jobs that cannot be left behind.

Based on Perma No.1 of 2016, the mediation process takes place no later than thirty working days from the issuance of the order to mediate the mediator. Based on the agreement of the parties, it may be extended not later than thirty working days from the end of the first thirty days. The number of mediation meeting sessions within the period of the first thirty days and the thirty days extension is fully left to the parties based on their agreement with the assistance or direction of the Mediator.

However, Perma No.1 / 2016 does not specify in detail how the mediator will hold mediation sessions. during the mediation process. How the mediator leads and stimulates the Parties through mediation does not need to be written into the Perma because it involves the skills and knowledge of the mediator. Skills and knowledge can be acquired through training. When skills are poured into the norm, skills become so legalistic and rigid that they lose their strength and flexibility. This situation will certainly make it difficult for the mediator to take creative steps or efforts to encourage or direct the Parties in the mediation process. However, Perma No.1 of 2016 regulates or mentions several approaches or skills techniques that can be used by Mediators to lead the Parties to successfully reach a Mediation Agreement. First, Perma No. 1 of 2016 regulates that if necessary the mediator shall hold a caucus with one of the parties. The caucus is a meeting between the mediator and one of the parties only. The caucus is one of the important features of the mediation process that distinguishes mediation from litigation. In litigation, judges may not hold hearings with only one party. Trials in litigation must be attended by the parties, except in situations that are permitted under the procedural law , for example, after the defendant has been legally and properly summoned, it turns out that the defendant did not come, then the trial can still be held. However, judges are not allowed to deliberately plan a trial with only one of the parties. On the other hand, in mediation, the mediator can arrange

separate meetings with only one of the parties. In the theory of mediation, there are several reasons that can be used by the mediator to hold separate meetings with one of the parties (caucus), among other things, to discover the hidden interests of one or the parties. Hidden interests can be more easily expressed in caucus meetings than in full meetings of the parties because one party tends to be reluctant to disclose its secret interests openly in negotiations attended by the other party for fear that the situation could be interpreted as a sign of weakness by the other party. Therefore, the Party or Parties feel more free and appropriate to convey their secret interests to the mediator as a neutral party. The caucus can also be used by the mediator to explore or seek information or hidden interests of the parties in situations of stagnation or stagnation that can threaten the failure of the mediation process. The mediator can use the caucus as a forum to educate the parties or one of the parties who applies a destructive negotiating style and then converts it into a constructive negotiating style with the aim of producing a peace agreement.

Third, Perma Number I of 2016 also regulates that the mediation process can discuss issues that are not mentioned in the lawsuit posits or petitums as long as the discussion of these issues can help the parties reach a peace agreement. Expanding the discussion of issues beyond the posita and the lawsuit petitum is very necessary in order to obtain the information behind the emergence of a dispute or case in court. For example, someone sues a neighbor because of the leaves and branches of a neighbor's tree that have crossed the land boundary and entered the plaintiff's land boundary. The plaintiff objected to this, so he filed a lawsuit against the law. The problem for some people may be a trivial matter why because of the leaves or branches of their trees to go to court in court but that is a fact that has happened in court. After mediation it turns out that in the past the family of a man from the plaintiff's family had had an affair with the wrong a daughter of the defendant's family but the affair ran aground because the defendant's family did not approve of the relationship, causing hurt and offense to the plaintiff's family. The lawsuit against the law because of a tree branch that crossed into the plaintiff's land was only a channel for the plaintiff's disappointment. In the mediation process, offended feelings that are not revealed in the lawsuit can be revealed in the mediation process and discussed for a resolution that satisfies the parties to find. Perma Mediation regulates that the mediation process which discusses matters that are not mentioned in the posita and petitum of the lawsuit, if the parties succeed in reaching a Peace Agreement, then the Punggugat must amend their lawsuit by including the matter part of the petitum. Fourth, based on the agreement of the parties, the mediation process can involve experts, community leaders or traditional leaders if this involvement can clarify the issues being negotiated and can help the parties resolve the negotiated problems.

