

THE ROLE OF MEDIATION IN RESOLVING CHILD CUSTODY CASES AFTER DIVORCE IN THE KOLAKA CLASS IB RELIGIOUS COURT

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Article history: received 11 January 2026; revised 22 January 2026; accepted 03 February 2026

DOI: <https://doi.org/10.33751/jhss.v10i1.46>

Abstract. Divorce often leads to subsequent issues in the form of child custody disputes (*hadhanah*), which can impact the psychological condition of the child and the relationship between the parents. Mediation is a dispute resolution mechanism mandated by the Supreme Court Regulation (PERMA) No. 1 of 2016, as a peaceful effort before the case is examined in substance. This study aims to analyze the role of mediation in resolving child custody cases after divorce in the Kolaka Class IB Religious Court and to identify the factors that support and hinder the success of mediation. This research employs a qualitative descriptive method with data collection techniques through interviews, observations, and documentation. The results indicate that mediation plays a crucial role in opening dialogue between the parties, reducing emotional conflict, and encouraging the achievement of agreements that prioritize the best interests of the child. However, the success of mediation is significantly influenced by the psychological readiness of the parties, the skills of the mediator, family support, and good faith in participating in the mediation process. Factors that hinder mediation include high ego, lack of communication, dominance of certain parties, and a strong intention to divorce. Although not all mediations result in a full agreement, some cases show partial success, particularly concerning child custody arrangements. Thus, mediation in the Kolaka Class IB Religious Court has a strategic role in peacefully, quickly, and child welfare-oriented resolution of *hadhanah* disputes.

Keywords: *The Role Of Mediation In Resolving; Child Custody Cases; Divorce; The Kolaka Class Ib Religious Court.*

I. INTRODUCTION

Mediation is an important instrument in Islam that aims to reconcile the disputing parties. QS. Al-Hujurat verse 10, Allah swt said:

﴿ إِنَّمَا الْمُؤْمِنُونَ إِخْوَةٌ فَأَصْلِحُوا بَيْنَ أَخَوَيْكُمْ وَاتَّقُوا اللَّهَ لَعَلَّكُمْ تُرْحَمُونَ ﴾

"Verily, the believers are brothers, so reconcile your two brothers (who are at war) and fear Allah so that you may be blessed."

The above verse affirms the basic principle of social relations in Islam, namely *ukhuwah* (brotherhood). God affirms that all believers have a spiritual bond that makes them one big family. Therefore, any form of dispute, strife, or enmity

between them should be resolved through *ishlah* (peace) rather than protracted violence or enmity.

Mediation is a form of alternative settlement that aims to reach a peaceful agreement between the parties. Mediation is very important, especially in the settlement of child custody cases (*hadhanah*). Emotional conflicts in child custody cases (*hadhanah*) often occur between parents and extended families, so mediation is the right way to prioritize dialogue and deliberation (Novi Fitriani, 2023). According to Supreme Court Regulation (PERMA) Number 1 of 2016 concerning mediation procedures in the Court, "Mediation is a way of resolving cases peacefully that is appropriate, effective, and can open wider access to the Parties to obtain a satisfactory and fair settlement". This is done to provide space for parties to find

solutions without spending a lot of time and money in the litigation process. However, it is still unclear how effective mediation is in resolving child custody cases (hadhanah) because not all mediation is successful and factors such as the quality of the mediator, the willingness of the litigant, and concern for the child's psychological condition greatly affect the final outcome (Rusli Halil, 2024).

Case settlement through mediation has many benefits, including: speeding up the case settlement process, reducing case costs, easing the psychological burden on children and parents, and creating a peace agreement that is more acceptable to both parties. In addition, mediation can maintain a good relationship between parents after divorce, which is very important for the continuity of parenting and child development in the future (Ade Anggraini, 2025).

The Kolaka Religious Court class IB uses mediation as part of the process of resolving child custody cases (hadhanah). Factors such as the mental readiness of the parties, the ability of the mediator, and the support of the family during the negotiation process play an important role in successful mediation. Once the mediation process is complete, the agreement is written in a valid peace deed, which eliminates the need to proceed to the trial stage.

