BALTIC JOURNAL OF LAW & POLITICS
A Journal of Vytautas Magnus University
VOLUME 15, NUMBER 2 (2022)
ISSN 2029-0454

Cite: *Baltic Journal of Law & Politics* 15:2 (2022): 134-149
DOI: 10.2478/bjlp-2022-001008

Religious Court Practice in Indonesia: Mediating Divorce Issues through Alquran Based-Model

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Received: July 17, 2022; reviews: 2; accepted: October 18, 2022.

Abstract

Divorce issues according to Islam have become increasingly popular in Indonesia. According to studies conducted in religious courts like as Cilacap, Purbalingga, and Banjarnegara, the success rate for mediation incorporated into the divorce procedural law is only 1-2 percent. The concerns are related to three factors: (1) the Supreme Court rule no. 1 year 2016 regarding mediation procedures, (2) mediator professionalism, and (3) mediation incorporated into the procedural law is not in line with the conceptions of the parties' cultures. The goal of this research is to find out how Religious Courts handle divorce mediation and how the optimal model of contextual-integrative mediation in Religious Courts procedural law can be developed. This study, based on justice/equality and participation principles, proposes an ideal model of contextual-integrative mediation in the procedural law of religious courts, with an emphasis on the model's elements: professional mediators with active participation from the parties and culturally flexible mediators. Qualitative content analysis was used to examine legislative documents in Islamic courts. The findings reveal that the mediation process in Indonesian Islamic courts is possible to do because of the existence of PERMA issued by the Indonesian Supreme Court. In addition, the inclusion of Alquran-based model is affective for the entire Islamic Court practices provided contemporary legal issues are integrated.

Key-words:

integrative mediation, interpretation of the Qur'an, procedural law.

Introduction

In Indonesia, the principle of justice found in the Judicial Authority Statute no. 48, mediation, which is included in the legal procedure, does not fulfill the aims

of this procedure which are simple, rapid, and cheap (DPR RI, 2009; Halim,2021; Ibrahim, 2021). This can be proven via research undertaken by Sofiani (2010), who found that the mediation agency in Pekalongan, Central Java, does not serve its purpose ontologically. An integrated mediation was also described in the research from Musawwamah (2014) which examined an integrative mediation in the Religious Court in Pamekasan Madura, and Nasruddin (2019) which looked at the application of mediation, based on Islamic legal thought and the judicial authority law. Religious courts that use mediation have only had a success rate of between one and two percent (Naqiyah & Triana, 2018; Halim, 2021; Shibli et al., 2021).

Recent studies on mediation in Indonesian Islamic courts revealed four categories of divorce disputes that could be resolved through mediation. First and foremost, the need of integrating mediation into legal practice in the courtroom in order to achieve clarity, orderliness, and other desirable outcomes are not satisfied yet (Talli, 2015; Hanifah, 2016; Mamudji, 2017). Second, as noted in Pekalongan (Sofiani, 2010), Pamekasan (Sofiani, 2010), and other publications, the implementation of mediation in various courts has not been completed (Musawwamah, 2014; Nasruddin, 2019). Third, there are disparities in legal authority between mediation done within the court system (as a final verdict) and mediation done outside of the court system (Mulyana, 2019). Fifth and lastly, the reconstruction of mediation to locate the reconsiliation of the spouse (Naqiyah and Triana, 2018) and to safeguard the victims of domestic violence in the divorce case have been concerns that require the legal system's substance, structure, and legal culture to be addressed (Akhtar, 2018; Yuni & Kravchenko, 2021).

After conducting an extensive comparison of Japan, Malaysia, and Singapore's mediation approaches, Anindito (2017) determined that the law must be revised to affirm that mediation is both required and alternative. According to Bintoro (2016), it is wrong to utilize compulsion in a civil matter because mediation is predicated on the parties' willingness to resolve their issue without recourse to the courts. The contribution of this article is an ideal model of integrative mediation in the procedural law of the religious court, namely the mediation which is based on the justice principles or the equality which is in line with the community culture on the basis of the interpretation of the Quran, with an emphasis on the elements of the model: mediator who is either legalistic-substantive or structural in nature; mediator who is either legalistic-substantive or structural in nature; mediator who is either legalistic-substantive or empirical (Ibrahim, 2021; Usman & Rozar, 2021).