c. Mediation Produces

The end of the mediation process results in two possibilities, namely that the parties reach a peace agreement or fail to reach a peace agreement. If the parties are successful in reaching a peace agreement, the Mediator is obliged to report the success by simultaneously attaching the Peace Agreement. As

discussed in Sections 3.8 and 3.9 of this Chapter, Peace Agreements can be comprehensive as well as partial. Perma Number 1 of 2016 regulates things that need to be done by the Parties, namely (l) formulating a Peace Agreement in writing and signing it; (2) express written approval of the Peace Agreement if in the Mediation process the parties are represented by a legal attorney and (3) can submit a Peace Agreement to the Case Examining Judge which is confirmed in the Peace Deed. In this case the Parties do not want the Peace Agreement to be strengthened by a Peace Deed, the Plaintiff is obliged to withdraw his claim. This provision of case revocation is important for the court administration to provide certainty about the status of the case, that the case has been completed without going through a court decision.

The Mediator is also required to sign a Peace Agreement so that the Mediator is also responsible for ensuring that the material of the Peace Agreement does not conflict with law, public order and / or morality, does not harm third parties and is not an unworkable Peace Agreement. However, it must be understood that the participation of the mediator in signing the agreement document does not mean that the mediator is legally responsible for the contents of the agreement. The absence of the Mediator's responsibility for the contents of the Peace Agreement is also confirmed in the provisions of Article 35 paragraph (6) of Perma Number I of 2016 which states: "The mediator cannot be subject to criminal or civil liability for the contents of the peace agreement resulting from the mediation process. The peace agreement is a manifestation of the will and interests of the parties and not the will and interests of the Mediator because the Mediator's function is only to assist or facilitate the process of finding a dispute resolution and the Mediator is not a decision maker.

After receiving the Peace Agreement document signed by the Parties and the Mediator. The Case Examining Judge shall immediately examine and study the Agreement within a maximum period of two days. The panel of judges examining cases is also responsible for ensuring that the material of the Peace Agreement is not against the law, public order and morality, does not harm third parties and can be implemented. If these three things are not fulfilled, the Examining Judge is obliged to return the text of the Peace Agreement to the Mediator and the Parties for correction. Revision of the Conciliation Agreement shall be completed by the Parties with the assistance of a Mediator within a maximum period of seven days. At the latest three days after receiving the text of the Peace Agreement, the Case Examining Judge is obliged to issue a decision on the day of the hearing to read the Peace Deed.

d. Mediation Process are Not Successful and the Can be Implemented

Perma No.1 of 2016 distinguishes between unsuccessful or unsuccessful Mediation and unworkable Mediation. Unsuccessful mediation can occur due to two possibilities or situations. First, the mediation is declared unsuccessful if after the maximum time limit specified in the Perma, which is thirty days or the extension period of another thirty days has been fulfilled, the Parties have undergone Mediation but did not produce an agreement. Second, mediation is declared unsuccessful because one or the Parties have had bad faith, the criteria for mediation with bad faith have been formulated in Article 7 paragraph (2),

namely (1) the party or its legal attorney is not present after being summoned properly twice in succession. participate in the mediation meeting, (2) attend the first mediation meeting but never again attend the next meeting even though they have been properly summoned twice in succession of the mediation meeting without any valid reason, (3) repeated absences that disturb the schedule of the mediation meeting without valid reasons, (4) attending the mediation meeting but not filing and or not responding to the Resume of the Case of the other party. If the mediation process is unsuccessful because of one or both of these situations. The mediator is obliged to state in writing that the mediation has been unsuccessful and notify the Examining Judge as mentioned in Article 32 paragraph (1) a and b of Perma Number 1 of 2016. Furthermore, the judge examines the case in accordance with the provisions of the applicable procedural law.

