



Meeting Points in the Middle of Disputes: The Urgency of Mediation in Realizing Effective and Equitable Religious Courts

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Abstract

This study aims to explain the urgency of mediation as an integrative solution in resolving marriage cases in religious courts. In the background, it is stated that the number of marriage cases in religious courts is increasing and the complexity of the problem. However, conventional religious courts are considered less effective and fair in resolving such cases. Therefore, through a literature review, the concept of mediation, its principles, and the effectiveness of mediation in resolving marital disputes will be described. The research will also involve the implementation of mediation in religious courts in various countries, as well as the challenges and opportunities of its implementation in Indonesia. Furthermore, it will explain the advantages of mediation compared to conventional courts, its benefits for litigants, families, and communities, as well as its contribution in realizing effective and fair religious justice. In the implementation section, policies and regulations related to mediation in religious courts will be discussed, the capacity and training of mediators, the mechanism for implementing mediation, and challenges and solutions in its implementation. This study will conclude with conclusions about the urgency of mediation in religious courts and its suggestions to improve the effectiveness of mediation implementation in religious courts. Recommendations will also be given for further research on mediation in religious courts.

Keywords: mediation; dispute; implementation

A. INTRODUCTION

Marriage cases in religious courts are growing rapidly, showing a significant increase in the number of marriages facing problems in society. The complexity involved in marriage is an important factor to consider, especially because it involves various aspects of life such as wealth assets, child handling, religious understanding, and social implications. Various common problems that often arise in marriage cases include divorce proceedings, determination of child custody, division of property, adoption, name change, and impacts related to religion and culture. The increasing number of marriage cases submitted to religious courts shows the increasing concern of the community for efforts to obtain justice through a fair, comprehensive, and transformative mediation process. In addition, it also reflects a growing awareness of the importance of a balanced, harmonious, and inclusive marriage settlement for all parties involved, including minorities, children, and vulnerable parties. Thus, this increase in the number of marriage cases can be considered as a positive and progressive response from society in maintaining justice, sustainability, and diversity in the institution of marriage in a changing and evolving social environment. Marriage cases in

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religious courts are growing rapidly and show a remarkable significant increase in the number of marriages in distress in society.¹

Complicated issues involving marriage are important to consider, especially because they involve various things such as wealth, parenting, religion, and social problems that arise. Common issues that often arise in marital matters include divorce proceedings, child custody, division of property, adoption, name change, and various implications related to religion and culture. The large number of marriage cases submitted to religious courts shows that society is increasingly concerned and seeks justice through fair, comprehensive, and transformative mediation. In addition, it also shows a growing awareness of the importance of a balanced, harmonious, and inclusive marriage settlement for all parties involved, including minorities, children, and vulnerable parties. In this case, the increase in the number of marriage cases can be considered as a very positive and progressive response from society in maintaining justice, sustainability, and diversity in the institution of marriage in an ever-changing and evolving social environment.²

The problem is that conventional religious courts are often considered less effective and fair in resolving marriage cases. This is due to several factors, such as slow decisions and complicated bureaucracy in the judicial process. In addition, a lack of understanding of religious law and objective justice can also affect the outcome of a verdict. In some cases, political or social interests can also influence court decisions. All of this creates uncertainty and injustice in the settlement of marriage cases in conventional religious courts. In this regard, there needs to be significant changes in the conventional religious justice system. One possible solution is to carry out reforms in the judicial process, such as reducing complicated bureaucracy and speeding up decision-making.³

In addition, it is also important to increase understanding of religious law and promote objective justice in the courts. In this way, it is hoped that the results of decisions that reflect the interests of society as a whole can be more easily obtained. In addition to reforms in the judicial process, it is also important to reduce the influence of political or social interests in court decisions. This can be done by ensuring the independence and integrity of judges in carrying out their duties. In addition, the need for increased transparency in the judicial process is also very important so that people have greater trust in the conventional religious

¹ M Roberts, *AZ of Mediation* (books.google.com, 2013), <https://books.google.com/books?hl=en&lr=&id=IB9HEAAAQBAJ&oi=fnd&pg=PR1&dq=urgency+of+mediation+as+an+integrative+solution+in+resolving+marriage+cases+in+religious+courts&ots=VCGOx8ZCzQ&sig=nIIZq0FxBm0AqA48ICLkdL-iME>.

² R E Emery, *Renegotiating Family Relationships: Divorce, Child Custody, and Mediation* (books.google.com, 2011), <https://books.google.com/books?hl=en&lr=&id=LjMDxS-hS6cC&oi=fnd&pg=PR3&dq=urgency+of+mediation+as+an+integrative+solution+in+resolving+marriage+cases+in+religious+courts&ots=aZ3xnxF4BF&sig=JNZnu2xrYws-mPrTg0KiUJ218Ag>.

