

## **Ideal Model of Marital Dispute Mediation in Order to Minimize Divorce Rates**

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### ***Abstract***

*The purpose of marriage is to create an eternal and happy family based on Belief in the One and Only God, as stipulated in Article 1 of Law no. 1 of 1974 concerning Marriage. As a legal relationship, marriage creates legal consequences for the parties, where sometimes the rights and obligations are not carried out by one of the parties. This triggers conflicts that lead to divorce. Indonesian marriage law adheres to the principle of complicating divorce which requires the parties to mediate in resolving divorce disputes. The purpose of this research is to find the ideal model of mediating divorce disputes before being registered with the court as a solution to reduce divorce rates. Normative research methods with library materials as the main legal material. analyzed by descriptive qualitative. The results of this research are divorce mediation which is regulated in Perma No. 1 of 2016 as part of the proceedings in court has not shown significant results. Even though mediation is mandatory, almost in the jurisdiction of the mediation court many failures result in husband and wife ending in divorce. Mediation is based on the meaning of marriage as *mitsaqan ghalizhan* as the basis for the need for renewal of marriage law in the field of divorce. This mediation model before the dispute is registered with the court on the principle of deliberation to reach a consensus with the aim of maintaining the household. If this ideal mediation fails, then it is registered in court and continued in court.*

***Keywords: Alternatives to divorce disputes; Mediation Ideal Model; Legal development***

### ***Abstrak***

Tujuan perkawinan mewujudkan keluarga yang kekal dan Bahagia berdasarkan Ketuhanan Yang Maha Esa, sebagaimana diatur dalam Pasal 1 UU No. 1 Tahun 1974 tentang Perkawinan. Sebagai hubungan hukum maka perkawinan menimbulkan akibat hukum bagi para pihak, yang terkadang hak dan kewajiban tidak dilaksanakan oleh salah satu pihak. Hal ini yang memicu timbulnya konflik yang berujung kepada perceraian. Hukum perkawinan Indonesia menganut asas mempersukar perceraian yang mewajibkan para pihak menempuh mediasi dalam menyelesaikan sengketa perceraian. Tujuan penelitian ini menemukan model ideal mediasi sengketa perceraian sebelum didaftarkan ke pengadilan sebagai solusi menekan angka perceraian. Metode penelitian normative dengan bahan kepustakaan sebagai bahan hukum utama. dianalisis secara deskriptif kualitatif. Hasil penelitian ini mediasi perceraian yang diatur dalam Perma No 1 Tahun 2016 sebagai bagaian dalam proses beracara di pengadilan belum menunjukkan hasil

yang signifikan. Meskipun mediasi wajib dilakukan, tetapi hampir di wilayah hukum pengadilan mediasi banyak mengalami kegagalan sehingga pasangan suami istri berakhir dengan perceraian. Mediasi berasaskan makna perkawinan sebagai *mitsaqan ghalizhan* sebagai dasar perlu adanya pembaharuan hukum perkawinan di bidang perceraian. Model mediasi ini sebelum sengketa didaftarkan ke pengadilan dengan asas musyawarah mufakat dengan tujuan mempertahankan rumah tangga. Jika mediasi ideal ini gagal baru didaftarkan ke pengadilan dan dilanjutkan dalam persidangan.

**Kata Kunci: Alternatif sengketa perceraian; Model Ideal Mediasi; Pembangunan Hukum.**

### **Introduction**

Marriage is the basis for a person to build an eternal and happy home life based on the One Godhead. Eternal life through marriage is regulated in Law No. 1 of 1974 concerning Marriage. Marriage as a legal relationship that gives rise to rights and obligations for the parties so that a harmonious life is created. Even though the law stipulates eternal marriage, not a few married couples whose household runs aground in the middle of the road end in divorce. The principle of making divorce difficult is in line with the purpose of marriage as stated in Article 1 of Law No. 1 of 1974, which is to form a happy and eternal family based on God Almighty, which is based on the religious teachings of the Indonesian people.<sup>1</sup> The principle of making divorce difficult is implied in the provisions of Article 39 paragraph (1) of Law No. 1 of 1974 that divorce can only be carried out through a court hearing if the court does not succeed in reconciling the two parties through mediation. The government is very serious about regulating marriage, especially divorce, namely by enacting Perma No. 1 of 2016 which regulates mediation in court. Although divorce cases are required to go through mediation, in reality the divorce rate is still high. This proves that the success rate of mediation is still low, as happened in both the Religious Court and the District Court. In general, mediation experiences failures occur in almost all jurisdictions of District Courts and Religious Courts throughout Indonesia. Based on the Supreme Court's annual report in 2019 on the