Research Questions

This article aims to correct previous studies' shortcomings by focusing on the laws, their implementation, and reconstruction, rather than the interpretation of the Qur'an-based model that may be offered to reconstruct it. The answers to the following three research questions are sought.

1) How is a mediation applied in the divorce case work in Indonesia's Religious Court?

2) How effective is the mediation model in religious court procedural law Alquran-basis in Indonesian religious court law?

Literature Review

Mediation in the interpretation of the Qur'an and procedural law

Some of the phrases used in the Qur'an to describe mediation include *sulh* and *tahki*>m, among others. It implies, "to decide conflicts or arbitrate disputes using the assistance of a third impartial party." *Sulh* handles all of these functions, including negotiation, mediation, and conciliation, and compromise where these meet the criteria set forth in ADR (alternative dispute resolution). who combines both stupor and delirium, s}ulh} andtah}ki>m (Islam, 2012). His code of justice was derived from two Quranic passages in Chapter 49, verses 9-10, which are directions to find a proper settlement of warring parties in accordance with justice (Al-Razi, 1999; Vermeulen et al., 2020).

The verse by referring to a prophetic hadith related by Anas in which Rasulululllah orders him to assist his dictatorial brothers by stopping them (or whoever is injured) from becoming despotic (Katsir, 1999). Allah questions those who are fighting such as advise, religious outreach, guidance, and mediation (*tahkim*) (Al-Zuhaili, 1418, vol. 26, p.237). Although such conflicts are generally permissible as long as the resolutions do not allow things that are forbidden or do not proscribe things that are allowed, there is an exception to this rule: the Q.S. Al-A'raf/7: 32-33, in which it contains a lesson about resisting those who make excuses for what is forbidden and providing help to those who struggle against the prohibited. Peace is acceptable to Muslims, save for the peace that prohibits what is justified or justifies what is prohibited. The third option is *tahkim*, which is a method of resolving disputes between parties through arbitration. This is frequently used when a peaceful settlement cannot be established (Q.S an-Nisa/4: 35). *Tahkim* is practiced informally, it is not overly technical, it is inexpensive, and it is rapid. Before a ruling is reached, each party has the opportunity to withdraw from the arbitration (Islam, 2012). In Islamic law, *tahkim* is carried out by a *hakam* (mediator) who is just, possesses sound reasoning, and is knowledgeable about religious regulations (Al-Qurthubi, 1964, vol. 5, p. 175), or by a person who is logical, religiously, and justly appropriate in a certain situation (Al-Syaukani, 1414, vol. 1, p. 534). Furthermore, according to Islam, med-arb is used, which is a mix of sulh and tahki>m. An arbitrator's role is to initially attempt mediation before making an arbitration. It is now acknowledged as the way to resolve conflict through mediation and arbitration. The method practiced by both the Prophet and his companions was s}ulh} and tah}ki>. Mediation and conciliation are preferred in the Qur'an and Hadith over legal right enforcement (Singh, 2017).

In other words, mediation is a procedure that participants use to reach an agreement by collaborating with a third party. Thus, mediation is called "a three-party negotiation; the mediator serves as an intermediary" (Benjamin, 2001).

During mediation, a pretrial settlement has practically supplanted a conference settlement (Hansen, 2003). Actually, there exists a culture of mediation across the community, due to the widespread use of different types of mediation tools in diverse settings (Oudat, 2015). However, some people are apprehensive about mediating because they believe that doing so entails behaving good and giving up (Benjamin, 2001), which is counterproductive given that humans are, at their core, stingy (Q.S al-Nisa/4: 128). As a result, they are concerned about losing their rights or about losing their rights while in the process of losing their rights. It is necessary to have a procedural law in order to uncover facts, with the main goals being to make the implementation of laws more accurate (Seymour, 2005). The procedural law, on the other hand, must be consistent with the substantive law (Das, 2011). A procedural law that has not been tried to be given by substantive law can contribute nothing, and a procedural law that has been given by important laws can take nothing away from the substantive law (Das, 2011).