But in reality, not all mediation results in an agreement. Factors that often hinder the success of mediation include disagreements between the parties to the case, the influence of extended families, and the emotional unpreparedness of the parties to accept the proposed solution. While the situation is like this, the case will continue to the trial stage. The judge will assess the evidence and arguments of both parties before deciding on child custody (hadhanah). Therefore, one of the important steps to improve the efficiency of Child Custody Case Resolution at the Kolaka Religious Court Class IB is the optimization of mediation through increasing the capacity of mediators and providing legal education to the community.

II. RESEARCH METHODS

This study uses a descriptive qualitative approach to analyze governance and community participation in the development of This type of research uses a qualitative descriptive approach. Qualitative descriptive research is a problem formulation that guides the research to explore or capture the social situation being studied comprehensively, broadly, and in-depth. Qualitative research is an in-depth perception of the phenomenon being studied by examining it in more detail. Descriptive research is research aimed at systematically and accurately describing symptoms, facts, or events regarding the characteristics of a specific population or region.

Qualitative research is research used to investigate, discover, describe, and explain the qualities or characteristics of social influences that cannot be explained, measured, or described through quantitative approaches. The difference from quantitative research is that this research starts from data, utilizes existing theories as explanatory material, and concludes with a theory. The qualitative approach aims to understand the process and work steps, can start from the problem, for example collecting data and information objectively about "The Role of Mediation in Resolving Child Custody Cases After Divorce (Case Study at the Kolaka Religious Court Class IB)" by describing in the form of words or sentences from the results of the researcher's observations, interviews and documents.

III. RESULT AND DISCUSSION

Legal Basis of Mediation

a. The Qur'an

Mediation is one of the efforts to resolve disputes that is not only obligatory to certain people, but also the obligation of Muslims. As has been regulated in QS. An-Nisa verse 35:

وَأِنْ جِئْتُمْ شِقَاقَ بَيْنِهِمَا فَابْعَثُوا حَكَمًا مِّنْ أَهْلِهِ وَحَكَمًا مِّنْ أَهْلِهَا إِنْ يُرِيدَا إِصْلَاحًا يُوَفِّقِ اللَّهُ بَيْنَهُمَا إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا

"If you (the guardians) are worried about a dispute between the two, send a peacemaker from the male family and a peacemaker from the female family. If both of them intend to make *islah* (peace), surely Allah will give *taufik* to both. Indeed, Allah is All-Knowing, All-Knowing."

This verse explains the mechanism for resolving conflicts in the household through a peaceful approach (*ishlah*). Islam teaches that when there is disharmony between husband and wife, a third party (*hakam*) from both families should be involved as a mediator to bring together, advise, and reconcile the two. This verse shows that mediation is a preventive step before divorce occurs and Allah promises *taufik* (guidance to peace) for those who have a sincere intention to improve the relationship.

b. Hadith

قال رسول الله ﷺ: الصُّلْحُ جَائِزٌ بَيْنَ الْمُسْلِمِينَ، إِلَّا صُلْحًا أَحَلَّ حَرَامًا، أَوْ حَرَّمَ حَلَالًا

"Peace (*al-shulh*) is permissible among Muslims, except for peace that legalizes what is haram or prohibits what is *halal*." (HR. Abu Daud, 2020)

This hadith shows that mediation or peace is a method of resolving cases that is allowed and even recommended in Islam, as long as it does not conflict with sharia law. In the context of child custody cases (hadhanah), mediation is a peaceful effort that can avoid hostility and produce more beneficial decisions for all parties, especially children.

Allah swt hates divorce, even though it is permissible to do it if there is a very urgent reason. From this regulation, it is stipulated that a Judge should seek a peaceful path from both parties. Mediation efforts are not limited to the Court of First Instance, mediation can also be carried out at the appellate and cassation levels.

The legal basis for mediation in Indonesian positive law is regulated in Article 130 of the HIR (*Herziene Indonesisch Reglement*) and Article 154 of the RBG (Regulations for Regions Outside Java and Madura). In this provision, it is explained that if the case has set a trial date and the parties have been summoned to attend, then the judge must first seek peace between the parties to the case. If in this process the parties succeed in reaching an agreement, then the judge will pour it into a peace deed (deed van dading) which has binding legal force such as a Court Decision which has permanent legal force. This peace deed can be legally executed, and if one of the parties does not implement the content of the agreement, then the other party can apply for execution in court (R.Soeroso, 2020).