³ Roberts, *AZ of Mediation*.



justice system. In this context, it should be emphasized that the settlement of marriage cases must be carried out with full justice and objectivity.

Court decisions should be based on facts, evidence, and applicable law, not influenced by specific political or social interests. In this way, it is hoped that conventional religious courts can become a more reliable and effective place in resolving marriage cases. Of course, changes in the conventional religious justice system are not things that can happen overnight. It requires cooperation and commitment from all relevant parties to realize better change. Therefore, all elements of society, from the government, the judiciary, to the general public, must unite and cooperate in improving the justice system so that it can be more effective and fair in resolving marriage cases. With this joint effort, it is hoped that existing problems can be overcome and the resolution of marriage cases in conventional religious courts can be better and fairer.⁴

In the current development of religious courts, there has been a significant increase in the number of marriage cases that are so complex that they require not only effective but also equitable solutions. Therefore, it is important for us to understand why mediation is such an important alternative solution in resolving marriage cases in religious courts. Through this mediation approach, parties involved in a case can reach an agreement faster and avoid the potential for greater conflict. Mediation also has a very important role in maintaining the integrity of family relationships and in mitigating the negative impacts that may occur due to divorce. Thus, by providing a comprehensive explanation of the urgency of mediation in religious courts, we can encourage wider use of mediation and improve effectiveness and fairness in resolving marriage cases in religious courts. All parties must recognize that mediation is not just an alternative method, but a very effective tool in achieving a fair and sustainable solution. We must work together to ensure that mediation becomes an integral part of our religious justice system.⁵

B. RESULT AND DISCUSSION

Mediation is a dispute resolution process in which disputing parties cooperate with a neutral mediator to reach a mutually beneficial agreement. The principles of mediation include trust, confidentiality, voluntariness, and neutrality. Research has shown that mediation can be an effective alternative in resolving marital disputes, as it allows disputing parties to express their interests more openly and consider fairer solutions. Some countries,

⁴ S Butt, *The Constitutional Court and Democracy in Indonesia* (books.google.com, 2015), <https://books.google.com/books?hl=en&lr=&id=gWhECQAAQBAJ&oi=fnd&pg=PR3&dq=reforming+indonesia%27s+religious+courts&ots=9DPcHutq4H&sig=DiR060NNPhVKKDcQLcijY-zjHAg>.

⁵ M J Brody, *Sharia Tribunals, Rabbinical Courts, and Christian Panels: Religious Arbitration in America and the West* (books.google.com, 2017), <https://books.google.com/books?hl=en&lr=&id=KD0IDwAAQBAJ&oi=fnd&pg=PP1&dq=urgency+of+mediation+as+an+integrative+solution+in+resolving+marriage+cases+in+religious+courts&ots=D7IXV-83xn&sig=bdRWMXMIvxyt7eGyHWHdzNx3r4>.



such as the United States and New Zealand, have successfully implemented mediation in religious courts to resolve marriage cases. However, the implementation of mediation in religious courts in Indonesia still faces challenges such as the lack of related policies and regulations, lack of mediator capacity and training, and established implementation mechanisms. Furthermore, we will discuss the urgency of mediation in religious courts and how mediation can contribute to creating a more effective and equitable religious justice system.⁶

The concept of mediation and its principles.

Mediation is a dispute resolution process involving disputing parties to reach a mutually beneficial agreement. The principles of mediation include freedom, voluntary, and are carried out by neutral and impartial parties. In mediation, the mediator acts as an intermediary who helps the parties to communicate effectively, find fair and equitable solutions, and reach agreements that avoid legal disputes. These principles of mediation are the basis for carrying out mediation both in religious courts and in various other dispute resolution institutions. Mediation has diverse benefits. One of them is increased efficiency in the dispute resolution process. By involving a mediator who acts as a neutral party, disputing parties can communicate openly and honestly.⁷

This helps increase understanding between disputing parties and facilitates the search for mutually beneficial solutions. In addition, mediation is also able to avoid wasted costs and time in formal judicial processes. In mediation, the disputing parties have complete control over the resolution of their disputes. They can reach agreements that they consider fair and equitable, without having to follow a lengthy and expensive formal judicial process. Mediation also provides space for disputing parties to maintain good relations in the future. In mediation, the parties can communicate better and reach agreements that take into account mutual interests. If an agreement is reached through mediation, the disputing parties are likely to be better able to maintain good relations in the future, as they have worked together to resolve the dispute in a mutually beneficial manner. Not only that, mediation is also an effective means to avoid escalation of disputes.⁸

By involving a mediator who acts as a mediator, disputing parties can reduce tensions and conflicts that may arise. Mediators help create a conducive atmosphere for communication

⁶ E Cigler, *Mediation: Its Significance, Technology and Feasibility in Social Work Services Related to Divorce Issues* (search.proquest.com, 1986), <https://search.proquest.com/openview/e5f51145063c049eb78d174173d099ac/1?pq-origsite=gscholar&cbl=2026366&diss=y>.