For comparison, various practices in mediation are presented. Jordanese mediation focuses on the social problems that arise from family ties being too strong, it is often countered by the principles of loyalty and civil norms (Oudat, 2015). Mediation has for a long time been seen as a useful approach to solving disputes in China, because it keeps risky social interactions in check, reduces disagreements, and tames social tensions (Di & Wu, 2009). The mediation in China is applied on a country-wide basis, although it is localized in a city setting (Read & Michelson, 2008). It is in this situation that people of the society who are actively involved in government institutions have a larger chance of finding a solution to a problem than those who live in rural areas of China. According to Birken and O'Sullivan (2019), mediation in Central Asia is less accepted than in other countries as a result of the post-Soviet legacy, despite the fact that the legal tradition in these countries includes a number of mechanisms for dispute resolution outside of court that are similar to mediation, which were in use even during the Soviet era (Birken & O'Sullivan, 2019). Meanwhile, the United States Court of Appeals for the District of Columbia has a procedural law approach to litigation at the worldwide extent as if it were a minor variation, which is the interstate coverage (Dubinksy, 2008).

Justice and Equality before the Law

Seeking justice and equality is stated and prioritized in the Qur'an; the Quran states how justice and equality are to be had (Q.S. al-Nisa>'/4: 58). According to ʻAsyur (2001), justice is equal treatment of human beings or members of the society by distributing something to those who deserve it. The renowned scholar gave this verse an interpretation in which it was an injunction to be fair to the one who acts as a mediator in a dispute between two parties. Additionally, this verse explains that when a case is given to someone who is not an expert in it, the case should be held until (it is destroyed). This explains the tale from Bukhari, which says that if you present a case to someone who is not an expert, it is time to wait for it to be destroyed (Ridla, 1990b). Since justice is a requirement for life and orderliness, Allah

demands that all human beings be subject to justice regardless of their race, sex, or religion. The Islamic constitution is not biased toward any certain religion (Al-Qaththan, n.d., vol. 1, p.305). There appear to be a number of interpretations based on the emphasis of the selected mediator: being capable from the scientific quality or perspective, or being just (Yuni & Kravchenko, 2021).

Justice and legal equality are explanations on fact equality in terms of behavior leading to equal opportunity (Doomen, 2014). In the same vein Franceschet (2004) explains that legal equality is characteristics inherent in the system which is normatively appropriate and substantive inequality viewed from the fact which fundamentally and casually is outside the system. This legal equality may be more secured through parliamentary politics, advancement in the judiciary field, and it is facilitated by the improvement of the roles of the discourse on human rights (Stychin, 2009). It is the internal rules of a firm that determines who does not have the same rights as everyone else (Cheesman, 2014). The rule of law as equality completes the rule of law as security in an established democratic government, although not necessarily in democratization (Cheesman, 2014). Rawls (1999) believes that all fundamental social values (liberty, opportunity, income, wealth, and self-concept) should be evenly distributed, unless the inequality is beneficial to all. According to Kapai (2010), applying equal law to all individuals in a liberal democratic government may result in unfairness if the demands of the minority are not considered. Minority cultures and religions in a liberal democratic society can be challenging. A deliberative procedure based on substantive equality doctrine can provide a more just and inclusive political framework (Setyowati, Musjtari & Susilowati, 2021).

Democratization is aided in Myanmar by the rule of law as an idea linked with substantive legal equality; yet, when the rule of law is associated with public and state security, it has the potential to impede the process of democratization itself (Cheesman, 2014). As a result of the prevalent tradition in India, persons who are oppressed socially, politically, and legally have less opportunities to obtain equal treatment under the law (Lakshmi, 2006). Tnnessen (2008) emphasizes that inequality before the law exists in Sudan, where family law is based on the teachings of Islam, Christian tradition, and traditional African beliefs. This inequality before the law exists not only between men and women, but also among Sudanese women of different religions and tribes. The elite circles in Brazil (Ansell, 2018) see rural people as being indolent, politically apathetic, and subject to corruption in democracy, as evidenced by the sale of votes in the recent presidential election in Brazil. As explained by Ansell, the clientelism mentality is incompatible with political ethics and so does not undermine democratic institutions. Clientalism can be addressed by the use of political ethics. After the general election, ethical transactions reconstruct personality, which is socially rooted in the voters. However, rather than defending clientelism, this argument focuses on social inequality, which prohibits some people from engaging in ethical political transaction.