This principle was then strengthened in the modern judicial system with the issuance of PERMA No. 1 of 2016 concerning Mediation Procedures in Courts, which requires mediation as part of the initial process of resolving civil cases, including child custody cases within the Religious Court (Supreme, 2021).

Mediation has received special attention in the legal system in Indonesia, both in colonial legacy legal products and in national legal products. One form of national legal product that regulates the importance of mediation is the Compilation of Islamic Law (KHI). In Article 115 of the KHI, it is stated that: "Divorce can only be done before the Religious Court after the Court has tried and failed to reconcile the two parties." This provision shows that in divorce cases, peace efforts or mediation are mandatory steps before the Panel of Judges renders a divorce decision. This is intended to maintain the integrity of the household and provide an opportunity for couples to reconsider the divorce decision (Ministry, 2020).

Furthermore, Article 143 paragraphs (1) and (2) of the KHI states that: "Divorce can only be legalized if the Court has tried to reconcile husband and wife but has not succeeded." Divorce cannot necessarily be decided without mediation. Only if there is no longer the possibility of living in harmony,

and there are valid reasons according to the law, then the divorce can be continued to the Decision stage (Aulia, 2020).

Another example of a domestic legal product that regulates mediation is Perma Number 1 of 2016 concerning mediation procedures in courts. This Supreme Court rule does not exist immediately, but has undergone a process of updating the old rule (PERMA Number 1 of 2008). The existence of this renewal adds a breath of fresh air to the Court because it explains in more detail mediation which is a way of resolving cases through the agreement of the parties with the help of a mediator.

The next legal product is the Civil Code or Burgerlijk Wetboek (BW) from the Dutch East Indies government, where its history was born from the results of Dutch legal codification that adjusted to the conditions of Indonesian society. The Civil Code on mediation also highlights, it can be seen in article 1851 of the Civil Code that the meaning of peace is an agreement made by both parties, the purpose of which is to end a case or prevent the possibility of a new case. Often this agreement can be realized by handing over goods, giving certain promises, or withholding an item that can be used so that the agreement between the two parties is fulfilled (Subekti, 1992).

The Process of Implementing Mediation at the Kolaka Religious Court Class 1B

The process of implementing mediation at the Kolaka Religious Court Class 1B is carried out based on the provisions of the Supreme Court Regulation of PERMA Number 1 of 2016 concerning Mediation Procedures in Courts. The provisions regarding the Mediation Procedure in this Supreme Court Regulation apply in the litigation process in the Court, both in the general court and religious courts (Dian Maris, 2019).

Mediation is one of the mandatory stages in every civil case, including divorce cases, before the subject matter is examined by a panel of judges. This process aims to provide space for the parties to resolve disputes peacefully without having to continue until the court decision. The Mediation Process is essentially closed unless the Parties wish otherwise.

Based on the results of an interview with Mr. H. Abdul Muhadi, S.Ag., M.H. as the Judge of the Kolaka Religious Court Class IB, said that:

"The mediation process is carried out based on the provisions of the Supreme Court Regulation PERMA No. 1 of 2016 concerning Mediation Procedures in Court. Every civil case, including divorce, is required to go through mediation first before entering the subject matter. "Formally, the mediation process is carried out by the mediator first introducing himself and then the parties introducing themselves as well. The mediator provides an

opportunity for the parties to talk about the problems they face, then the mediator makes a problem formulation, a case resume related to the problems faced by both parties. Here is the resume that makes the plaintiff what the problem is, then it is replied from there to see what the problem is and what the offer is for the defendant. If the defendant agrees, it is finished, but if we do not agree, it means that we continue the trial, but in mediation even though it does not succeed in reconciling the two parties, there is still another agreement. Like a divorce case, it is not only divorce but there is also for example child custody that is proposed or offered by the plaintiff to the defendant, so when they agree on this child custody issue, the problem will not be continued or have agreed and agreed even though the divorce of both parties is still divorced, if that happens then mediation is still successful but partially successful because what is successful is the custody of the child while the divorce continued. This mediation process has actually also been explained in Perma Number 1 of 2016 regarding the stages of mediators conducting mediation, but even though it has been regulated, it still returns to the mediator who mediates as cleverly as he is in dealing with the problems of the two parties to the litigation because why Perma Number 1 of 2016 is actually only an illustration for us as judges or mediators related to what will be done later. What's more, in terms like a guideline or a handle for us." (H. Abdul Muhadi, 2025)