Based on Article 32 paragraph (2) of Perma Number 1 of 2016, the Mediator also has the authority to declare that Mediation cannot be carried out for the following reasons:a) Involves assets, assets or interests that are clearly related to another party which: (l) is not: included in the lawsuit so that the other interested party does not become a party to the mediation process. (2) included as a party in the lawsuit in the case of the litigants more than one legal subject tet fire did not appear in court seh ingga not be a party in the process of medias i , (3) included sebagal parties in the lawsuit in the case of the litigants more than one legal subjects and were present at the trial but not present in the mediation process . b) Involves the authority of ministries / institutions / agencies at the central / regional level and / or State / Regional Owned Enterprises that are not parties to the litigation unless the litigant party concerned has, e, obtained written approval from the ministry / institution / agency and / or business entity State / Region owned to make decisions in the mediation process. c) The parties are declared not in good faith as referred to in Article 7 paragraph (2) letter a, letter b and letter c.The reasons in letters (a) and (b) are based on reason or ratio of the law of the agreement and negotiation. First, the parties may only or have the authority to discuss matters related to their own assets or interests and may not discuss the interests of other parties who do not participate in the process or place obligations on other parties who do not participate in the process. This reasoning is also in line with the principle in contract law that the agreement only binds the parties who make it. Therefore, the peace generated in the mediation process is essentially a peace agreement. Second, the party that enters the negotiation process must be a Party that has the authority or mandate or is capable of making decisions. If they do not have the authority or mandate, the mediation process will be ineffective and useless, which can harm the partners in the mediation process. The mediator as the mediator has the ethical and professional authority and responsibility to stop the mediation process that meets the criteria of letters (a) and (b). Thus also reason c, the mediator has the responsibility of professional ethics to stop the mediation process which is carried out in bad faith because mediation in bad faith is a process that wastes

time and energy of good faith parties so that in the end it is a condition that hinders the achievement of justice.[6]

2. Approach Method

This study uses a qualitative method to explain as a whole about the problem the analysis used is based on literature studies from studies related to. Data collection methods are techniques used in collecting research data to determine the success or failure of a study. The data collection techniques in this study are as follows:

a. observation is a step taken by the researcher by observing directly the symptoms in the field, making an observation and the most important thing from this observation stage is taking notes that are considered important so that it makes it easier for researchers to choose the information to be used. in the study.
b. Interviews or what can be called interviews are the next step in finding information that researchers do in the field, where this step is very important for a researcher, because at this stage the researcher will ask the selected sources.

In qualitative research the main objective of data analysis techniques is to alleviate data and facts that have been found in the field in a form that is easier to understand or the data is summarized and concluded that is easier to interpret, so that the problem relationship is going on in between the research that is being done can be learned easily.

a. Data reduction
   After possessing the data that we collect from the field and getting relevant results, the next task is to understand and summarize more thoroughly which data is very necessary to be processed to the next stage and used as data to be used as material for the next stage.
b. Presentation of data
   After getting the data in the field, you can find out the problems or symptoms in the field, to be used as material for assessment through deliberation so that they are easy to understand, and given in conclusions.
c. And in the last stage, it can be concluded that problems in the field will be presented in the form of tables and graphs, if the data is deemed sufficient, supported by satisfactory evidence and findings in the field, then a credible conclusion will be obtained.

3. Result and Discussion

3.1 Obstacles

Constraints in the mediation process were a factor in the failure of the mediation process at the religious court. Below are some examples of obstacles to the mediation process in several religious courts:

No.	Regional Religious Courts	Result

[6] PERMA No. 1 Tahun 2016 dalam Ramdani, Takdir, 2017, Penyelesaian Sengketa Melalui Mufkat,Depok: Rajawali Pers, hlm. 205-218