Law and Society

It is the reflection of the peculiarities of a country's social life that the law of that country is formed (Tamanaha, 2004). ‘*Urf* or custom is a term used in Islam to refer to a type of social relations that have become habits and are consistently practiced throughout society, and which have been regarded as beneficial by the Moslem people (Zahrah, 2011), whether in the form of expressions, deeds, or their prohibitions (Khallaf, 1977). ”*urf* may be based on Q.S. al-A'ra>f/7: 199),” says the author.

In this verse, the word a *'urf* refers to something that is well-known by humans; it is the polar opposite of rebellion, namely, anything that is well-known by the spirit and is repeated (Ridla, 1990a). ’Good deeds that are well recognized by humans and are not refuted by anyone (Abu al-Su'ud, n.d., vol. 3, p.308) are referred to as *urf*. ‟*Urf* is something that has been known in order for it to be purchased, and its existence is preferable to its absence; it is liked, and it inhibits revolt while also dissociating from it (Al-Razi, 1999). *Urf* or custom is significant as long as it does not violate the *syara*' proposition: it does not excuse the forbidden and does not negate the obligatory, hence it is regarded as one of the Islamic legal sources when its provisions are not contained in the Quran or hadiths.

A society's particular "*urf*" or customs may differ from those of other societies. Consequently, decisions-making methods that are congruent with the needs of the community are distinct from other communities and therefore, not comparable to each other, which means laws are not just about following the rule of law but also provide justice (Verma, 2003). That means that in every legal and social circumstances, as well as in the community contexts, different rationalities are employed to solve the conflicts. Globalization might assist with uncovering and redrawing the core tenets of activism at the heart of the legal system and the wider community (Munger, 2001). A law must provide equality and fairness (Munger, 2001). In America, the Law and Society Association (LSA) tries to find laws and researches on foreign societies that lead to scientists taught through development and laws. It is nearly impossible to enter or leave the realm of law and society without examining the LSA (Garth, 2003). The Israel Law and Society Association was founded on November 1, 1999, and holds numerous national meetings and seminars on the relevant issues (Sebba, 2001). In Britain, the law and society movement needs structural and functional assistance from social activists (Wincott, 2011).

Methods

Design

This study applied a qualitative approach to analyze data. Documents of empirical courts were analyzed in this study. Qualitatively, the themes of the divorce practices and messages in the contents of the documents are thematized and analyzed. This research was conducted Indonesia taking place in three religious courts in ex-residency Banyumas with a considerations is that in Cilacap regency, the divorce rate occupied the highest rank in Central Java region. In Purbalingga

regency, the number of women having opportunity to work in factory was higher than men. In Banjarnegara, the trend of the number of divorce was very high after the Ied.

It was a qualitative study, with primary and secondary data sources being used to gather information. Among the key data were records of the court-ordered mediation process as well as information on mediators, parties involved in the mediation, and the facility where the mediation was taking place. The secondary information was gathered from the documents pertaining to the rules that were in effect at the time and from the study results pertaining to the mediation. The two types of data were utilized as the foundation for a study of the relationship between the effectiveness of mediation in religious courts that has been integrated into the procedural law.

Data Collection

This present study was performed through in-depth observation of religious courts in Purbalingga, Cilacap, and Banjarnegara, Indonesia, to find out the mediation process that takes place there. This procedure yields the following results: Pre-mediation, throughout the mediation process, at the end, and after the mediation, are all times when legal substances can be used. Legal substances may be utilized any time during the mediation process, when it is at the finish, and after the mediation. This approach was used to illustrate the mediation process's reality in the courts. in-depth interviews, using open-ended questions, for the mediators (Borg, 1989; Cassel et al., 1994; Sugiono, 2013). In the course of this present research, other relevant materials about mediation practices, legal aspects, organizational structure, and cultural impacts were also evaluated. These can take the shape of rules, data, and other sources such as the rules in the Quran and the Muslim traditions such as norms.