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<sup>1</sup> Muhammad Syaifuddin, Sri Turatmiyah, and Annalisa Yahanan, *Divorce Law* (Jakarta: Sinar Grafika, 2019), p. 36.

settlement of cases through mediation in the District Court, the number of cases was 39,888, 1,187 (2.98%) were successfully mediated, 16,251 were unsuccessful, and 21,193 could not be implemented. In the Religious Court, the number of mediation cases was 62,464 (14.35%), 8,964 were successful, 52,596 were unsuccessful. In 2020, the settlement of civil cases at the District Court and the Religious Court through mediation as stipulated in Perma No. 1 of 2016, namely: The District Court has 36,366 cases, 1,125 successful mediations, 14,955 unsuccessful. Religious Courts, 59,257 cases succeeded in mediation, 4,052 were successful, 53,093 were unsuccessful. In 2021, the number of cases mediated in the District Court was 19,863, successful mediation was 1,252, unsuccessful was 17,967. Religious Court, the number of cases in mediation is 68,950. successful mediation 3,677, unsuccessful 54,002. Based on the report, the success of mediation in 2019, (9.92%) in 2020 (5.41%), and in 2021 in District Courts and Religious Courts throughout Indonesia was only 5.63%.<sup>2</sup>

The low success as an alternative to resolving civil disputes, including divorce disputes, even occurred after the enactment of Perma No. 1 of 2016 concerning Mediation procedures in the Court which requires every civil case, including divorce disputes, to undergo mediation. Divorce disputes have their own specificities, both in terms of the level of complexity of the dispute and how it is resolved because what is faced is two people who are hurting their hearts. Divorce disputes can occur very complex and varied which begin with the non-fulfillment of rights and obligations in the household, differences of opinion so that conflicts arise that end in divorce.<sup>3</sup>

Perma No. 1 of 2016 regulates mediation as an alternative in resolving divorce disputes through consensus deliberation so that the parties return to a harmonious domestic life. But in reality, the community prefers to resolve disputes through the judicial process. In this case, the expertise of a mediator with strategies and model variations is needed to help the parties resolve divorce disputes through mediation.

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<sup>2</sup> "Annual Report of the Supreme Court in 2019, 2020 and 2021.," mahkamahagung.go.id, n.d. accessed April 20, 2023.

<sup>3</sup> Ronald Fadly Sopamena, "Mediation as Divorce Dispute Resolution," *Batulis Civil Law Review* Volume 2, No. 2 (November 27, 2021): 102–8, <https://doi.org/10.47268/ballrev.v2i2.622>, p. 103.

The mediator judge is obliged to reconcile the disputed married couple as implied in Article 39 of Law No. 1 of 1974 that the divorce can only be done in front of the court session after the court has not. can reconcile. This is stipulated in Article 65 of Law No. 7 of 1989 concerning Religious Courts stating that a divorce decree will be handed down after the court has completely failed to reconcile. Mediation in divorce disputes has a very sacred purpose because if successful, both parties return to the marriage bond. In addition, the success of mediation not only saves the parties but also children and extended families. Therefore, the expertise and intelligence of the mediator is needed in resolving divorce disputes.