No.	Regional Religious Courts	Result
1	PA Kotabumi, North Lampung Regency in 2017[7]	1. The low success rate of mediation at the Kotabumi Religious Court. There were 546 divorce cases with successful mediation in 7 cases (1.28%). 2. Constraints / Unsuccessful mediation : a) T ingkat compliance of community is present in the mediation process b) M inimnya (judges) mediators who have a certificate of mediation (mediators certified only one person and the many duties of judges so that mediation less than the maximum .
	PA. Cibinong[8]	1. The success rate is 9.9% (Note: no mention of case figures) 2. Mediation constraints / unsuccessfulness : a) Case factor, most divorce cases submitted to the Cibinong Religious Court are already divorced. b) Absence of the parties in the trial, so the majority of cases examined and decided upon in *verstek* (decision d ihadiri by one of the parties). c) The mediator's lack of capacity in conducting mediation and the number is limited .
3	PA. Sleman in 2017[9]	1. Mediation is still not effective, as evidenced by the number of cases of 351 cases, successful mediation of 28 cases (7.9%). 2. The obstacles faced include: a) The ability of the mediator b) The minimum number of mediators c) The parties do not want to reconcile
4.	PA. Kediri City in 2018[10]	1. Mediation is not effective, of 723 divorce cases only 148 cases (20.5%) were mediated and only 4 cases (2 , 7 %) were successfully mediated.

[7] Huda, Amirul. 2017. *Analisis Pelaksanaan Mediasi Dalam Menyelesaikan Konflik Kasus Perceraian Di Pengadilan Agama Kotabumi Kabupaten Lampung Utara (Studi Terhadap Penerapan Peraturan Mahkamah Agung No.01 Tahun 2016)*. Program Pascasarjana UIN Raden Intan Bandar Lampung. Diakses tanggal 17 Mei 2020

[8] Fauzi Anwar. 2018. *Penyelesaian Perkara Perceraian Melalui Mediasi di Pengadilan Agama Cibinong*. Bandung: Skripsi UIN SGD Bandung. Diakses tanggal 17 Mei 2020

[9] Herlambang, Alfabi. 2017. *Implementasi dan Efektivitas Mediasi Perceraian oleh Hakim Mediator di Pengadilan Agama Sleman tahun 2017 Perspektif PERMA no. 1 tahun 2016* Yogyakarta: Skripsi Universitas Islam Indonesia. Diakses tanggal 15 Mei 2020.

[10] Ismiyati, Siti Nur. 2018. *Implementasi PERMA no. 1 Tahun 2016 tentang Mediasi dalam Perkara Perceraian di Pengadilan Agama Kota Kediri Tahun 2018*. Kediri: IAIN Kediri. Diakses tanggal 16 Mei 2020

No.	Regional Religious Courts	Result
		2. Constraints / Unsuccessful mediation : a) Lack of a mediator so that the parties cannot choose a mediator b) The parties do not want to have good intentions to mediate, while the parties who want good faith want to mediate only as a formality so that they do not take it seriously .

Efforts to overcome the high divorce rate are by means of mediation. However, the changes to PERMA No.1 of 2016 are felt to be insufficient in handling cases of marital disputes through mediation. The results of the mediation are still said to be ineffective.

Based on the findings of several studies above, it can be said that the rate of failure of mediation in several religious courts in Indonesia is still high. The causes of failure to resolve marital disputes through mediation at the Religious Courts include several aspects including aspects of the case, mediators, parties, advocates and places of mediation[11]:

a. Case Aspects ; Based on the characteristics of the cases underlying it, the success of mediation cannot be underscored. Every case that is motivated by domestic violence always fails. There was a level of problem that was already complicated at the time of the mediation at the religious court.
b. Mediator Aspects ; The success of mediation is seen from the aspect of the mediator. It can be seen from the persistence of the mediator to realize the success of mediation and the ability and mastery of the mediator.
c. Aspects of the Parties; The age of marriage, the level of complexity of the case faced by the parties, has good faith or not to end the dispute through mediation and has the awareness to make peace.
d. Advocate Aspects ; There are advocates who support the divorce process because they defend a party who wants a divorce.
e. Place of Mediation; The mediation space is adequate but there is still much that needs to be addressed and improved , this can contribute to the success of the mediation process .