Data Analysis

Data of this study was processed and evaluated in three steps using two different approaches. The three stages of analysis included (1) data reduction, which was a process of arranging the data in a more systematic manner; (2) data display, which was an effort to present the research findings; and (3) data verification, which was a stage of data conclusion, which was particularly concerned with following the trend from the obtained data. The descriptive and content analysis methods were used to analyze the data that had been processed via the three steps. The data description served as the foundation for the interpretation process, which was carried out in the context of the data description. It was also decided to do a content analysis. The stages and techniques of analysis employed allow for the formation of findings concerning the relationship between the mediation incorporated into the procedural law in religious courts and its effectiveness in the religious courts context.

Results

Mediation Practice

This section describes the mediation procedures that are interwoven into the legal procedure in the religious courts in Banyumas, Central Java, Indonesia, which was the former residence of Banyumas. Afterwards, a critical comment is made as to why the mediation is ineffective, and a solution is offered in order to make the mediation effective once more. It is this that will be discussed in further detail in this section.

Banyumas (Purbalingga, Cilacap, and Banjarnegara) residents' religious courts were referred to as law enforcement institutions while carrying out mediation. They fulfilled their statutory duties in that they had complied with Supreme Court Regulation (PERMA) Regulation no.1 of 2008 and Perma no. 1 of 2016 (RI, 2016). When this concept was tested in the courts, mediation was required, as mentioned in the PERMA, article 17 verse (1). Following that, the parties were given the opportunity to select mediators in accordance with PERMA article 19 I1), and the parties, on the whole, picked the judges to serve as their mediators. If, on the other hand, neither of the parties or one of the parties failed to appear at the first trial, the court issued three more invitations. The mediators then carried out the mediation process for the two parties in accordance with Article 7 (1) of the PERMA by first introducing themselves to the parties and explaining about their roles as mediators in order to assist the parties in finding a win-win solution to their dispute with the least amount of conflict. The decision was contingent on the cooperation of the two parties. Finally, the mediators allowed the parties to talk about their troubles, giving them the opportunity to reveal the issues. The mediators summarized the issues and read them in front of the parties (as required by PERMA, article 1), in a special courtroom (as required by PERMA, article 11 verses (2) and (3), and in the mediating chamber (as required by PERMA, article 11 verses (2) and (3). The mediators attempted to reconcile the parties, PERMA article 14 (RI, 2016), by providing information on divorce in Islam (the parties' religion) and the divorce's outcomes. Divorce is permitted in Islam, according to mediators, but only as a last resort. The mediators also relayed information on the legal ramifications of the divorce, the children's well-being, and any strained kinship between the woman and the husband.

In the course of carrying out their responsibilities, mediators generally took into consideration the issues raised by the parties. If the problems appeared to be conciliable and had not yet manifested themselves, they attempted to conciliate them in the most efficient way possible. An act of reconciliation (acta van vergijk) was signed by the mediators following the reconciliation (as specified in PERMA, article 27, verse 1). The mediators also stated that the deed has the same legal power as a judge's verdict, in that it can be executed, but that it cannot be used to file an appeal, a cassation action, or a judicial review action against the decision. If this issue had been settled long ago, the mediators likely saw that the mediation

would be unsuccessful, in which case, the mediation would be completed. According to the mediators, the move was taken for the benefit of the parties in order to put an immediate end to their suffering. The mediators did not thoroughly investigate the issues in order to provide an alternate option to the parties where the potential differed from one case to the next. When a reconciliation did not materialize during mediation and the two parties were adamant about divorce, the divorce case examination process was resumed.