The low success rate of mediation as an alternative to resolving divorce disputes above is what encourages this research. Mediation was initially a solution in resolving disputes peacefully. At this time, people lose their identity because every dispute they face is resolved in court. Regarding the work of the law, regulations will be effective with the support of the legal culture of the community itself. Therefore, it is very important to conduct research with the following problems: how to conduct an ideal divorce dispute mediation model as an alternative to dispute resolution as an effort to minimize the divorce rate in Indonesia and how to reform Indonesian marriage law in the field of divorce mediation as an alternative to divorce dispute resolution in order to minimize the divorce rate.

### **Research Methods**

In order to analyze the problems mentioned above, the type of research applied uses normative juridical research, namely research to examine an applicable norm or provision.<sup>4</sup> This research uses a legislative, case, and conceptual approach. The preferred legal materials are literature materials or secondary data that are analyzed in a qualitative descriptive manner with the aim of describing the changes in society that occur, especially resolving divorce disputes through mediation and drawing conclusions inductively.

### **Results and Discussion**

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<sup>4</sup> Irwansyah, *Legal Research, Choice of Methods and Practices of Article Writing*, 4th ed. (Yogyakarta: Mitra Buana Media, 2021), p.42.

## **The Ideal Model of Mediation for Divorce Disputes as an Alternative to Divorce Dispute Resolution in Indonesia.**

### **a) Mediation of Divorce Disputes in the Perspective of Perma No. 1 of 2016 concerning Mediation Procedures in Court.**

Mediation as stated in Perma No. 1 of 2016 as a way to resolve disputes based on negotiations to get an agreement between the parties with the help of a mediator. Through mediation, the parties hope that the dispute will be resolved peacefully. Based on the provisions of Article 4 of Perma No. 1 of 2016, all civil disputes submitted to the court are required to first undergo mediation in resolving disputes. This includes divorce disputes. As the principle of making divorce difficult, this provision is the basis for the divorce process in court to be resolved through mediation. If mediation is unsuccessful, it can be continued through a trial process in court.

Based on Perma No. 1 of 2016, mediation is an inseparable part of the proceedings at the trial. The parties are required to go through mediation with the aim that the dispute is resolved by deliberation to reach a consensus so that it ends peacefully and the marriage bond is intact again. Mediation is one of the ways to reduce the accumulation of cases in the courts at both the first level, the High Court and the cassation level. In addition, through mediation, the parties become the winners of all and no one loses, so that they can maintain good relations between the parties, saving energy, costs and time.<sup>5</sup> The parties to the dispute go through mediation because they are unable to resolve their dispute so they ask for the help of a mediator through mediation.<sup>6</sup>

Judges as mediators have a very important role by reconciling the two parties to the dispute in addition to the main task of examining and issuing decisions in resolving cases through the judicial process. If an agreement can be reached, it will be better so that the dispute does not continue in the judicial process. The main

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<sup>5</sup> Muhammad Khusni Zulkfa and Achmad Muchsin, "Failure and Success of Mediation in Resolving Divorce Cases at the Kajen Religious Court in 2017," *Alhukkam, Journal Of Islamic Family Law*, Vol. 1, No. 1 (2021): 39.

<sup>6</sup> Kamaruddin, "Auto-Criticism of Supreme Court Regulation No. 1 of 2016 on the High Divorce Rate in the Southeast Sulawesi Religious Court in 2013-2017," *MIZANI, Law, Economic and Religious Discourse* 6, no. 2 (2019): 139.

priority for a mediator is to be able to reconcile the two parties to the dispute based on negotiations so that a mutual agreement is reached. The issuance of Perma No. 1 of 2016 is a serious effort by the government in order to minimize the high divorce rate in Indonesia. Through the concept of mediation, the two parties to the dispute through negotiations make decisions with the help of a mediator to reach a peace agreement with both parties as the winners.<sup>7</sup> Through a peace agreement, the case is not continued into the trial process in court.

Regarding divorce disputes, the parties have the reasons specified in Article 19 of Government Regulation No. 9 of 1975 concerning the Implementing Regulation of Law No. 1 of 1974 concerning Marriage. One of the reasons the parties file a divorce dispute is the absence of compatibility or continuous quarrels so that there is no hope of returning to married life. The government, through laws and regulations, gives the task to judges as mediators who are obliged to reconcile the parties to the dispute. This is certainly a difficult task for the judge in addition to examining, adjudicating and issuing judgments in divorce cases. The judge as a mediator always tries to reconcile in every divorce dispute trial even though in the end it is the parties who decide based on the agreement of the parties.