In addition, Mr. Nur Fadhil, S.H.I as the judge of the Kolaka Religious Court Class IB said that:

"The mediation process is carried out by the mediator by first introducing himself, then the mediator gives the same time and listens to both parties to explain in turn the problems that occur and the reasons why they want to divorce. Furthermore, the mediator will summarize by asking the plaintiff and the defendant to fill in a summary with the problems and offers requested by each, here later the mediator will give a reply about this by making a bargain where if the defendant agrees or agrees to the offer from the plaintiff and vice versa but also wants a divorce, then the mediation process is not completely declared a failure but is declared partially successful Because in the mediation of the two litigants have agreed and agreed on the offers requested from each party, the term is that no one loses and no one wins. both won the victory over what was agreed." (Fadhil, 2025)

In addition, the method or mediation process carried out by the mediator of the Kolaka Religious Court Class 1B is

carried out with specifications or described concisely and clearly so that the mediation process can be carried out in accordance with the deadline that has been given and determined by the panel of judges.

"In the mediation process, it is determined by the mediator judge concerned until a maximum of 5 days from the date of determination The Parties can submit the Case Resume to the other party and the Mediator. The Mediation Process lasts a maximum of 30 days from the date of the determination of the order to conduct Mediation, on the basis of the agreement of the Parties, the Mediation period can be extended for a maximum of 30 days from the end of the period, the Mediator at the request of the Parties submits an application for an extension of the Mediation period to the Examining Judge along with the reasons." (H. Abdul Muhadi, 2025)

At the Final Stage of the mediation process based on article 27 of Perma Number 1 of 2016 if the mediation process is successful, the parties can choose to, Make a peace agreement and be strengthened by a peace deed through the decision of the panel of judges, the parties can request the withdrawal of the lawsuit, the modification of part of the lawsuit by the plaintiff and the rest of the lawsuit is still continued in the court process or called the success of mediation as, This partial agreement is regulated in articles 29, 30, 31 and 32 of Perma Number 1 of 2016, On the contrary based on Article 32 paragraph 1 of Perma Number 1 of 2016, if the mediation process is unsuccessful, the mediator will submit to the Court the following reasons for the non-success of the mediation are first, the mediation time is up but the peace agreement is not reached, Second, there is no good faith, namely not submitting or responding to the case resume and not signing the concept of the peace agreement that has been agreed upon without a valid reason, and if mediation cannot be carried out based on article 32 paragraph 1 of 2016, then the mediator will submit in writing to the judge with the reasons.

Mr. H. Abdul Muhadi, S.Ag., M.H. said that:

"If mediation cannot be carried out, then as a mediator will submit in writing to the judge with the first reasons, involving assets, assets or interests related to other parties, secondly involving the authority of ministries, institutions, agencies as long as there is no agreement with these institutions, third not in good faith, namely not attending the mediation meeting without a valid reason, attending the first mediation meeting but not attending the next meeting without a valid reason and repeated absences that

disrupt the schedule of the mediation meeting without a valid reason, it should be remembered that good faith is the key to the mediation process, there is a legal creed if the parties do not have good faith in the mediation process, a legal creed if they do not have good faith based on article 22 of Perma 1 of 2016, The plaintiff who is not in good faith then the lawsuit is not acceptable or N.O (*Niet Ontvankelijke Verklaard*) then is obliged to pay the mediation fee, if the defendant is not in good faith then the defendant is obliged to pay for mediation, this is regulated in article 23 paragraph 4, and if both parties, both the plaintiff or the defendant, are declared not to be in good faith based on stake 23 paragraph 8 of Perma 1 of 2016, then the lawsuit is declared unacceptable without the penalty of paying mediation."(H. Abdul Muhadi, 2025)

The implementation of mediation in the Kolaka Religious Court Class 1B, the parties must be in good faith in the mediation process, but considering that not all parties are in good faith in the mediation process, then in article 22 paragraph 1 and paragraph 2 of this PERMA this has legal consequences for the parties who are not in good faith in the mediation process. Judges or legal representatives of the litigants are required to be active in encouraging the parties to play an active role in the mediation process, with the obligation to carry out mediation, the judge can postpone the trial of the case so that communication can be established between the parties to the case.