Effectiveness of Mediation Model

The effectiveness of the legal system is determined by several elements, including the legal substance (the legislation), the legal structure (the law enforcement agency), and the legal culture. On the ground, there is a rule of law on mediation that is integrated into the legal procedure (PERMA) no. 1 year of 2008 and PERMA no. 1 year of 2016, respectively (RI, 2016). But there were still flaws in the rule, including a provision in article 16 that states that "the chairman of the court is obliged to communicate to the chairman of the high court and to the Supreme Court the performance of the judges or court clerks who are successful in solving cases through mediation." Either a successful or unsuccessful mediation is not affected by this regulation in any way.

So, how about the legal framework? Mediators treated the parties differently, as described in the valuable section. A serious mediation was carried out when the mediators (from the religious court) learned of a new case and its case was light. However, if the case had been ongoing and was serious, a formal mediation was established, in which the mediator just performed their procedural duties in order to assist the parties in resolving the problem they were experiencing right away. Domestic issues filed with religious courts in general were family problems (husband and wife) that had existed for a long time and had not been resolved by the two parties or the husband and wife's families. As a result, it appears that the parties' mediation was not equal since it was impacted by the mediators' perception, resulting in the mediation being unsuccessful or failing and ending in divorce.

The next is cultural characteristics like the parties' engagement and the mediation location's adaptability. Because of this, the parties in divorce proceedings generally felt that the mediation was nothing more than a bureaucratic process. The courtroom is an inappropriate venue for the parties to discuss their case; they should be sitting in front of each other, facing each other, so that the matter can be quickly settled. In addition, the site also became the scene when the mediator came from the religious court of the community, which meant the mediation needed to take place in the religious court. They believe that the court was not the place to reach consensus, but to make a final ruling on their case. Also, because of this, mediation that ends in failure is tied to the perceptions of the parties in their own cultures, in which they believe that the court is not a place to mediate and negotiate, but to make a decision.

Discussion

This research discovered the following findings. First, religious courts in Banyumas' former residence, which served as law enforcement institutions in the course of mediation, had formal legal provisions in place, where substantive law had been regulated by both PERMA No. 1 year of 2008 and PERMA No 1 year of 2016. Second, in each case, mediators (as a component of the legal structure) performed their duties in a different way, which was impacted by their perceptions of the circumstances. Because many parties believed that the court was not a place for mediation or negotiation, but rather a place to decide a matter, they were unwilling to participate in the mediation process, which was a problem. The results show that ineffective mediation was present as a consequence of the impact of deficiencies in the law on both participants, as well as due to the limitations of the mediators as a result of the religious court's less ideal legal structure.

In agreement, when we look at how effective laws are, the measure of which depends on various aspects, such as law, enforcement, community acceptance, and cultural influences (Soekanto, 2008). In an ideal world, the incorporation of mediation within the procedural legislation of religious courts would increase the effectiveness of the legal process. It is anticipated that through integration, the procedural law will become more efficient, allowing it to better deal with the accumulation of cases, implement judicial principles in a simple, quick, and inexpensive manner, increase public access to justice, and maximize the court's functions in dispute resolution (DPR RI, 2009). Talli (2015), Hanifah (2016), and Mamudji (2015) all lend their support to the cause (2017). However, it is less successful in terms of bringing the parties back together. Several religious tribunals in the former residences of Pekalongan (Sofiani, 2010), Pamekasan (Musawwamah, 2014), and Lampung (Musawwamah, 2014) have reached similar conclusions (Nasruddin, 2019). It has been regulated in some articles of the PERMA, No. 1, year 2016, despite the fact that it has not been regulated substantively, legally or formally.

In 2016, PERMA No. 1 appears to have been revised in order to aid in the legal and formal success of mediation in religious courts that is integrated into the procedural law of the courts of appeals. These other articles include 16, governing the responsibility of the chairman of the internal religious court to report the performance of mediators (namely, mediators who were successful in mediation). However, there is no law that offers incentives to mediators who successfully mediate, or places burdens on mediators who are unable to do so. Since the parties do not have to spend money on mediators, they tend to choose judges (2018). Meanwhile, religious court mediators have only a legal degree and no training as mediators. The result is that when they mediate, they just stick to legal advice on the legal ramifications of divorce and/or the position of divorce in Islamic teachings (as the couples' religion) that it is permissible but despised. Mediators do not address psychological issues or other causes that can lead to divorce lawsuits or divorce. As a result, competent and professional mediators are required in accordance with the issues that the parties encounter, which must be legally and formally controlled.