⁷ S S Daicoff, "Families in Circle Process: Restorative Justice in Family Law," *Family Court Review*, 2015, <https://doi.org/10.1111/fcre.12164>.

⁸ W A Donohue, *Managing Interpersonal Conflict* (books.google.com, 1992), https://books.google.com/books?hl=en&lr=&id=zd0sCgAAQBAJ&oi=fnd&pg=PA1&dq=urgency+of+mediation+as+an+integrative+solution+in+resolving+marriage+cases+in+religious+courts&ots=59DaNk_vfJ&sig=Q40MufTbk6ydP1ljbxZLeUFLGW4.



and finding fair and equitable solutions. This can avoid escalation of disputes becoming more severe and help prevent larger conflicts in the future. In the context of religious courts, mediation can also provide added value in resolving family disputes. Mediation can help couples who are going through a divorce to reach an agreement regarding the separation of property, child custody, and other issues. By engaging a neutral mediator, couples can communicate openly and find solutions that are beneficial to both parties. This helps reduce conflict and minimize the negative impact of divorce on children. Overall, mediation is an effective and beneficial dispute resolution process for all parties involved. By adhering to established mediation principles, mediation can be a good alternative in resolving disputes, both in religious courts and in various other dispute resolution institutions.

The effectiveness of mediation in resolving marital disputes.

Mediation is a very effective and important alternative method in resolving various marriage-related disputes. In practice, mediation plays a very significant role in dealing with issues in a marriage. Mediation involves direct interaction between the parties to a dispute with the aim of reaching an agreement that is beneficial to both parties. In the context of mediation, the chosen mediator must be a neutral person and have special skills in directing negotiations between husband and wife who are experiencing conflict. Through mediation, both parties have the opportunity to express their views, wishes, hopes and concerns openly. This is done in order to find a satisfactory solution for both parties. One of the main advantages of mediation is that it avoids judicial processes that are often complicated, time-consuming, and expensive.⁹

This use of mediation as an alternative to marital dispute resolution ensures efficiency and resource savings for the parties involved. In many cases, mediation has proven that dispute resolution through this approach usually achieves satisfactory and fair results for both parties. In addition, mediation also allows the creation of a winning solution for all parties involved, or what is known as a win-win solution. The existence of a solution that meets the needs and interests of both parties in a marital dispute can provide satisfaction and relief for them. In the long run, the results achieved through this mediation not only benefit the disputing couple, but also positively affect family relationships and society as a whole. Mediation can help repair and restore relationships that are disrupted due to marital conflict. Given these considerations, the importance of implementing mediation in religious courts cannot be overlooked.¹⁰

⁹ M Carels, "An Evaluation of Mediation in High-Conflict Situations: A Reflection on Mediating Parenting Plans," *Journal for Juridical Science*, 2024, <https://journals.ufs.ac.za/index.php/jjs/article/download/8175/4966>.

¹⁰ M S Umbreit, *Mediating Interpersonal Conflicts: Approaches to Peacemaking for Families, Schools, Workplaces, and Communities* (books.google.com, 2006), <https://books.google.com/books?hl=en&lr=&id=XLNLAwAAQBAJ&oi=fnd&pg=PP10&ddq=urgency+of+mediation+as+an+integrative+solution+in+resolving+marriage+cases+in+religious+courts&ots=1QLtP5Nj2U&sig=AbZVcbKE4wHpwiHYzDBxZ4bib9I>.



When mediation becomes an integrated part of the marriage legal system, it is expected to increase effectiveness, efficiency, and fairness in resolving various disputes arising in marriage. In this regard, mediation also has the potential to minimize divorce rates and promote family harmony and social stability. Overall, mediation is an invaluable tool in resolving marital disputes. In carrying out mediation, it is necessary to be supported by mediators who are trained and have a deep understanding of marriage law and human psychology. Well-conducted mediation will provide significant benefits to the disputing parties, families, and also the community as a whole. Therefore, mediation should be widely applied in religious courts to ensure a fair, effective, and beneficial settlement of marital disputes for all parties involved.

