

Reconciling Traditions: The Role of Local Wisdom in Mediating Divorce in Indonesia's Religious Courts

**Rosdalina Bukido^{1*}, Sjamsuddin A. K. Antuli², Nurlaila Harun³, Nurlaila Isima⁴,
Ulin Na'mah⁵**

^{1,2,3,4}Institut Agama Islam Negeri Manado, Indonesia

⁵Institut Agama Islam Negeri Kediri, Indonesia

*Corresponding Author E-mail: rosdalina.bukido@iain-manado.ac.id

Abstract

In response to escalating divorce rates in Indonesia, particularly within its Religious Courts, this study explores the limitations of current mediation practices. It proposes local wisdom-based mediation as an alternative approach. Traditional mediation within these courts often fails to prevent divorces effectively, prompting the need for innovative solutions that integrate cultural insights. This research aims to assess the effectiveness of mediation processes within Indonesia's Religious Courts and investigate the potential role of religious leaders in improving mediation outcomes. Specifically, it highlights how local wisdom can be leveraged to mitigate divorce rates by fostering reconciliation and resolving disputes outside formal legal procedures. Using an empirical approach, researchers collected data by interviewing 50 informants, namely judges, religious leaders, and the government, related to the increasing divorce rate. The findings that can be presented are that religious figures, as locals, can reconcile divorced parties without the need to go to religious courts. The Religious Court is seen as a formal facility to certify the divorce of both parties, but has yet to be able to prevent divorce optimally. That is, the high divorce rate in religious courts requires the involvement of religious leaders in reconciling parties who want to divorce. This study accepts the potential for integrating local wisdom in mediating to reduce divorce rates. With an emphasis on cultural sensitivity and community involvement, this approach aims to go beyond the limitations of conventional legal frameworks and promote more meaningful outcomes in resolving marital conflict.

Keywords: Divorce; local wisdom; mediation; religious leaders.

Abstrak

Menanggapi meningkatnya angka perceraian di Indonesia, khususnya di Pengadilan Agama, penelitian ini mengeksplorasi keterbatasan praktik mediasi yang ada saat ini dan mengusulkan mediasi berbasis kearifan lokal sebagai pendekatan alternatif. Mediasi di pengadilan sering kali gagal mencegah perceraian secara efektif, sehingga mendorong perlunya solusi inovatif yang mengintegrasikan wawasan budaya. Penelitian ini bertujuan untuk menilai efektivitas proses mediasi di Pengadilan Agama Indonesia dan mengetahui potensi peran pemuka agama dalam meningkatkan hasil mediasi. Secara khusus, laporan ini berupaya menyoroti bagaimana kearifan lokal dapat dimanfaatkan untuk mengurangi tingkat perceraian dengan mendorong rekonsiliasi dan menyelesaikan perselisihan di luar prosedur hukum formal. Dengan menggunakan pendekatan empiris, peneliti mengumpulkan data dengan mewawancarai 50 informan yaitu hakim, tokoh agama, dan pemerintah terkait dengan meningkatnya angka perceraian. Temuan yang dapat disampaikan adalah tokoh agama sebagai kearifan lokal mampu mendamaikan pihak yang bercerai tanpa perlu ke pengadilan agama. Pengadilan Agama dipandang sebagai sarana formal untuk mengesahkan perceraian kedua belah pihak belum mampu mencegah terjadinya perceraian secara maksimal. Artinya, tingginya angka perceraian di pengadilan agama memerlukan keterlibatan tokoh agama dalam mendamaikan pihak-pihak yang ingin bercerai. Studi ini menerima potensi untuk mengintegrasikan kearifan lokal dalam mediasi untuk mengurangi angka perceraian. Dengan penekanan pada kepekaan budaya dan keterlibatan masyarakat, pendekatan ini bertujuan untuk melampaui batasan kerangka hukum konvensional dan mendorong hasil yang lebih bermakna dalam penyelesaian konflik perkawinan.

Kata Kunci: Perceraian; kearifan lokal; mediasi; tokoh agama.

INTRODUCTION

The high divorce problem in Indonesia still cannot be resolved by the government, even though it increases significantly every year. Based on data from the Central Statistics Agency (BPS), there are 447,743 divorce cases in 2022 and 516,334 divorce cases in 2023. Researchers see that the assumption of the community so far that mediators in the Religious Court (PA) are considered able to reconcile divorced parties is not always true. Perma Number 1 of 2016 provides a framework that allows mediators to work optimally to resolve divorce cases. The evidence is that various solutions are carried out to prevent divorce, one of which is the provision of mediation facilities in the Court (Afrizal et al., 2020; Cochran Jr., 1987). However, mediation until now cannot be used as the right solution because until now, the divorce rate has been increasing every year (Djawas et al., 2021; T. B. Heaton et al., 2001; T. Heaton & Cammack, 2011). In its implementation, the mediation process in court often fails or does not achieve peace between the litigants, so the efforts made by the mediator in mediating divorce cases (Bukido, Irwansyah, Irawan, & Makka, 2019). It can be proven that 4% per year mediation is successfully completed (Jamal, 2017). Thus, a comprehensive study is needed regarding the solutions in overcoming Indonesia's high divorce rate.