Perma No. 1 of 2016 stipulates that the parties must have good faith during the mediation process so that it can run well. Proof of the government's continuity in order to minimize the divorce rate is through mediation. However, in fact, divorce dispute mediation has failed in almost every court area, both the District Court and the Religious Court. The government has the obligation to regulate every citizen, including marriage and divorce as stipulated in Law No. 1 of 1974 concerning Marriage. This is contained in Article 1 which states that marriage is an inner bond of a man and a woman as husband and wife with the aim of forming a happy and eternal family based on the One Godhead. In addition, it is emphasized in Article 39 paragraph (1) that divorce can only be done in front of a court session after the court is unable to reconcile. Based on these provisions, Indonesian marriage law

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<sup>7</sup> Lucky Dafira Nugroho, "The Opportunity to Use Mediation Institutions to Resolve the Problem of Bankruptcy Debtors," *Rechtidee* Vol.12, No. 2 (2017): 250.

adheres to the principle of making divorce difficult which has the purpose of making the marriage lasting and not divorced in the middle of the road.<sup>8</sup>

The development of the law of distillation as part of the proceedings in court is a revitalization with the issuance of regulations regulating mediation, one of which is Perma No. 1 of 2016. Dispute resolution through the judicial process is carried out formally for a long time with the results of the parties losing and winning. As the highest institution of judicial power, the Supreme Court always tries to find a solution in order to find the best solution in upholding a just law. The legal reform carried out by the Supreme Court is to make mediation the best solution in resolving disputes. Through mediation, the parties prioritize peace optimally in addition to reducing the burden of accumulating cases in court.<sup>9</sup>

In every divorce trial, the judge as a mediator is obliged to reconcile the two parties to the dispute. This is in line with the principle of making divorce difficult as implied in Article 1 jo Pasa 39 of Law No. 1 of 1974 concerning Marriage jo Articles 65 and 82 of Law No. 7 of 1989 concerning Religious Courts, which states that the judge will issue a divorce decision after the panel of judges fails to seek peace between the two parties. Mediation aims to bring together the willingness and sincerity of the parties without coercion to end the dispute without any party being defeated. In addition, the main purpose of mediation is to end the dispute in a peaceful way. Therefore, the strategy and expertise of the mediators are very important in order to resolve disputes between the two parties.

Although mediation is formally regulated in laws and regulations, namely in Perma No. 1 of 2016 concerning Mediation Procedures in Court. This regulation has binding legal force that must be obeyed by the community. The Perma is a complement and fill the existing legal vacuum, especially the mediation of divorce cases. Therefore, the law must have a dynamic nature so that it can protect society with peace, order and become a guideline in behavior.<sup>10</sup>

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<sup>8</sup> Odelia Christy Putri Tjandra, "The Effectiveness of Mediation Implementation as an Alternative to Resolving Divorce Disputes, Peacefully in Divorce Cases, " *Journal of Sapientia et Virtus* Volume 6, No. 2 (2021): 119.

<sup>9</sup> Mahmud Hadi Riyanto, "The Existence of Mediation for Divorce Cases in the PTA Makassar Area," *Jurisprudencie* Volume 5, No. 1 (2018): 126.

<sup>10</sup> Mahmud Hadi Riyanto, p. 1.