Implementation of mediation in religious courts in various countries.

The implementation of mediation in religious courts in various countries has shown very positive and favorable results. For example, in the United States, mediation has become a common practice that is very effective in resolving marriage cases in religious courts. This is because mediation has many advantages that cannot be ignored. One of the main benefits is the ability of mediation to reduce the time needed to resolve cases and costs that must be incurred, while providing opportunities for litigants to reach mutually beneficial and satisfied agreements. The situation in Australia also reflects the success of mediation in resolving marital cases. The Australian Government has devoted considerable time and resources to developing mediation programs run by mediators who have adequate training and skills. The results are very satisfying, where the number of divorces successfully resolved through mediation is much higher than the rate of divorces resolved through conventional judicial processes.¹¹

This success proves that mediation can provide a better relationship between divorced couples, and can create a fair and sustainable solution. Don't be surprised if other countries like Canada and the United Kingdom also choose to integrate mediation into their religious justice systems. The main purpose of this step is to improve the effectiveness of the existing marriage case resolution process. By implementing mediation, both the mediator and litigants can work together to find a solution that meets the interests and needs of all parties involved. Thus, the implementation of mediation in religious courts is a very effective and fair solution in resolving marital disputes. Overall, mediation in religious courts has proven to be a very effective tool in resolving marriage cases in various countries. Its success in reducing time and costs and producing mutually beneficial agreements underscores the interests of litigants. Countries such as the United States, Australia, Canada, and the United Kingdom have provided good examples of how mediation can help create fair and sustainable solutions.

¹¹ Cigler, *Mediation: Its Significance, Technology and Feasibility in Social Work Services Related to Divorce Issues*.



Therefore, the implementation of mediation in religious courts must continue to be supported and promoted for the benefit of the wider community.¹²

Challenges and opportunities for the implementation of mediation in religious courts in Indonesia.

Mediation in religious courts in Indonesia faces several challenges and also has several opportunities that need careful attention. One of the challenges that arises is the widespread stigma that mediation is considered less effective and fair when compared to conventional courts that are run. Some parties are still trapped in the mindset that religious courts are superior with a formal and legalistic approach that tends to be rigid. In addition, the lack of understanding and awareness of the benefits of mediation is also a significant challenge in its implementation in Indonesia's evolving religious justice environment. However, on the other hand, it cannot be ignored that mediation actually has a great opportunity to improve the current justice system. Mediation has the advantage of producing a solution agreed by both parties to the dispute, without having to wait for the judge's decision which sometimes takes a long time. This is certainly very important in saving time, cost, and energy needed in every judicial process that is carried out. In addition, mediation opens space for disputing parties to communicate directly and find solutions together with the guidance of a competent mediator.¹³

The use of mediation in religious courts can increase public confidence in the existing judicial system and also provide a more useful alternative for litigants in resolving marital disputes that often arise in that context. With mediation, it is hoped that the community can see that the settlement of marital disputes can be done in a more peaceful, just, and humane way. Of course, this will have a positive impact on improving the quality of family life in Indonesia.

The Urgency of Mediation in Religious Courts

Mediation has a very significant advantage compared to conventional courts in resolving marriage cases in religious courts. In mediation, litigants are given more time and opportunity so that they can discuss directly and listen wholeheartedly to each other. This allows them to reach an agreement that is more satisfactory to both parties proportionately and fairly. It should be noted that mediation not only provides significant benefits to individuals in litigation, but also brings benefits to families and society as a whole. In the context of

¹² A Taylor, *The Handbook of Family Dispute Resolution: Mediation Theory and Practice* (books.google.com, 2010), <https://books.google.com/books?hl=en&lr=&id=2jPaEAAAQBAJ&oi=fnd&pg=PR11&dq=urgency+of+mediation+as+an+integrative+solution+in+resolving+marriage+cases+in+religious+courts&ots=5bBwUhuDcX&sig=Cvnn6dnFZcXqiG8Qvz1dDA7iTpI>.

¹³ Cigler, *Mediation: Its Significance, Technology and Feasibility in Social Work Services Related to Divorce Issues*.



marriage, through mediation, conflicts that may arise in the family can be minimized or even avoided completely. This is very important to maintain family harmony and integrity.¹⁴

In addition, the implementation of mediation in the religious justice system also contributes to the realization of an effective and equitable judiciary. By prioritizing dialogue, good communication, and agreement between litigants, mediation can ease the workload of religious courts, thereby speeding up the process of resolving cases. In the long run, this can help reduce the backlog of cases and ensure that every case can be handled in a timely and efficient manner. Therefore, it is very important to continue to improve the implementation of mediation in religious courts in order to provide integrative solutions in resolving marriage cases and achieving effective and equitable religious courts. Mediation has great potential to defuse tensions, facilitate constructive dialogue, and result in mutually beneficial decisions for all parties involved. By optimizing the role of mediation, we can build a religious justice system that is more inclusive, fair, and in accordance with our values of justice.