This challenge is that it is commonplace for mediators (as a structural element) to treat the parties differently based on their personal beliefs. The mediation is aligned with the existing regulation in a case which is deemed to be light and recent. However, if the mediation has been ongoing for a long time and the mediators perceive the case to be significant, the mediation only serves to meet the procedural requirements, with the express purpose of helping the parties to shed the burden of the case they have already been subjected to. In contrast, in the case of domestic violence handled by the mediators from the Department of the Protection of Women and Children of the Cilacap Resort Police, the success rate of successful mediation reached 99 percent in that case (Naqiyah & Triana, 2018). The reason for this is that instances involving domestic violence may be successfully mediated such that no divorce occurs; even in the event of a lighter case, it is quite likely that the case will be resolved through mediation in some way. Therefore, it is necessary to treat the parties equally and justly on a material level (Rawls, 1999), and it is equal as it is also emphasized in the Quran and its interpretation (Q.S. al-H|ujura>t/49:9), being equal and just on a substantive level, except when the inequality, either some or all values, is beneficial for all people and results in a win-win solution (Q.S. al-H|u; Rawls, 1999).

Additionally, the two aforementioned things are related to the inclusion of all participants. One of the major stumbling blocks during mediation was that one of the parties or a party was absent from the first trial, and the trial therefore had to be adjourned for calling the parties. in general, the parties involved in divorce mediation had lower levels of involvement Because they understood that mediation in the court was only performed on paper, thus when the mediation is needed in the religious court, it must be carried out outside of the courts. A court for the parties is not a place for prolonged deliberation to achieve consensus; rather, it is a location where parties meet to determine a case and decide it, which will lead to a decision that may be executed quickly. As a result, it's necessary to first help the parties come to the realization that mediation is an informal discussion to help them think critically about the nature of the problem, and that by doing so, they may open themselves up to search for a mutually beneficial solution.

So, what is the role of the judicial system in this situation? The legislators, specifically the Supreme Court, should supplement the PERMA 2016 in order to provide guidance on how to achieve success in mediation. By way of illustration, consider the following: a. providing professional mediators in accordance with the parties' needs, who may come from within or outside the religious court; b. making the mediation location flexible, even if the mediators (who are from within the religious court) and the parties agree on it, and making the location not in the religious court, which psychologically hinders the mediation; and c. attempting to get the parties to practising attorneys in accordance with the parties' needs.

The contribution of this research is the mediation model integrated into the contextual procedural law which is based on justice/equality and professionality, and which is in line with the culture of Indonesian people. The model is the

mediators that posses capability which is appropriate with the needs of the parties, professional and that have integrity so that they have commitment to their tasks. Moreover, the importance of mediation should also be socialized to the people so that they understand the nature of mediation which in turns it becomes the need to solve disputes they encounter.

Conclusion

To sum up, PERMA no. 1 year of 2016 has been discovered that substandard mediation woven into the law of the ecclesiastical court in the divorce case is hindered by three key characteristics of law. According to the current structural arrangement, the law should be enhanced, specifically in regards to the scientific quality, the number of mediators, and their pledge to fulfill the mediation duties. To overcome the drawbacks of mediation, it is vital to educate individuals about the relevance of mediation, both in its structural and social contexts. The effectiveness of practicing integrated Alquran-based model in Islaic courts in Indonesia is growing credible provided that shortcoming in Islamic perception and more varied Alquran interpretation with contemporary issues are improved simultaneously.

There are certain limitations to the current studies. Among the restrictions include the fact that the research site is limited to three religious courts in the vicinity of Banyumas' former abode in Central Java, Indonesia, and that the results are preliminary. It is only the practices of mediation and their relationships with ineffectiveness that are the subject of this research, as well as the potential solutions that may be presented.

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