Mediation has the meaning of the role of a third party as a mediator with its task as a mediator of the parties in resolving disputes. The mediator has a neutral and impartial position and the main thing is the interests of the parties that come first so that trust in the mediator will grow. Mediation is a method given to the parties to the dispute based on negotiations so as to produce a good decision with an agreement accepted by both parties. There are 2 (two) types of mediation, namely mediation in court and outside the court. Mediation that integrates the procedural process is regulated in Perma No. 1 of 2016, namely the parties to the dispute give each other's opinions in front of the mediator judge and defend each other's rights in court, which then provides the final result in the form of a *win-win solution decision*.<sup>11</sup>

Based on the provisions of Article 3 paragraph (1) of Perma No. 1 of 2016, mediation is carried out in the trial process both at the Religious Court and the District Court. In divorce disputes, efforts are always made to resolve them through mediation. But in reality, the success of mediation still shows a low number. As in the annual report of the Supreme Court, the cases that entered the District Court from 2019, 2020 and 2021 out of 96,117 civil cases were successfully mediated in 14,837 cases (15.44%). In the Religious Court in 2019, 2020 and 2021, there were 190,671, 16,423 cases (8.61%) that were successfully mediated.<sup>12</sup>

#### **b) The Ideal Model of Mediation as an Alternative to Divorce Dispute Resolution as an Effort to Minimize the Divorce Rate in Indonesia.**

Law and human beings are two sides that are interrelated with each other, as the saying goes, *sweet potato societas ibi ius*, where there is a society there is law. As one of the means of human beings in meeting their needs, the law was created by the state that officially gained legitimacy and the ability to make laws. The state has an obligation to protect its citizens to realize an orderly, orderly life and

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<sup>11</sup> Dedy Mulyana, "The Legal Power of Out-of-Court Mediation According to Positive Law," *Journal of Juridika Insights* Volume 3, No. 2 (2019): 185.

<sup>12</sup> "Annual Report of the Supreme Court for 2019, 2020, 2021," <https://www.mahkamahagung.go.id/id/summary-laporan-tahunan-mahkamah-agung-ri>, n.d. accessed on April 24, 2023.

guarantee the rights of the community. Working together is very related to the public's understanding of the law itself. Therefore, socialization is needed on the application of the law which is expected to be able to increase the effectiveness of the law on the behavior of the community itself. Through the effectiveness of the law, it is possible to determine the level of compliance and legal awareness of the community with the law. As a system, the work of law is related to law making, law enforcement and legal discovery. The law in its application must be reviewed comprehensively. According to L. M Friedman, the legal system so that *law in book* and *law in action* run coherently, there are 3 (three) supporting elements which include: legal substance, legal structure, and legal culture.<sup>13</sup>

Legal effectiveness can be measured through these 3 (three) elements, including legal substance in the form of normative legal rules, namely laws and regulations and court decisions that have permanent legal force. The behavior of law enforcement officials also affects the legal system such as judges, prosecutors, police and advocates who work in accordance with their authority and duties. The cultural aspect of law as the last element is public awareness so that the law is applied as a guideline in daily behavior.<sup>14</sup> Based on the opinion of Lawrence M. Friedman mentioned above, it is concluded that the legal system will work well if the 3 (three) elements can work well in a coherent and optimal manner. Likewise, the effectiveness of Perma No. 1 of 2016 concerning Mediation Procedures in Court will work well if these three elements can be realized optimally.

The failure of divorce mediation in court is also influenced by several factors, including legal substance, legal structure and legal culture. The effectiveness of a law and regulation in society is not only sourced from the internal legal aspect, namely the substance of the law, but is also influenced by the legal structure and

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<sup>13</sup> Then M. Alwin Ahadi, "Legal Effectiveness in the Perspective of Legal Philosophy: The Relationship of Urgency of Socialization to the Existence of Legal Products," *USM Law Review Journal*, Volume 5, No. 1 (2022): 113.

<sup>14</sup> Dicky Eko Prasetyo, ""Inventory of Customary Court Decisions as an Effort to Strengthen Constitutional Culture in the State of Pancasila Law," *Lex Generalis Law Journal Volume 2*, No. 3 (2021): 249.

legal culture of the community itself.<sup>15</sup> The enforcement of the law to be effective cannot work alone without the support of other elements, but must be supported by the social subsystem so that the law can function optimally in society. Law can work optimally influenced by 4 (four) things, namely political, social, economic and cultural. This is in line with Talcot Person's theory that the law cannot function properly if one of these elements is ignored.<sup>16</sup>