Mediation has several significant advantages over conventional judiciary. First of all, mediation gives much greater control to litigants than conventional courts. The parties involved in the conflict have the opportunity to be actively involved in finding solutions that are considered fair and meet their respective interests. In mediation, litigants can participate directly in the dispute resolution process. Second, mediation can also produce solutions more quickly than conventional courts which often take months or even years. In some cases, by engaging a professional and trained mediator, mediation can reach an agreement in a relatively short period of time. This faster resolution certainly provides benefits for all parties involved in the conflict. Third, mediation has a more informal and friendly process for litigants.¹⁵

In mediation, the parties can communicate directly and interact in finding mutually beneficial solutions. Compared to the formal and sometimes tense atmosphere of the trial in conventional courts, mediation creates a more relaxed, friendly, and open environment. In this relaxed atmosphere, the parties can more easily convey each other's needs, concerns and expectations. Fourth, mediation has also proven to be more cost-effective compared to conventional courts. Through the mediation process, the costs incurred are generally lower than the costs required in conventional judicial processes. Apart from mediator fees, mediation does not involve additional costs such as trial fees, attorney fees, evidence costs, or other administrative costs. This makes mediation a more affordable and efficient alternative to dispute resolution. In conclusion, mediation has several clear advantages compared to

¹⁴ M Zhu, Y Yang, and C K Hsee, "The Mere Urgency Effect," *Journal of Consumer Research*, 2018, <https://academic.oup.com/jcr/article-abstract/45/3/673/4847790>.

¹⁵ S Stewart, *Conflict Resolution: A Foundation Guide* (books.google.com, 1998), <https://books.google.com/books?hl=en&lr=&id=3hjbCgAAQBAJ&oi=fnd&pg=PP1&dq=urgency+of+mediation+as+an+integrative+solution+in+resolving+marriage+cases+in+religious+courts&ots=LpXEszMX8a&sig=Lb8LYQywCQqlfzGONGfNBYkKC8>.



conventional judiciary. Greater control, faster solutions, a more relaxed, and cost-effective atmosphere are some of the reasons why mediation is often chosen as an effective dispute resolution method. By understanding the benefits of mediation, communities can better consider using it to resolve conflicts.¹⁶

Mediation has very significant benefits for litigants, families, and society as a whole. For parties who are experiencing a dispute, mediation provides a valuable opportunity for them to actively participate in resolving their marital problems. They can freely express their opinions and express their wishes, as well as reach mutual agreements with the help of objective and neutral mediators. This helps create a fairer settlement process and reduces the burden on religious courts by avoiding excessive numbers of cases that must be handled by courts. The mediation process is also able to speed up dispute resolution and significantly reduce the costs incurred by the parties involved in the case. In addition to providing benefits for litigants, mediation also has a major positive impact on families involved in marital disputes. The mediation process can help families reduce existing conflicts and improve their overall relationship. In the long run, this has a very positive effect on the children in the family, helping them grow and develop in a more harmonious and stable environment. Last, but not least, mediation provides far-reaching benefits to society as a whole.¹⁷

By encouraging a peaceful and fair settlement, mediation can help build harmonious relationships between citizens and prevent wider social conflicts from occurring. Thus, mediation plays a role in creating a safer, harmonious, and more stable social environment. Overall, it is clear that mediation has significant benefits for the parties involved in the dispute, the family, and society in general. In dealing with marital disputes, mediation is an effective solution to achieve a fair settlement, reduce conflicts, and build harmonious relationships between litigants. Mediation not only provides benefits at the individual level, but also at the broader social level. Therefore, it is important to continue to promote and support the use of mediation as an effective means of resolving marital disputes, for the creation of a more peaceful, harmonious and just society.

Mediation has a very important and significant contribution in realizing an effective and equitable religious judiciary. In the world of marriage settlement, mediation has a major role as an integrative solution, allowing all parties involved in the case to reach a mutually beneficial agreement. One great advantage of mediation is its ability to give litigants options to formulate the best solution that suits their individual needs and interests. Through

¹⁶ A Coskunpinar and M A Cyders, "Mediation–Moderation Analysis of Problematic Alcohol Use: The Roles of Urgency, Drinking Motives, and Risk/Benefit Perception," *Addictive Behaviors*, 2012, <https://www.sciencedirect.com/science/article/pii/S0306460312001153>.