The study of mediation has undergone significant development. It has become a universal issue that attracts attention across various fields. Specific studies can illustrate its relevance to the Indonesian context, especially within the framework of local wisdom-based mediation. In the legal context, Dragos and Neamtu's (2014) research emphasises the importance of structured mediation programs within judicial systems for effective dispute resolution. This insight is directly relevant to Indonesia, where Perma Number 1 of 2016 aims to enhance mediation in the Religious Courts. However, the increasing divorce rates indicate that these legal frameworks might not be fully optimised. Implementing comprehensive and consistent mediation programs, as suggested by Dragos and Neamtu, could strengthen the legal infrastructure, making mediation a mandatory and more systematically applied step in divorce proceedings. In the psychological context, research by Donohue (2023) and Kelly and Kaminskiené (2016) underscores the importance of providing psychological support during mediation. This is particularly pertinent for Indonesia, where the emotional and psychological well-being of divorcing parties may be overlooked. Incorporating psychological services into the mediation process can address the emotional turmoil associated with divorce, fostering better communication and increasing the likelihood of reconciliation (Cao, Fine, & Zhou, 2022). This approach aligns with local wisdom practices that often emphasise holistic well-being, suggesting a natural integration of modern psychological support with traditional counselling methods. Sociologically, Hepp (2015) and Yu & Choi (2016) highlight the impact of social, cultural, and societal dynamics on mediation processes. This is crucial for Indonesia's diverse cultural landscape, where local customs and community values significantly influence marital relationships and conflict resolution. Incorporating local wisdom involves respecting and utilising traditional conflict resolution mechanisms, such as involving community elders or religious leaders who command respect and authority (Cheong, 2011). These figures can play a pivotal role in mediation by leveraging their influence to foster dialogue and understanding, which modern mediation practices may lack. By integrating these studies into the Indonesian context, we see that enhancing mediator training to include cultural competence, providing integrated psychological and traditional support, and involving community leaders can make mediation more effective. This comprehensive approach addresses Indonesia's unique cultural and societal dynamics, ensuring that mediation is not only a legal process but also a culturally resonant practice that aligns with local wisdom. Through these adaptations, mediation

can become a more effective tool in reducing the high divorce rates in Indonesia, embodying a truly interdisciplinary and culturally sensitive approach to conflict resolution.

Although the theme of mediation and divorce has been the focus of extensive discussion, in a number of literatures that have been studied, it seems that the role of religious leaders, traditional leaders, and community leaders in the context of divorce settlement still receives limited attention. While not many have explored how they can provide services or advice to individuals facing divorce, it is important to realise the great potential that these figures have in helping to reduce divorce rates in society. One important aspect that needs to be studied more deeply is the role of religious understanding and spiritual values that religious figures can present. They can provide invaluable insights and guidance in addressing household issues and conflicts that may arise in relationships, thus making locally-based mediation an attractive and valuable alternative.

This paper examines deeply the role of local wisdom-based mediation as a solution offered by religious leaders, traditional leaders, and community leaders to reduce the divorce rate in Indonesia to reduce the high divorce rate that continues to soar every year. Local wisdom as a form of moral responsibility for leaders in community life as a policy is very important in dealing with divorce issues in Indonesia. The local wisdom approach is seen as the right formula to overcome this challenge, given that local values, norms, and traditions can be a strong foundation for understanding, negotiating, and finding solutions that are in accordance with the culture and values of Indonesian society. The main argument proposed is that local wisdom-based mediation, facilitated by religious leaders, traditional leaders, and community figures, offers a more effective approach to addressing Indonesia's high divorce rates than the current formal mediation processes in Religious Courts. This approach acknowledges the limitations of existing legal frameworks and emphasises the need to leverage indigenous knowledge and community support systems to foster reconciliation and prevent divorces. This study contends that Indonesia can develop a more holistic approach to divorce mediation that addresses legal requirements and aligns with local societal values, thereby potentially reducing divorce rates and promoting familial harmony more effectively. Thus, researchers offer a very strategic and urgent solution in solving divorce problems in Indonesia using a local wisdom approach as its formulation.

RESEARCH METHOD

This research employs an empirical juridical approach, which is a form of sociological, legal research, utilising qualitative methods as outlined by van Boom et al. (2018). Conducted in North Sulawesi, Indonesia, the study focuses on understanding divorce mediation practices within the context of the region's diverse religious and cultural landscape. North Sulawesi is renowned for its multiculturalism, hosting significant communities such as Nahdlatul Ulama, Muhammadiyah, and Sarekat Islam, each contributing unique perspectives and traditional practices that influence the mediation process. The region's escalating divorce rates in recent years underscore the relevance of studying mediation effectiveness and the integration of local wisdom in resolving marital conflicts (Bukido et al., 2019). The research is temporally aligned with the implementation of Perma Number 1 of 2016, which introduces reforms aimed at enhancing mediation within the Religious Courts (Sukaenah & Rusli, 2020).

Methodologically, the study employs a qualitative approach, incorporating both primary and secondary data collection methods. Primary data are gathered through unstructured interviews with key stakeholders, including religious leaders, traditional leaders, government officials from the Ministry of Religious Affairs, and judiciary personnel such as Judges of Religious Courts and the Supreme Court. These interviews delve deeply into participants' experiences with mediation, their perspectives on the

challenges faced, and their insights into incorporating local wisdom into mediation practices. Concurrently, direct observations are conducted during mediation sessions and community meetings to observe firsthand the dynamics, interactions, and cultural nuances that influence mediation outcomes. Detailed field notes capture contextual details and non-verbal cues, enriching the qualitative data analysis.

Secondary data collection involves a comprehensive document analysis of court records, mediation reports, and media coverage related to divorce cases in North Sulawesi. These documents are scrutinised to identify trends, themes, and discrepancies in mediation processes and outcomes, providing additional context to the qualitative findings from interviews and observations. By integrating these methodological approaches, the study aims to offer a nuanced understanding of the complex interplay between legal frameworks, cultural practices, and social dynamics influencing divorce mediation in North Sulawesi. This research contributes valuable insights to the field of family law and dispute resolution, informing policy and practice in culturally diverse contexts.