The suspension also affects the enforceability of mediation as regulated by Perma No. 1 of 2016. Based on the Perma, mediation must be applied by the mediator judge in resolving divorce disputes. This aims to reduce the accumulation of cases in court, because the success of mediation means that the divorce dispute between the two parties is resolved so that the case is not continued to the court session. Mediation as an alternative to resolving divorce disputes based on negotiations and agreements between the parties assisted by a mediator. The success of divorce mediation is greatly influenced by the role of a mediator in leading the mediation process. Mediators have a role in helping to connect the parties in negotiating to obtain an agreement. The work of Perma No. 1 of 2016 which regulates mediation as an alternative to resolving divorce disputes must be supported from various elements, namely laws, law enforcement officials, supporting facilities and facilities, and the legal culture of the community.<sup>17</sup>

The weakness of mediation in divorce cases is influenced by the fact that the parties to the dispute do not have good faith to go through mediation. This certainly affects the effectiveness of the mediation process. The public still does not understand the knowledge, benefits and importance of resolving divorce cases through mediation. In fact, if you look closely, mediation provides great benefits and advantages for the parties to the dispute. In divorce cases, mediation is very

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<sup>15</sup> Dominikus Rato, "Legal Realism: Customary Justice in the Perspective of Social Justice," *Journal of Legal Reform Studies*. Volume 1, No. 2 (2021): 285, <https://doi.org/https://doi.org/10.19184/jkph.v1i2.24998>.

<sup>16</sup> Poornima Paidipaty, "Tortoises All the Waydown': Geertz, Cybernetics and 'Culture' at the End of the Cold War," *Anthropological Theory*. Volume 20, No. 1 (2020): 129.

<sup>17</sup> Arum Kusumaningrum, Yunanto, and Benny Riyanto, "The Effectiveness of Mediation in Divorce Cases in the Semarang District Court," *Diponegoro Law Journal*. Volume 6, No. 1 (2017): 2.

advantageous because the success of mediation allows the two parties to return to a harmonious marriage bond by itself creating a happy and eternal family based on the One Godhead, the Sakinah, the mawadah and warahmah. From several literature search results, the success rate of mediation ranges from 5-10%. There are many obstacles found during the mediation process of divorce cases in the courts, both the Religious Court and the District Court throughout Indonesia, namely:

- a) Perma No. 1 of 2016 as a normative basis for the implementation of mediation in court. Based on the Perma, mediation is part of the proceedings in court. Through mediation, it is an alternative and effort for the parties to the dispute to reach a peace agreement that must be reached by each judicial institution before the case is processed in a court session. Therefore, mediation must be carried out with the seriousness of both the parties and the mediator who bridges the mediation process.
- b) The reasons for divorce as stated in Article 19 of Government Regulation No. 9 of 1975 are one of the occurrences of continuous quarrels that are impossible to reconcile. Domestic disputes are motivated by economic factors, the existence of Domestic Violence (KDRT), and the existence of third parties. Mediation in divorce cases is always carried out seriously and optimally as possible. Divorce is related to conscience, so the success of mediation is less likely to reach an agreement.<sup>18</sup> Divorce disputes are a matter of conscience, so if affection and love are difficult to return, so it is difficult for the two parties to be united in the bond of remarriage.
- c) The parties already want to divorce so the purpose of filing a case in court is to divorce, not for mediation.
- d) The conflict has been going on for a long time so it is difficult to reconcile.
- e) The ratio of mediator judges to the number of cases in court is unbalanced.<sup>19</sup>

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<sup>18</sup> Supardi and Zahrotul Hanifiyah, "Causes of Mediation Failure in the Divorce Process (Case Study at the Holy Religious Court for the January-April 2017 Period)," *Yudisia, Journal of Legal Thought and Islamic Law*. Volume 8, No. 1 (2017): 172.

<sup>19</sup> Sri Turatmiyah, Annalisa Y, and Arfianna Novera, "The Effectiveness of Mediation During the Covid-19 Pandemic as an Effort to Prevent Divorce in the Jurisdiction of the Palembang City Court.," *Competitive Grants Research Report 2022*, p. 25.