Factors That Hinder Mediation Not Successful in the Kolaka Religious Court Class 1B

The mediation process requires a third party, namely a mediator. A mediator is a person who facilitates the mediation process. The mediator only conveys his opinions, advice and views on the problems that are being faced by the defendant and the plaintiff. The mediator does not have the right to decide an agreement. However, it is the party that has the full right to make decisions. A mediator must have good communication skills to be able to facilitate the parties to litigation properly. The mediator is obliged to inform the litigant of the consequences of the decision chosen (Siti Nur, 2023).

The type of mediator in the Kolaka Religious Court Class 1B is a non-judge mediator. Where non-judge mediators must and are legally obliged to have a mediation certificate. This certificate was obtained from the training of the mediator and was declared passed. This training is organized by the Supreme Court or an institution that receives accreditation from the Supreme Court, but in the Kolaka Religious Court Class 1B in cases of divorce, divorce lawsuit or talaq divorce, there are rarely those who use the services of non-judge

mediators due to the lack of education to the public about non-judge mediators, as said by the Chairman of the Kolaka Religious Court Class 1B, Mr. H. Abdul Muhadi, S.Ag., M.H that:

"In Divorce Cases at the Kolaka Religious Court, almost all divorce cases do not use the services of non-judge mediators because the cost of using non-judge mediators is also one of the factors that affect the decision of the Kolaka Religious Court not to use the services of non-judge mediators in divorce cases. The use of a non-judge mediator may require additional costs that must be borne by the parties to the dispute, while the use of a judge as a mediator is included in the court fees that are usually paid by the parties to the dispute. Thus, the use of judges as mediators can help reduce the costs that must be borne by the parties to the dispute, so that they are more effective and efficient in resolving divorce cases. However, keep in mind that the decision not to use non-judge mediators is also influenced by other factors such as the judge's competence, integrity, and experience in mediating."(H. Abdul Muhadi, 2025)

The increase in divorce cases occurs because not all mediation processes are successful. Mediation is a positive method of solving problems, but not all mediation runs smoothly and successfully. In the Kolaka Religious Court Class 1B, a caucus has been conducted. Caucus is a term about the mediation procedure, about the mediator can mediate with only one of the parties. If necessary, caucuses can be carried out and it is secret. Caucuses can be carried out if the mediator feels that the problem is complicated and accompanied by emotions that need to be investigated further. However, if it is felt that the problem is not complicated and the parties can reconcile well, then a caucus is not necessary. The caucus was conducted with the aim of recognizing something that had not been revealed before. In this caucus meeting session can give the parties the freedom to discuss the problems they are facing comfortably, the Caucus does not guarantee success in the mediation process. As said by the Chairman of the Kolaka Religious Court Class 1B, Mr. H. Abdul Muhadi, S.Ag., M.H.

"The unanimous determination of the parties from the plaintiff and the defendant. Divorce is a big decision in relation to the household. Before deciding to make such a big decision, a person must think carefully about the decision chosen. If in a person's heart there is still doubt in making a decision, then there is still emotional interference in the decision-making. The same is true of making the decision to divorce. It must be thought

through carefully and consider all the consequences. Unanimous determination from the parties arises for several reasons, such as because there is a mismatch, the existence of domestic violence that cannot be repaired, the existence of a third person, poor communication and not in line with the goals."(Nibras, 2021)

The reasons for divorce are very varied. The incompatibility of the parties is one of the reasons for divorce. Incompatibility is something that has a different perspective in the eyes of the parties. Sometimes a trivial incompatibility by a married couple becomes a common assumption, but in other couples it is a serious problem and must be resolved through divorce. Domestic violence is one of the strong reasons for divorce. Because domestic violence can have various impacts on life. The impact of violence in the stairs is divided into two, namely the physical impact and the psychological impact. The physical impact of domestic violence is injuries, damage to the senses and can even result in disability. In psychological conditions, a person who experiences domestic violence can experience a decrease in confidence and self-esteem, experience trauma and can even cause depression. The occurrence of poor communication is also one of the reasons, parties who are in long distance relationships or often known as LDR are one of the causes of poor communication and infidelity (Nibras, 2021).