RESULTS AND DISCUSSION

Unsuccessful Internal Mediation in Religious Courts

The failure of internal mediation in religious courts is a frequent problem, indicating that mediation processes carried out within religious courts often do not achieve the expected results. Mediation should be an effective means of resolving civil disputes, especially in divorce cases. However, a number of factors could explain why mediation in religious courts often fails to reach the expected agreement. One of the main factors is the ability of the mediator or parties involved in mediation to negotiate an adequate agreement between the disputing parties. This can be affected by limited mediation skills, power imbalances between the parties involved, or difficulties in understanding and addressing the emotional aspects that may be involved in the dispute. In addition, the unsuccess of internal mediation can also be caused by a lack of motivation from one or both parties to reach an agreement in the dispute, as some may prefer to continue the judicial process in the hope of obtaining a more favourable outcome.

Mediation in civil dispute resolution in court is often considered not optimal because it is often only a formal process. As a result, there are still many things that have failed to mediate.

Table 1. Data on Case Resolution Through Religious Court Mediation in 2021-2022

| Court | Success Status | | | |
|-------------------------|----------------|----------|---------|----------|
| | 2021 | | 2022 | |
| | Succeed | Unsucced | Succeed | Unsucced |
| District Court | 1.187 | 16.251 | 1.362 | 16.985 |
| Religious Courts | 8.964 | 52.596 | 19.499 | 47.705 |
| Total | 10.151 | 68.820 | 20.861 | 64.690 |

Source: Mahkamah Agung (2021, 2022)

Based on the data from Table 1 illustrates the disparity between successful and unsuccessful mediation outcomes in both district and religious courts. Specifically, the statistics show many cases where mediation did not result in mutually satisfactory agreements. For instance, in 2022 alone, religious courts reported 47,705 unsuccessful mediation cases compared to 19,499 successful ones. Judges as Religious Courts (PA) mediators still cannot minimise the divorce rate. In the trial process, the judge always mediates on the party by providing advice. Mediation is an alternative dispute resolution option that can

provide justice and peace for the parties to the dispute without winning or losing because the purpose of mediation is peace, but the goal that is often achieved is divorce as well. This highlights the ongoing challenge faced by the judicial system in optimising mediation processes to resolve disputes genuinely and underscores the need for more robust strategies to enhance mediation effectiveness in Indonesia's legal framework.

The rules made by the Supreme Court in Perma No. 1 of 2016 were made to mediate in civil cases, especially divorce in court, showing the government's concern about maintaining the relationship between married couples and not taking the path of separation. This rule has a very important function because mediation is needed to solve problems. However, the problem that arises is that the choice of people who want to divorce is higher than the desire for peace by mediators and judges.

Another problem that arises is the reason for the existence of religious courts in the community, namely as a means of resolving cases, especially divorce. This is evidenced by the results of interviews conducted where, although the mediator and the judge expect *islah* (peace) to occur, it all returns to the wishes of the litigants. In the sense that religious courts only facilitate divorce as a legal step by state administration.

Then in the observations of researchers, it was also found that there was a classification of groups of a religious court (PA Class IA, PA Class IB and PA Class II) in accordance with Perma No. 5 of 2018 type of court specialisation class where this was stated Hermasyah (2013) affects several things, and one of them lies in the difference in office and judge allowances. This means that this can be a competition to improve the class in the religious court work unit. One of the details in this classification can be seen in KMA No. 292 of 2021, where the timely settlement of divorce cases in religious courts is a measurement value in increasing class types in religious courts.

This means that the implementation of Perma No. 1 of 2016 is going very well and in order to achieve the goal, there is no decision to separate from married couples. Problems outside this regulation are factors that must be resolved by practitioners, especially judges and external mediators. The efforts made by the mediator in this case are limited to the judge as a facilitator, namely to help resolve disputes and reach an agreement that benefits both parties in the dispute, so as to achieve satisfactory results (Sukaenah & Rusli, 2020). Thus, it can be said that most of the mediation carried out in the PA cannot achieve the goal of peace by agreement alone.

Mediation challenges in Perma No. 1 of 2016

Salminen (2018) said that mediation is a direct responsibility in making decisions related to consequences both on economic matters and with divorced parents. Mediation with respect to the members involved, the success of the mediation crucially depends on mediators who are experts in helping to reach a resolution of the dispute (Lempereur et al., 2021). What happened was that Supreme Court Regulations (Perma) No. 1 of 2016 did not work perfectly.

Researchers found at least some problematic factors in the implementation of this Perma. *First* is the factor of the parties. Through interviews with various informants, it was revealed that some of those who filed a lawsuit in court actually had hidden intentions that were not always in line with the goal of a peaceful resolution of the conflict. Some of them may use due process as a tool to buy time for payment or achieve other agendas or interests that are not directly related to resolving conflicts in a fair way. This shows that in addition to legal regulations, it is also necessary to consider human factors and individual motivations in reviewing the implementation of these rules.

Second, the number of law enforcement actors who have obtained mediator certificates in religious courts is not proportional to the high number of cases that go to these courts. This results in an imbalance in the mediation capacity available to handle large caseloads. As a result, mediation is often carried out by judges who do not yet have a mediator certificate, which in turn can reduce the level of competence in the mediation process. The presence of judges who have obtained a mediator certificate is very important in ensuring the effectiveness and optimality of mediation per the provisions stipulated in Perma. Judges certified as mediators have better knowledge and skills in facilitating negotiations between disputing parties, understanding the legal aspects involved, and managing feelings and conflict dynamics more quickly (Stipanowich, 2015). Thus, the mediation process should be able to run more smoothly and effectively, and the results are likely to be more adequate in accordance with the needs of the disputing parties and applicable law.