¹⁷ M Deveaux, *Gender and Justice in Multicultural Liberal States* (books.google.com, 2006), <https://books.google.com/books?hl=en&lr=&id=fhJREAAQBAJ&oi=fnd&pg=PR5&dq=urgency+of+mediation+as+an+integrative+solution+in+resolving+marriage+cases+in+religious+courts&ots=g8l1ojKZ33&sig=d-zaNCI2cq-j5pkLY8ZZ9syc0z4>.



mediation, they can communicate directly and discuss highly sensitive issues in a comfortable and conducive atmosphere. In addition, not only does it have a good impact on the parties involved in the case, mediation also provides a variety of great benefits to the family and society as a whole.

In this case, mediation can speed up and facilitate the resolution of cases, so that there are no conflicts that are prolonged and detrimental to all parties involved. With mediation, various problems and differences that arise in marriage can be resolved more harmoniously, ensuring family happiness and stability. Based on this, it can be said that mediation plays a very crucial role in achieving effective and equitable religious justice. It is a very effective tool in dealing with marital conflict, which provides a solution that is fair and benefits all parties involved. By ensuring that each party has the opportunity to get what they need and want through a communicative and conducive process, mediation helps create a better and fairer religious justice system for all.¹⁸

Implementation of Mediation in Religious Courts in Indonesia

The implementation of mediation in religious courts in Indonesia is supported by policies and regulations related to mediation. This is reflected in the existence of Supreme Court Regulation Number 1 of 2016 concerning Mediation in Religious Courts which regulates procedures for implementing mediation in religious courts. In addition, the capacity and training of mediators in religious courts is also an important factor in the implementation of mediation. Professional and trained mediators can facilitate the mediation process properly, thus enabling an effective and equitable settlement. Mechanisms for implementing mediation in religious courts have also been established, including initial procedures, mediation processes, and settlement of mediation results.¹⁹

However, there are still challenges in implementing mediation in religious courts in Indonesia, such as lack of infrastructure support and limited number of mediators. The solution is to increase funding for mediation infrastructure and conduct regular mediator training. Thus, the implementation of mediation in religious courts in Indonesia can run more effectively and fairly. In this context, it is important to understand that mediation is one of the important approaches to resolving disputes in religious courts. Mediation can create a conducive environment for the parties involved to reach a mutually beneficial agreement. Through mediation, disputing parties can communicate directly to find a solution that satisfies both parties. The main objective of mediation is to achieve a fair and sustainable settlement, as well as to reduce the burden on religious courts. Despite the benefits offered by mediation, there are still some challenges that need to be overcome. One of the main

¹⁸ K Kressel, "The Strategic Style in Mediation," *Conflict Resolution Quarterly*, 2007, <https://doi.org/10.1002/crq.174>.

¹⁹ Cigler, *Mediation: Its Significance, Technology and Feasibility in Social Work Services Related to Divorce Issues*.



challenges is the lack of adequate infrastructure support. Adequate infrastructure is integral in facilitating an effective mediation process.²⁰

Therefore, it is important for the government to increase funding and investment to build a good mediation infrastructure across the country. In addition, the limited number of mediators is also a challenge that must be overcome. A limited number of mediators may slow down the mediation process and may result in delays in dispute resolution. Therefore, it is important to conduct mediator training regularly so that the number of available mediators can meet the existing demand. In order to improve the implementation of mediation in religious courts, cooperation between the government, religious courts, and civil society organizations is needed. This cooperation can assist in providing the necessary resources to facilitate mediation properly, such as training, funding, and capacity building of mediators. By addressing these challenges and increasing support for the implementation of mediation in religious courts, Indonesia can achieve a better goal of creating an effective and equitable religious justice system. Mediation can be an effective tool in resolving disputes peacefully, reducing the burden on religious courts, and providing justice for all parties involved.

Policies and regulations related to mediation in religious courts.