According to Mr. Muh. Nasharuddin Chamanda, S.H.I. and Mr. Nur Fadhil, S.HI. as the Judge of the Kolaka Religious Court Class 1B said that the Factors that Hindered the Mediation were not successful in the Kolaka Religious Court Class 1B were:

"The mindset of the parties is husband and wife. Education is very influential in the success of mediation. Parties with a low level of education will hinder the mediation process. One of the reasons for divorce could be because of being too young. Too young can result in a person's psychological condition being unprepared and still fairly unstable. and in the end there is a divorce. Early marriage will have a profound effect on their mindset and behavior. Immature mindset also affects the future in the journey of the household. A household requires readiness from many aspects, such as the psychological (mental) aspect. If someone's mindset is still unstable, then they will be rash in making decisions. This also affects the mediation process. If the parties have an immature mindset, it will be difficult for a mediator to give a view related to the consequences of the divorce itself."(Nasrudin, 2025)

According to Mr. Nur Fadhil, S.H.I. said that the Factors That Hindered the Mediation were not successful at the Kolaka Religious Court.

"The absence of the parties, namely the defendant and the plaintiff. The 2009 decision in the Supreme Court National Meeting states that mediation cannot be carried out without the presence of one of the parties In the mediation process, it must be attended by husband and wife. If one of them is not present in the mediation, then the mediation may not be able to be carried out. As a mediator, you must interact and negotiate with both parties. Mediation that is not attended by either party cannot be identified. Whether the divorce is rejected or approved. And also the lack of mediators. One of the obstacles in the mediation process is the lack of mediators." (Nur Fadhil, 2025)

The Kolaka Religious Court Class 1B only uses judge mediators, there are no non-judge mediators, this is what causes One of the obstacles in the mediation process is the lack of mediators However, from the increase in cases, in order for mediation to run smoothly and successfully, additional mediators are needed to support the success of a mediation. The mediators of the Judge at the Kolaka Religious Court Class 1B, amounting to only 2 people, namely the Chairman of the Court and the deputy chairman of the Court, Based on a significant increase in cases, additional mediators are needed to support the success of the mediation service process. As stated by Nur Fadhil, S.HI., Judge of the Kolaka Religious Court Class 1B, that:

"The Kolaka Religious Court Only Has 2 Judge Mediators, where Case A is the trial and the chairman of the panel is the Chairman of the Kolaka Religious Court Class 1B, then the mediator is the Deputy Chairman of the Kolaka Religious Court Class 1B and must be certified by the Supreme Court, and vice versa If Case B is a trial, then the Judge Mediator is the Chairman of the Kolaka Religious Court Class 1B." (Nur Fadhil, 2025)

This is one of the reasons why mediation did not run smoothly and successfully because in the Kolaka Religious Court Class 1B Judge mediators, there are only 2 people and the litigants do not want to take the services of non-judge mediators. Some of these factors are one of the reasons for the unsuccessful divorce mediation process at the Kolaka Religious Court Class 1B. However, keep in mind that the mediation process and mediator are only facilities to prevent divorce. The final decision is in the hands of the parties, as facilitators do not have the right to interfere with the decision.

Because the perspective of each defendant and the plaintiff is different from one case to another.

The Role of Mediation in Resolving Post-Divorce Child Custody Cases at the Kolaka Religious Court Class IB

Based on the results of research conducted by researchers at the Kolaka Religious Court Class IB, the implementation of Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in the Court has basically been implemented to the maximum. All mediation procedures and provisions have been implemented according to the guidelines without overriding the elements regulated in the regulation. However, the level of effectiveness of the enactment of the Supreme Court Regulation still needs to be improved, because the results of mediation at the Kolaka Religious Court have not been able to significantly reduce the divorce rate. (Supreme Court RI, 2020)

Although mediation has been carried out well, the success of mediation is still considered to have not reached the expected expectations. This is because mediation has not been able to reduce the divorce rate in the Kolaka Regency area. Based on data from the clerk, the number of divorces in 2023 reached 526 cases, both lawsuit divorce cases and talaq divorce cases. This figure will increase in 2024 to 619 registered divorce cases. The data shows that even though mediation is implemented, the trend of divorce continues to increase.