Third, in religious courts, it is difficult for people to disclose their domestic problems to judges. This is due to the judge's authority in the trial and the formal and authoritative costume of the trial, which makes the public feel reluctant and even afraid. This is a problem that is often faced in the parties, namely the difficulty in communicating openly with judges. Mediation in religious courts is considered very formal by some communities due to a lack of understanding of the importance of mediation in conflict resolution. Religious Courts are often considered too official, making it difficult for individuals to speak openly. This contrasts the relationship between individuals and religious figures, such as imams, who often have closeness to their congregations and facilitate the process of speaking and venting.

Thus, the implementation of Perma No. 1 of 2016 is still not in line with expectations. It is necessary to develop this rule, starting with approaches from the parties and editorial facilities. The solution to both problems the researcher explains in the next explanation. Although the Perma is designed to be an effective tool in resolving divorce conflicts, obstacles such as the lack of judges who have obtained mediator certificates, the formal atmosphere that hinders open communication, and the hidden intentions of some parties involved all hinder the mediation process that should be able to run well.

The habit of people who choose divorce directly to the religious court

The main factor in the issue of divorce is the emotional and mental state of the individual. Often, individuals who decide to divorce tend to see the situation from an outside point of view, i.e., they tend to be less introspective about their role in the conflict. They may blame the partner without considering their contribution to the problem. This attitude can strengthen the desire for divorce because the individual may feel that the only solution is ending the relationship without thinking about alternatives or improving efforts (interview, Barlin Sumenda Vice Chairman of Muhammadiyah Sangihe, Sangihe, August 5, 2021).

The number of divorce cases in PA is because people tend to come directly to PA when they have domestic problems. Choosing a religious court as a path to divorce resolution is often related to the formal conditions that must be met in the divorce process. Some couples decide to enter legal proceedings in religious courts because they feel that this is the only path they can take legally and in accordance with the provisions of their religion. Formal proceedings in religious courts can encourage couples to more deeply consider the impact and root causes that may have influenced the decision to divorce.

Although Religious Courts (PA) make great efforts to reduce divorce rates, as embodied in PERMA No. 1 of 2016, mediation efforts by judges often do not guarantee success in preventing divorce. Mediation by a judge is a step taken to try to resolve conflicts and prevent divorce, and the final decision to divorce still depends on the decision of the couple themselves (interview, Ilyas Rahman, Management of SI Bitung, Bitung, May 2, 2021). This means that despite the PA's efforts through mediation, if the couple still wants

to divorce, divorce can still occur. However, keep in mind that mediation provides an opportunity for couples to reconsider their decisions and find better solutions. While not always successful in avoiding divorce, mediation can assist couples in overcoming conflict and reaching better agreement on issues such as division of assets, child custody, etc., which can reduce the potential for conflict during and after divorce. PAs still play an important role in dealing with divorce issues and try to assist couples in making wiser decisions based on a better understanding of the situation.

Mediation awareness and education in religious courts

The public does not understand the problems and urgency of mediation in religious courts. Based on the results of the analysis, it was found that the community's attitude considers religious courts as a way to divorce. Religious courts also act to seek peace for both parties without going through divorce proceedings.

Socialisation about the importance of mediation must be done optimally. Mediation must be the main point for researchers in resolving cases in religious courts. What happens is that much socialisation carried out by the focus on marriage only but related to mediation is most important in solving problems in marriage received less attention.

The socialisation model that is often found is to enlighten the true purpose of marriage; the affairs of the husband and wife are more important than others, informing the risks and sins borne. However, it is still lacking, let alone the problem of returning to the parties who feel their relationship must end. Moreover, judges and mediators in religious courts always convey this kind of socialisation.

It is also necessary to socialise to run the mediation process properly. Based on the observations of researchers, it turns out that the mediated parties are only limited in answering and accepting the mediator's opinion. So, this socialisation was not only shown to the community but to the mediator as well. Socialisation of the mediation approach to the mediator and time in mediating is also needed. This is likely to provide wider opportunities for the community to reconcile.

Religious leaders' impact on divorce prevention and regulatory hurdles

The results found by the researcher were religious figures who turned out to be able to reconcile the two spouses and did not file for divorce with the PA. The evidence that can be presented is the statements of religious leaders who stated that reconciling the two couples whose problems had been edged, ranging from trivial problems to bed separation, turned out to be able to be reconciled by religious leaders;

Many couples who have problems, even separate beds, ask for advice, and finally, the problem is resolved peacefully. (Interview, Ilyas Rahman, Management of SI Bitung, Bitung, May 2, 2021).

Religious figures often manage to reconcile two couples who want a divorce with the event of making the simplest approach. Religious leaders see a myriad of simple reasons that there is no need for divorce. (interview, Barlin Sumenda Vice Chairman of Muhammadiyah Sangihe, Sangihe, August 5, 2021).

So far, I have been a religious leader and 100% failed to divorce. In the mediation there is a written agreement. This means that the success rate of reconciling is high. Clearly, religious leaders know the community better; religious leaders know the community itself and vice versa, starting from customs and others. (interview, La Ade, Penghulu KUA Pusomaen, Southeast Minahasa, August 5, 2021)

Many couples who experience conflict in their marriages, even to the point of separation, often seek help and advice to resolve their problems peacefully. In this context, religious figures are often very instrumental in reconciling couples who originally wanted to divorce. They are able to provide a simple but effective approach, often highlighting small reasons that can actually be addressed without the need to take extreme measures such as divorce. With a deep understanding of society, culture, and the values held by individuals in the community, religious leaders can carry out a mediating role with a high success rate. In addition, the practice of mediation often involves making a written agreement that binds both partners, confirms the amicable agreement and helps them restore their relationship.