Another opinion states that the obstacles that cause the unsuccessfulness of mediation include:

a. There is still a very low number of mediator judges who have attended national level mediation training (certified mediator). So that it has an impact on the low quality of mediation and the low level of success of the mediation;
b. An increasing number of cases are being submitted to court, while on the other hand the number of judges is very limited, so that the mediating judges cannot maximize the mediation process being carried out;

[11] Sururie, Ramdani Wahyu. 2012. *Implementasi Mediasi dalam Sistem Peradilan Agama*. https://ramdaniwahyusururie.files.wordpress.com. Diakses tanggal 17 Mei 2020

c. The psychological condition of the parties litigating at the trial is in an emotional peak and has a strong will and determination to divorce;
d. The increasing number of cases that are submitted to the Religious Courts, either at the court of first instance or the court of appeal. So that the mediation efforts made by the mediating judge are not maximal;
e. The parties only intend to divorce and do not understand the importance of mediation;
f. The parties are not active in the mediation process;
g. Lack of openness of the parties in divorce cases to disclose the problem;
h. The big ego of each party, so that the parties are only concerned with their interests and emotions[12]

From the various aspects above, it can be specifically concluded in three aspects which are interrelated. The three aspects are substantive, procedural and psychological aspects.[13] The substantive aspect of successful mediation concerns the special satisfaction the parties receive in resolving the dispute. In divorce cases, this particular satisfaction is met with one party relenting and admitting his mistake and trying to promise to improve. Satisfaction in divorce disputes can also be fulfilled by bargaining between husbands and wives to give each other, instead of demanding each other, because the sacrifices in establishing a conjugal relationship must take precedence. The second aspect is the procedural aspect, namely the feeling of satisfaction experienced by the parties following the mediation process from beginning to end. The satisfaction of the procedure experienced by the mediator lies in the cooperation of the parties to regulate the rhythm of the mediation procedure from beginning to end. The third aspect is the psychological aspect concerning the emotional satisfaction of the parties who are controlled, look after each other's feelings, respect, and are full of openness.[14]

The efforts of the religious courts to increase the success of the mediation carried out are as follows:

a. Providing incentives for judges who are successful in carrying out the function of mediator.
b. Mediation *pilot project* at the Religious Courts. The Supreme Court will choose the court - a court worthy pilot for mediation.
c. Certified mediator training.
d. Comparative study to developed countries.
e. Cooperation with BP4[15]

In connection with the collaboration effort with BP4, it was found that the results of research conducted by Desi Triana showed that the implementation of mediation in collaboration with BP4 in Banyumas Regency in 2016 was 30 cases, in

[12] Ibrahim, Malik. 2015. Efektivitas Peran Mediasi Dalam Menanggulangi Perceraian di Lingkungan Peradilan Agamahttps://ejournal.iainbengkulu.ac.id. Diakses tanggal 21 Mei 2020.
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[14] Ibid
[15] Sururie, Ramdani Wahyu. 2012. *Implementasi Mediasi dalam Sistem Peradilan Agama.*

2017 there were 40 cases and in 2018 there were 36 cases, from those three years. all of which were not successfully mediated.[16]

4. Conclusion

Based on the results of the assessment, mediation is an important thing to do before a divorce decision is made by the court. Mediation is one of the real actions in an effort to reduce the divorce rate. However, the implementation may still be far from the expected results. From several studies, it was found that the success ratio of mediation was below 10% and there were still many successes with a ratio of 1% so it could be said that the mediation process had not been significantly effective in reducing the divorce rate .

Regarding mediation at the Religious Courts, researchers suggest that more certified mediators should be added to increase the mediation ratio of cases submitted to religious courts. Regarding mediation in collaboration with BP4, the researchers suggest that there are parties who are experts or mediators in handling mediation who have skills or abilities in mediation so that they can seek a more effective peace. For the government, provide sufficient facilities and infrastructure as well as budget funds so that BP4 can carry out its duties as an advisory agency in seeking peace for parties who want to divorce and prevent divorce itself.

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