To realize effective, efficient, and fair religious courts for all parties involved in marital disputes, it is important to have deeper policies and regulations related to mediation in religious courts. In Indonesia, mediation is clearly regulated in Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution (AAPS). Article 34B of the law mandates religious courts to support and use mediation as a first step before conducting a more formal judicial process. In addition, Perma No. 1 of 2016 also provides guidelines for the implementation of mediation in religious courts specifically aimed at handling marriage cases. This shows a concrete effort by the government to encourage the use of mediation as a method of resolving marriage cases in religious courts. The guidelines describe the steps to be followed in the mediation process, the criteria for a qualified mediator, as well as the importance of ensuring the presence of all parties involved in the dispute to achieve a fair and mutually beneficial outcome. However, there are still challenges in implementing mediation effectively. One of them is the low awareness and understanding of the importance of mediation in resolving marital disputes in religious courts. Many communities still do not understand the benefits of mediation and tend to prefer the formal judicial path.²¹

Therefore, greater efforts are needed to raise awareness of the benefits of mediation, both through socialization campaigns and educational approaches to the public. In addition, it is

²⁰ L. Lelisari, *Bale Mediasi As A Mediation Implementation Institution Based On Local Wisdom In Dispute Resolution In West Nusa Tenggara* (repository.ummat.ac.id, 2021), <https://repository.ummat.ac.id/id/eprint/4046>.

²¹ G. O. Achar, *AN INTEGRATED LUO-MAASAI TRADITIONAL RELIGIOUS MODEL TO CONFLICT RESOLUTION* (41.89.195.24, 2018), [http://41.89.195.24:8080/bitstream/handle/123456789/1252/George Okumu Achar.pdf?sequence=1&isAllowed=y](http://41.89.195.24:8080/bitstream/handle/123456789/1252/George%20Okumu%20Achar.pdf?sequence=1&isAllowed=y).



also important to involve educational institutions such as universities and religious educational institutions in providing a deeper understanding of mediation to prospective religious judges. That way, religious judges will have adequate knowledge and skills to facilitate the mediation process properly. The government also needs to improve accessibility to mediation in religious courts. Especially for people who live in remote areas or who have limited access to the courts. Efforts can be made by providing trained mediators in the region, facilitating community participation in the development of mediation in their neighborhoods, and enhancing cooperation between religious courts, NGOs, and other community organizations. In striving for effective and fair religious justice, mediation has a strategic role in resolving marital disputes. Through mediation, the disputing parties can reach a mutually beneficial agreement and avoid protracted conflicts in court. Therefore, the development of mediation in religious courts needs to be a top priority in efforts to improve fair and sustainable settlement of marital disputes.

For mediation to be effective and equitable in religious courts, adequate capacity and training of mediators is required. Mediators need to have in-depth knowledge and understanding of religious justice law, including mediation-related regulations and policies. They must also have good communication skills, such as active listening, opening dialogue spaces, and managing emotions in the mediation process. In addition, training is also important to increase mediators' awareness of ethical norms and professionalism in carrying out mediation duties. With adequate capacity and training, mediators in religious courts will be able to properly facilitate the mediation process and help achieve a satisfactory settlement for litigants.

Mediation is a crucial step in resolving disputes in religious courts. To ensure this measure is effective and fair, the mediator must have sufficient capacity and knowledge. Understanding religious justice law, including mediation regulations and policies, is essential. However, that's not all. The mediator also needs to have exceptional communication skills, such as active listening, opening a space for dialogue, and managing emotions during the mediation process. To be more professional, training and self-development should not be forgotten. Ethical norms and professionalism should be emphasized in training mediators so that they can carry out their mediation duties with integrity. With adequate capacity and training, mediators in religious courts will be good facilitators in the mediation process and help reach an agreement that satisfies all parties involved in the dispute.²²

Mechanism for conducting mediation in religious courts.

Mediation in religious courts is carried out by involving mediators who are neutral parties and do not side with one of the litigants. The implementation mechanism begins with the litigants agreeing to follow the mediation process. After that, the mediator will facilitate communication between the two parties to reach a mutually beneficial agreement. During the

²² S McCorkle and M J Reese, *Mediation Theory and Practice* (Sage Publications, 2018).



mediation process, litigants may express their opinions, wishes, or requests. The mediator is tasked with assisting in reaching mutual understanding and resolving problems in a fair and compromising manner. If both parties reach an agreement, the mediator will help draft the agreement into a formal agreement that can be recognized by religious courts. If no agreement is reached, the mediation process may be terminated and the parties may proceed to a formal trial. At all stages, religious court mediators must maintain the confidentiality of information obtained during the mediation process in order to maintain the trust of litigants.²³

Mediation in religious courts is a way of resolving disputes involving mediators who are neutral parties and impartial to one of the litigants. Its implementation begins with the litigants agreeing to follow the mediation process. Thereafter, the mediator will assist in facilitating communication between the two parties with the aim of reaching a mutually beneficial agreement. In the mediation process, litigants have the opportunity to express their opinions, wishes, or requests. The mediator is tasked with assisting in reaching mutual understanding and resolving problems in a fair and compromising manner. If both parties reach an agreement, then the mediator will assist in drafting the agreement into a formal agreement that can be recognized by religious courts. However, if an agreement is not reached, the mediation process can be stopped and the parties can proceed to a formal trial. Most importantly, religious court mediators must maintain the confidentiality of information obtained during the mediation process in order to maintain the trust of litigants.