This means that religious leaders are able to provide understanding so that people do not divorce. It is also applied in some areas. One other example that can be seen is in Labone Village, Southeast Sulawesi Province, where religious leaders play an important role in every family problem, and not a few family problems can be solved. Religious leaders have a special approach to society; moreover, religious leaders understand the culture and behaviour of disputing couples (Listamin et al., 2018). However, in this case, religious leaders are not involved in the mediation process in the PA, even so that the divorce process can be more efficient for the PA community to come directly to the PA (Mobile Congregation) making the involvement of religious leaders in this matter completely absent.

The most concrete reason for the non-involvement of religious leaders as PA mediators is that government regulations on mediation in PA require the mediator to have a mediator certificate (article 13 PERMA No. 1 of 2016). In addition, it is said that there is evidence of the involvement of religious figures in mediation, such as the existence of BP4 authorised by KUA. BP4 is given a forum for providing advice on how to solve household problems experienced by the couple so that there is no need to go through court proceedings.

The mediator certificate for everyone who performs the function of a mediator is considered very important because it relates to professionalism in the mediation process. The mediator certificate is obtained after a person has attended mediation training for at least 40 hours more. This training on theory and practice will equip mediators to have additional skills in facilitating mediation processes in court.

The mediator certificate for everyone who performs the function of a mediator is considered very important because it relates to professionalism in the mediation process. The mediator certificate is obtained after a person has attended mediation training for at least 40 hours more. This training on theory and practice will equip mediators to have additional skills in facilitating mediation processes in court.

Religious leaders who do not understand or do not know this regulation make their role in reducing divorce rates invisible. Even so, it does not mean that religious leaders do not have efficiency in carrying out mediation, let alone mediating communities where religious leaders understand the culture of their communities very well.

Marriage literacy, BP4 challenges, and divorce rate reduction

There is no data showing that the divorce rate is influenced by low levels of marriage literacy, especially religious literacy. One example is the Marriage Advisory, Guidance and Preservation Board (BP4) (Paryadi, 2021). This institution is like 'suspended animation'. When people divorce, in their minds, they go directly to court. People should be given an understanding of religious literacy before going to court. The existence of religious figures is very important in marriage advice.

Researchers have provided several research results that discuss the constraints of BP4, which is said to be 'suspended animation'. *First*, BP4 is not required to administer recommendations in court. The point is that BP4 is not given the authority to mediate but is limited to functioning Bimas Islam staff of the

Ministry of Religious Affairs in providing marriage counselling in the community. *Second*, there are technical things that hinder the running of BP4, in the results of Bisman's research (2015) budget realisation does not exist; human resources are inadequate, and public understanding that does not understand the tasks and functions of BP4 is a factor in BP4 not running well.

The researchers concluded that there must be other methods that can replace or develop the task of BP4 in reducing divorce rates, specifically in mediation. Although the purpose of BP4 is to help couples become happy families with marriage practitioners (KUA, *Penghulu* and *Penyuluh*), BP4 is not effective. The researcher suggested a new forum where the requirement before the lawsuit goes to the Religious Court must be additional mediation where those who act as mediators are marriage practitioners in BP4 and religious leaders as explained in the previous discussion.

Religious figures as effective divorce mediators

Religious figures can be mediators for litigants. This is because religious figures occupy a very important position in society, especially as a bridge from the process of transmitting religious values/rules. Religious figures are seen as those who understand various religious legal issues related to worship and *muamalah*.

Religious leaders are able to bring about major changes to society's social conditions. They can shift society's actions towards the actions they want. Achidosti (2015) explained that what causes the success of the changes desired by religious leaders besides being caused by obedience is the ability of religious leaders to explain complex issues for society more easily. According to him, this communication ability is an added value for religious leaders to influence public awareness so that they can do what they are told.

Religious figures are seen as having ties to society. Religious leaders are often involved in every community activity, ranging from small activities to large activities in the community (Syaripulloh, 2014). So, it can be said that religious leaders are needed in the process of resolving divorce cases in the PA. Religious leaders have great potential in reconciling couples seeking divorce. According to religious leaders, consultation should be carried out first so that it is more likely to prevent high divorce rates. This is because the figure itself can be one of the factors for couples not to divorce because it is very well known by both partners and vice versa. In addition, religious leaders have a good pattern of communication with the community, starting from verbal and nonverbal approaches that religious leaders can carry out to make the community feel comfortable when giving advice or finding solutions to the problems faced.

A religious figure who turned out to be able to reconcile the two couples who eventually did not file for divorce with the PA. Religious figures became the most followed figures by the public compared to judges. Religious figures have authority that makes people reluctant and even have their own charisma. Lepomaki (2017) argues that the peace efforts of religious leaders are very similar to the efforts of scholars who focus on the transformation of conflicts and the role of religious actors in them;

There are several couples who come about divorce. If there is something like this, we try to improve their relationship and always try to solve the problem. For our success, we get more small problems that are immediately resolved well. (interview, Barlin Sumenda Vice Chairman of Muhammadiyah Sangihe, Sangihe, August 5, 2021).

So far, I have been a religious leader and 100% failed to divorce. In the mediation, there is a written agreement. This means that the success rate of reconciling is high. The actions of religious figures are more directed to the community directly; religious leaders are more familiar with the community itself and vice versa, starting from customs and others. (Interview, Ilyas Rahman, Management of SI Bitung, Bitung, May 2, 2021).