The role of the judge as a mediator is urgently needed, but in practice the mediator can only try to maximize the mediation process so that the parties can reconcile. The role of the mediator is to accompany, direct, and help the parties open two-way communication in a positive way (Firdaus, et.al, 2023).

The role of mediators in the Kolaka Religious Court Class IB is also not absolute. Not all cases that are included in the mediation process can successfully reach an agreement. As conveyed by Mr. Muh. Nasruddin Chamanda, S.HI., as the Judge of the Kolaka Religious Court Class IB, he explained that:

"The role of mediators in mediation is important that can affect the success rate of mediation. Mediators who are good at processing conflicts and communicating can seek a common ground between the parties to encourage peace. The key factors for the success of mediation are the openness of both parties and the desire to find the best solution. In addition, the humane persuasive approach of the mediator really helps to melt the atmosphere. We don't just talk about law, but we also emphasize family and religious values. In other words, the ability of a mediator has a great influence on the success of mediation." (Muh. Nasrudi, 2025)

Mr. Nur Fadhil, S.HI. As a Judge also emphasized that the success of mediation is greatly influenced by the psychological condition of the parties, he stated:

"Many mediations have failed because each party comes with unstable emotions. They still blame each other. But when both parties are willing to open their hearts for the sake of the child, mediation is much easier to succeed. The mediator's job is to help them see what is best for the child's future, not just maintain ego." (Nur Fadhil, 2025)

The statements of the two judges show that the effectiveness of mediation depends heavily on the mental readiness of the parties, the ability of the mediator, and the support of the family environment. Therefore, efforts to improve the quality of mediation need to be carried out on an ongoing basis so that the goal of reducing the divorce rate can be achieved.

Regarding the effectiveness of mediation in this study, there are two perspectives of the word Effective, the first is whether the applicable regulation is effective in the sense of running and being implemented and the second is the meaning of effective here, namely whether the expected results or targets of the regulation are successful. If the effectiveness referred to in the first part, PERMA Number 1 of 2016 concerning Mediation Procedures in the Court is successfully implemented, it means that this PERMA is effective. However, if the effectiveness referred to in the second part, regarding the target results of the implementation of PERMA, means that PERMA Number 1 of 2016 concerning Mediation Procedures in this Court is not effective (R. Handayani, 2020).

Some of the factors that caused the failure of the mediation process in divorce cases at the Kolaka Religious Court are as follows:

- a. The plaintiff was not present during the mediation process. If the plaintiff does not come during the mediation process, then the mediator cannot reconcile the divorce case carried out in the mediation process, because only one party is present in the case, there is no seriousness in undergoing the mediation process, then the mediation process is declared failed by the mediator.
- b. There is a strong desire to divorce. One of the parties and even the two are already very strong to divorce. Their arrival to the Religious Court was due to the unsuccessful peace efforts made by the family. So this makes it difficult for mediators to seek peace.

IV. CONCLUSIONS

Mediation has an important role in resolving post-divorce child custody cases at the Kolaka Religious Court Class IB. The mediation process is able to suppress the escalation of conflicts, speed up dispute resolution, and reduce the psychological burden on children because mediation allows parents to reach an agreement peacefully without going through a long trial. The role of mediators is crucial in maintaining neutrality, facilitating communication, and helping the parties find common ground that is oriented towards the *best interests of the child*. The effectiveness of mediation still faces a number of obstacles, such as the high ego of the parties, unstable post-divorce emotional conditions, and lack of understanding of the benefits of mediation. These factors often cause mediation to end in failure, even though mediation is actually a more humane way of resolving disputes and prioritizing the welfare of children. Therefore, mediation optimization is needed so that child custody disputes can be resolved more constructively and fairly. The court is expected to increase the capacity of mediation services by strengthening the training of mediators, especially in aspects of psychological approaches and family counseling techniques. This can strengthen the mediation process in hadhanah cases. Mediators need to develop empathic communication skills, conflict management, and a more persuasive approach so that the parties can be encouraged to lower their egos and focus on the best interests of the child. Parents are expected to attend mediation in good faith, restraint their egos, and prioritize their children's needs. Willingness to engage in open dialogue is the most decisive factor in the success of mediation. For the Government and Policy Makers, a legal literacy program is needed for the public regarding the importance of family mediation as an alternative solution to dispute resolution, so that the community does not directly depend on the litigation process.

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