Challenges and solutions in the implementation of mediation in religious courts.

The implementation of mediation in religious courts in Indonesia faces several significant challenges. First of all, there is the problem of lack of understanding and awareness regarding mediation by related parties, such as judges, lawyers, and the public in general. This has resulted in many marriage cases being sent directly to court without going through the mediation process. To overcome this challenge, more intensive socialization and education on the benefits and mechanisms of mediation in religious courts are needed to all stakeholders involved. In addition, another challenge is the limited number of adequately qualified mediators in religious courts. To address this issue, it is imperative to increase capacity and training for mediators, by involving relevant institutions and being more proactive in training programs.²⁴

Collaboration with non-governmental institutions experienced in the field of mediation is also very necessary to improve the quality of existing mediators. The final challenge that needs to be addressed is the limited financial resources for the implementation of mediation in religious courts. One solution is to allocate sufficient and proportional budget for mediation programs, as well as establish cooperation with parties who can provide financial

²³ A S Hidayat, "The Urgency of Mediation in the Religious Courts," *SALAM: Jurnal Sosial Dan Budaya Syar-I*, 2023, <https://journal.uinjkt.ac.id/index.php/salam/article/view/33318/0>.

²⁴ Cigler, *Mediation: Its Significance, Technology and Feasibility in Social Work Services Related to Divorce Issues*.



support in the implementation of mediation. By overcoming these challenges, it is hoped that the implementation of mediation in religious courts can run more effectively and fairly. In addition, the mediation process is also expected to be a more preferred alternative by parties involved in disputes in religious courts, so that cases can be resolved more quickly and jointly reach a fair decision.

C. CONCLUSION

The conclusion of this study is that mediation has a very important urgency in resolving marriage cases in religious courts. This is due to the advantages of mediation compared to conventional courts, such as flexibility, speed in resolving disputes, and maintaining harmonious relations between litigants. In addition, mediation provides significant benefits to litigants, families, and society as a whole. Mediation also has a major contribution in realizing effective and equitable religious justice. Therefore, it is necessary to increase the effectiveness of mediation implementation in religious courts. A suggestion to improve the effectiveness of mediation implementation in religious courts is to increase the capacity and training of mediators in religious courts. In addition, there is a need for clearer policies and regulations related to mediation in religious courts. Furthermore, better mechanisms are also needed in the implementation of mediation in religious courts. For further research, it is recommended to conduct research on mediation in religious courts involving more participants and look at the implementation of mediation in other countries as a comparison and learning resource.

Mediation has an important urgency in religious courts, especially in resolving marriage cases. Compared to conventional judicial methods, mediation has advantages in its effectiveness. Through mediation, litigants can be actively involved in finding solutions that reflect their needs and interests. Not only that, mediation also provides benefits both for litigants and families and society in general. In this case, mediation can help reduce the workload of religious courts that are already overcrowded with marriage matters. In addition, mediation can also contribute to realizing a more effective and equitable religious court. Thus, it is important to improve the implementation of mediation in religious courts with supportive policies and regulations, as well as capacity building and training for mediators in religious courts. For this reason, further research needs to be carried out on mediation in religious courts in order to provide more concrete and measurable recommendations.

To improve the effectiveness of mediation implementation in religious courts, it is necessary to increase the capacity and quality of mediators involved in the mediation process. This can be done through thorough and continuous training for mediators so that they have adequate knowledge and skills to handle marital disputes effectively. In addition, it is also important to strengthen rules and regulations related to mediation in religious courts to provide clarity and a clear framework for all stakeholders involved. In terms of the mechanism for implementing mediation, it is necessary to design an efficient and transparent

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system, including in terms of determining schedules, selecting quality mediators, and monitoring and evaluating the results of mediation. Finally, there is a need for socialization and education to the public about the importance of mediation as an alternative to resolving marital disputes, so as to encourage litigants to choose mediation as a more beneficial solution for all parties.

Further research on mediation in religious courts in Indonesia is urgently needed to improve understanding and practice of mediation in resolving marriage cases. The study can delve deeper into applicable mediation principles, effective communication strategies between mediators and litigants, and study the effect of mediation on families and society as a whole. In addition, this research can also explore challenges and solutions in the implementation of mediation in religious courts, as well as provide practical guidance for stakeholders in improving the effectiveness of mediation. With this further research, it is hoped that mediation in religious courts can be applied more effectively and fairly, so as to provide better solutions to complex marriage cases.

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