Many couples who have problems, even separate beds, ask for advice, and finally, the problem is resolved peacefully. This problem that is often encountered is often caused by lack of second maturation in both partners. But with some marriage advice, the problem can be solved. (Interview, Nasruddin Yusuf, Leader of Muhammadiyah Sulawesi Utara, Manado, June 2, 2021).

Religious leaders are able to bring about major changes to society's social conditions. They can shift society's actions towards the actions they want. Factors that cause the success of change Religious leaders are able to provide major changes to the social conditions of society (Cheong, 2011). Religious leaders are able to shift community actions in the direction desired by religious leaders in addition to obedience is the ability of religious leaders to explain complex problems for society more easily;

Religious leaders can be an important alternative for society. The religious figure is followed if, in court, the community is difficult to follow (the judge). The strongest desires of society are more inclined towards religious figures. (Interview, Nasruddin Yusuf, Leader of Muhammadiyah Sulawesi Utara, Manado, June 2, 2021)

Communication skills from religious figures have become more valuable for them to influence public awareness and to do what is ordered (Achidosti, 2015). One example that can be seen is in Labone Village, Southeast Sulawesi Province; religious leaders play an important role in every family problem, and not a few family problems can be solved. Religious leaders have a special approach to society, moreover, religious leaders are very understanding of the culture and behavior of disputing couples (Listamin et al., 2018).

Discussion

The involvement of customary forums in resolving disputes outside the court is important. Indigenous leaders play a role in seeing the potential and opportunities that exist in the community to be developed as a local wisdom. Judicial institutions need to be supported by improving the quality and quantity of human resources, as well as facilities and infrastructure so that the implementation of mediation can run well and effectively in the judiciary.

Given that Indonesia is very rich in local wisdom, almost every daily community activity has its own values (Cheong, 2011). This community activity can be used as a basis for providing new policies for solving complex problems. Religious figures as a form of local wisdom in Indonesia, especially North Sulawesi, can be used as a non-litigation way to prevent divorce of the parties.

Local wisdom policy, as applied in West Nusa Tenggara Province, namely Regional Regulation of West Nusa Tenggara Province Number 9 of 2018, concerns Bale Mediation. It states that mediation centres and courts can be integrated institutionally through several concepts: first, making the mediation centre a dispute screening tool so that the court ultimately only functions as the final institution. *second*, to make the executive power over the peace agreement produced by the mediation centre in a peace deed; *third*, procedures for managing Sasak community control based on local laws and regulations in the form of a Central Mediation Institution are one of the alternatives to local community dispute resolution (Haq et al., 2021).

In performing the role of a divorce mediator, the mediator must first overcome the reluctance to become involved in family breakups (Bennun, 1983). Seeing that religious leaders are able to reconcile parties who want to divorce, it means that good cooperation between the relevant ministries (religion) and the Supreme Court is needed for the divorce mediation process in the PA, whether it is before entering the registration of a lawsuit/application or in the PA mediation process. Because this is very important, religious leaders can overcome many problems that occur in society. Various approaches to the

community turned out to be owned by religious leaders. So, this is one that must be considered by the Supreme Court.

Rules on mediation in religious courts are made with their own function: preventing cases from proceeding to trial. Although religious leaders have an approach that can prevent people from divorcing so that mediation of religious leaders is a requirement for couples before going to trial, according to the PA, formal mediation facilities (mediators) may not work.

Based on this description, it can be seen that the government's role in resolving divorce cases in religious courts is limited and less responsive to the dynamics of this actual problem. Therefore, there is a push to strengthen the role of the government in handling this issue more actively. One alternative proposed is to involve religious leaders as external mediators in efforts to resolve divorce cases. Nevertheless, strict and professional regulation is needed in this regard. The religious leaders are expected to have appropriate certification but also need to make room for individuals with local knowledge, experience, and wisdom without strict formal certification requirements.

However, there are many ways that religious leaders can get involved in the process of reconciling both parties filing for divorce in the PA. Some religious leaders expressed their views that there is a need for local wisdom between agencies related to mediation, both between the PA and the Ministry of Religious Affairs and Islamic CSOs so that it can bring up a new innovation in the mediation process in the PA as well as facilitate the divorce process in the PA which makes the divorce rate decrease.

In relation to the concept of local wisdom, there is a great opportunity to develop new innovations in determining a non-formal institution that can play a role in overcoming divorce problems, such as creating a local wisdom-based counselling centre. Establish a counselling centre that integrates local wisdom in a mediation approach. It may engage respected local or indigenous community leaders to guide and advise divorced couples. They can blend religious teachings or local traditions with modern mediation techniques to reach better solutions. With an approach that combines local traditions and modern mediation techniques, the institution can help couples reach better solutions while respecting local cultural values and norms. In addition, local wisdom-based counselling centres can also play a role in educating the community about the importance of maintaining the integrity of the household and ways to resolve marital conflicts peacefully, thereby reducing the divorce rate in the community.

This method can be a new innovation in divorce settlement without having to divorce, and the divorce rate can be minimised. The implementation of *a'borong* mediation (*musyawarah*) in the Kajang indigenous community is one concrete example of local wisdom as a solution to resolving divorce problems. The implementation of mediation/*a'borong* has a positive impact in reaching a peace agreement between the parties compared to mediation regulated in Perma No. 1 of 2016 concerning Mediation (Muhdar & Jasmaniar, 2020)

At least, researchers show a pattern here as a form of connectedness that is taking a new step in reducing divorce rates in society. This pattern relates to the role of all agencies related to the divorce process. In this case, there is a need for cooperation between ministries related to *local wisdom*.

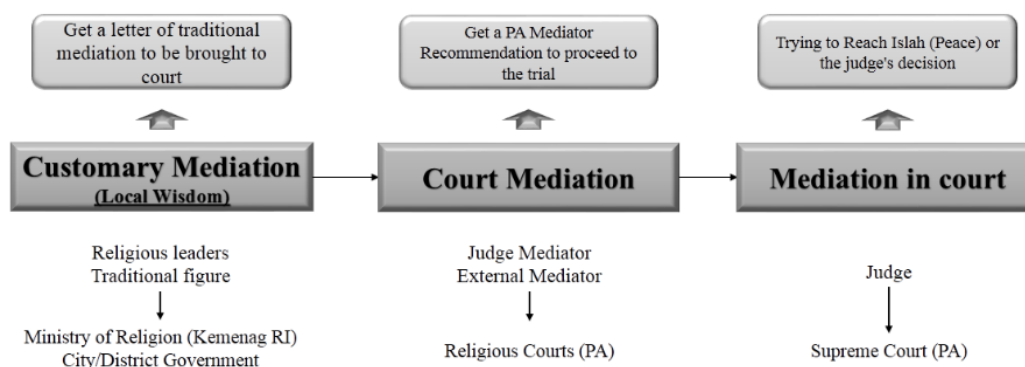


Figure 1. Local wisdom-based divorce mediation pattern

In Figure 1, the researcher emphasises that before the divorce issue of a married couple becomes a case in a religious court, customary mediation must first be carried out where religious figures and/or community leaders become mediators. This process can be done in the area where the couple lives. The results of this study show the tendency of religious figures to be able to reconcile couples who want to divorce. So, in other words, the divorce process entered in religious courts is reduced; this is the local wisdom that researchers mean.

CONCLUSION

this study reveals critical insights into mediation practices within the Religious Courts of North Sulawesi. It highlights the disparity between the limited success of formal mediation processes and the more effective outcomes achieved through local religious leaders. Specifically, the research underscores that while formal court-mediated processes often struggle to resolve marital conflicts satisfactorily, local religious leaders adeptly apply cultural and religious insights to foster amicable resolutions. This underscores the significant role of local wisdom in mediation outcomes, offering a culturally grounded alternative to conventional legal frameworks.

The study introduces a novel conceptual framework advocating for the integration of local wisdom into formal legal procedures to enhance mediation efficacy. By emphasising the cultural nuances inherent in marital disputes and proposing collaborative approaches between community leaders and government entities, this framework aims to improve the effectiveness of mediation practices within Indonesia's diverse socio-cultural landscape. However, the study acknowledges limitations, including its geographic focus solely on North Sulawesi, which may not fully represent other regions in Indonesia. Future research could expand this inquiry to include other provinces, examining variations in mediation practices and cultural dynamics across the country. Additionally, advancing methodological approaches, such as comparative studies or longitudinal analyses, could provide deeper insights into the long-term impacts of integrating local wisdom into mediation processes and further validate the efficacy of this approach on a broader scale.

REFERENCES

Achidsti, S. A. (2015). *Kiai Dan Pembangunan Institusi Sosial*. Jakarta: Pustaka Pelajar.

- Afrizal, D., Rahayu, S. W., & Rinaldi, Y. (2020). The Effectiveness of Mediation Implementation of the Divorce Provision in the Supreme Court of Syar'iyah Sigli. *IOSR Journal of Humanities And Social Science (IOSR-JHSS)*, 25(7), 41–53. <https://doi.org/10.9790/0837-2507064153>
- Bennun, I. (1983). Divorce mediation: A practical guide for therapists and counsellors. *Behaviour Research and Therapy*, 21(3), 323. [https://doi.org/10.1016/0005-7967\(83\)90225-5](https://doi.org/10.1016/0005-7967(83)90225-5)
- Bisman, B. (2015). *Efektivitas Kerja Badan Penasehatan Pembinaan dan Pelestarian Perkawinan (BP4) dalam Mengurangi Terjadinya Perceraian di Kecamatan Makassar*. Universitas Islam Negeri Alauddin Makassar.
- Bukido, R., Irwansyah, I., Irawan, J. N., & Makka, M. M. (2019). Settlement Of Marital Disputes Efficacy Through Mediation In The Manado Religious Court. *Jurnal IUS Kajian Hukum Dan Keadilan*, 7(3), 374–383. <https://doi.org/http://dx.doi.org/10.29303/ius.v7i3.696>
- Cao, H., Fine, M. A., & Zhou, N. (2022). The Divorce Process and Child Adaptation Trajectory Typology (DPCATT) Model: The Shaping Role of Predivorce and Postdivorce Interparental Conflict. *Clinical Child and Family Psychology Review*, 25(3), 500–528. <https://doi.org/10.1007/s10567-022-00379-3>
- Cheong, P. H. (2011). Religious leaders, mediated authority, and social change. *Journal of Applied Communication Research*, 39(4), 452–454. <https://doi.org/https://doi.org/10.1080/00909882.2011.577085>
- Cochran Jr, R. F. (1987). Mediation of marital disputes before it is too late: A proposal for premarital contract provisions for mediation of disputes within the intact family and at separation. *Pepp. L. Rev.*, 15(1), 51–64.
- Djawas, M., Ridhwan, R., Devy, S., & Husna, A. (2021). The Government's Role in Decreasing Divorce Rates in Indonesia: The Case of Aceh and South Sulawesi. *AHKAM: Jurnal Ilmu Syariah*, 21(1). <https://doi.org/10.15408/ajis.v21i1.20870>
- Donohue, W. A. (2023). *Communication, marital dispute, and divorce mediation*. Taylor & Francis. <https://doi.org/https://doi.org/10.4324/9781003383123>
- Dragos, D. C., & Neamtu, B. (2014). *Alternative dispute resolution in European administrative law*. Springer.
- Haq, H. S., Achmadi, A., Budiono, A., & Hangabei, S. M. (2021). Management of National Judicial System Control Based on Local Laws: A Case Study at the Mediation Center in Lombok, Indonesia. *Lex Localis - Journal of Local Self-Government*, 19(3), 485–501. [https://doi.org/10.4335/19.3.485-501\(2021\)](https://doi.org/10.4335/19.3.485-501(2021))
- Heaton, T. B., Cammack, M., & Young, L. (2001). Why is the Divorce Rate Declining in Indonesia? *Journal of Marriage and Family*, 63(2), 480–490. <https://doi.org/10.1111/j.1741-3737.2001.00480.x>
- Heaton, T., & Cammack, M. (2011). Explaining the Recent Upturn in Divorce in Indonesia: Developmental Idealism and the Effect of Political Change. *Asian Journal of Social Science*, 39(6), 776–796. <https://doi.org/10.1163/156853111X619229>
- Hepp, A., Hjarvard, S., & Lundby, K. (2015). Mediatization: theorizing the interplay between media, culture and society. *Media, Culture & Society*, 37(2), 314–324. <https://doi.org/10.1177/0163443715573835>
- Hermasyah. (2013). Pembentukan PA Kelas IA Khusus Perlu Diperjuangkan.
- Jamal, R. (2017). Resolusi Konflik Perkawinan Melalui Mediasi Dalam Perkara Perceraian di Pengadilan Agama Manado. *Jurnal Ilmiah Al-Syir'ah*, 15(2), 137–166. <https://doi.org/http://dx.doi.org/10.30984/as.v15i2.478>
- Kelly, E. J., & Kaminskienė, N. (2016). Importance of emotional intelligence in negotiation and mediation. *International Comparative Jurisprudence*, 2(1), 55–60. <https://doi.org/https://doi.org/10.1016/j.icj.2016.07.001>
- Lempereur, A., Salzer, J., Colson, A., Pekar, M., & Kogan, E. B. (2021). *Mediation: negotiation by other moves*. John Wiley & Sons.

- Lepomäki, M. (2017). *Supporting the peace mediation efforts of religious leaders: An empirical study of co-operation between Finnish NGOs and the Ministry for Foreign Affairs of Finland*.
- Listamin, B., La Ode Monto, & Arsyad, M. (2018). Konflik Perkawinan dan Cara Penyelesaian Melalui Tokoh Adat. *Jurnal Neo Societal*, 3(2), 362–373. <https://doi.org/http://dx.doi.org/10.52423/jns.v3i2.4023>
- Mahkamah Agung. (2021). *Laporan Kinerja Mahkamah Agung tahun 2021*. Jakarta: Mahkamah Agung.
- Mahkamah Agung. (2022). *Laporan Kinerja Mahkamah Agung Tahun 2022*. Jakarta: Mahkamah Agung. Retrieved from <https://www.mahkamahagung.go.id/media/11369>
- Muhdar, M. Z., & Jasmaniar, J. (2020). Studi Perbandingan A'borong (Musyawarah) Masyarakat Hukum Adat Kajang Dihubungkan Dengan PERMA Nomor: 1 Tahun 2016 Tentang Mediasi. *PETITUM*, 8(1), 57–70. <https://doi.org/https://doi.org/10.36090/jh.v8i1>
- Paryadi, P. (2021). Mediasi Di BP4 Dalam Mencegah Perceraian. *Ulumul Syar'i: Jurnal Ilmu-Ilmu Hukum Dan Syariah*, 10(1), 24–37. <https://doi.org/10.52051/ulumulsyari.v10i1.119>
- Salminen, K. (2018). Is mediation in the best interests of a child from the child law perspective. *Nordic Mediation Research. Springer, Cham*, 209–222. https://doi.org/10.1007/978-3-319-73019-6_11
- Stipanowich, T. J. (2015). The international evolution of mediation: a call for dialogue and deliberation. *Victoria U. Wellington L. Rev.*, 46, 1191.
- Sukaenah, S., & Rusli, R. (2020). The Effectiveness of Indonesia Supreme Court Regulation Number 1 Year 2016 Concerning Mediation of Marriage Disputes. *International Journal Of Contemporary Islamic Law And Society*, 2(1), 63–80. <https://doi.org/https://doi.org/10.24239/ijcils.Vol2.Iss1.15>
- Syaripulloh, S. (2014). Kebersamaan Dalam Perbedaan: Studi Kasus Masyarakat Cigugur, Kabupaten Kuningan, Jawa Barat. *Sosio-Didaktika: Social Science Education Journal*, 1(1), 64–78. <https://doi.org/10.15408/sd.v1i1.1207>
- van Boom, W. H., Desmet, P., & Mascini, P. (2018). Empirical legal research: charting the terrain. In *Empirical Legal Research in Action*. Edward Elgar Publishing. <https://doi.org/10.4337/9781785362750.00005>
- Yu, Y., & Choi, Y. (2016). Stakeholder pressure and CSR adoption: The mediating role of organizational culture for Chinese companies. *The Social Science Journal*, 53(2), 226–235. <https://doi.org/https://doi.org/10.1016/j.soscij.2014.07.006>