- f) Inadequate facilities and facilities, namely insufficient mediation rooms compared to the number of divorce cases submitted to the court.
- g) The main task of the judge is to examine and adjudicate a large number of cases so that the duties as a mediator judge cannot be carried out optimally.
- h) Community compliance. The behavior and attitude of the parties during the trial process also affects the success of mediation. The ego attitude of each party is still because one or both parties feel the most right, the reason for divorce also greatly affects the success of mediation. They have agreed, have not communicated with each other for a long time, and are not cooperative between the parties.
- i) There is no good faith from the parties with the absence of the mediation process.

Based on the obstacles found in the divorce mediation process, it is necessary to have an ideal mediation strategy and model that encourages the success of mediation. The effectiveness of mediation does not only depend on the role of the mediator but is also influenced by other factors including:<sup>20</sup> a) there are legal factors themselves. The legal factors include laws and regulations that provide legal certainty, justice and benefits for the community both juridically, sociologically and philosophically, b) the law enforcement factors themselves, law enforcement officials, both the police, the prosecutor's office and the courts, as well as lawyers who are in charge of law enforcement who apply the law. Law enforcement apparatus is very important in determining whether or not a law or regulation applies in the community, c) adequate facilities and facilities in the mediation process. Without adequate advice and facilities, the effectiveness of a law and regulation will not be realized, d) the community factor where the law is enforced. The effectiveness of laws and regulations is also related to the legal awareness of the community itself. The lower the level of legal awareness of the community, the less effective the work of the law will be realized, e) cultural factors, community

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<sup>20</sup> Kamaruddin, "Auto-Criticism of Supreme Court Regulation No. 1 of 2016 on the High Rate of Divorce in the Southeast Sulawesi Religious Court in 2013-2017," *MIZANI: Legal, Economic and Religious Discourse*. Volume 6, No. 2 (2019): 138.

behavior by following the applicable rules so that over time it will become a guideline to be followed for a group of people.

Based on the factors that affect the effectiveness of the law above, mediation in divorce cases has not shown significant success. Mediation in reality, if carried out optimally, is the best alternative in resolving disputes. If mediation is successful, the relationship between the two parties will remain well established without any hostility to each other. On the other hand, the public has not fully believed in mediation because they still doubt the attitude and neutrality and the way the mediator judge assists the mediation process. In addition, the failure of divorce mediation in court is influenced by several other factors, including: *First*, the parties do not intend to reconcile so they continue to the trial process. *Second*, the lack of mediator judges and the lack of knowledge of judges in carrying out their functions as divorce mediators. *Third*, the regulation on mediation is still weak.<sup>21</sup>

Based on the description above, it is necessary to change the ideal mediation model as an alternative to resolving divorce disputes. In addition to the legal substance factor, the success of mediation is also influenced by the behavior, attitude and values of both parties in following the course of the mediation process, namely the attitude and intention to reach a peace agreement. In addition, the failure of divorce mediation is influenced by the judge's attitude as a mediator. The main task of the judge is to examine and adjudicate the case, not to reconcile, so the judge's task is to apply the law, not to explore and get the interests of the parties to the dispute. Other mediation failures are also influenced by the weak legal substance that regulates mediation. The weakness is that mediation must be carried out and integrated with the process of proceedings in court, while Indonesian people have been indoctrinated that if a dispute has been entered into the court, it must be processed in a court session instead of in mediation. The weak substance of mediation is due to the obligation of judges to have a certificate as a mediator through training.

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<sup>21</sup> sri Turatmiyah, Y, and Novera, "The Effectiveness of Mediation During the Covid-19 Pandemic as an Effort to Prevent Divorce in the Jurisdiction of the Palembang City Court." *Op. Cit.*

Some of the factors that affect the failure of mediation mentioned above, it is time to change the divorce mediation model. In accordance with the principle of making divorce difficult as stated in Article 1 jo Article 39 paragraph (1) of Law No. 1 of 1974 concerning Marriage, mediation is directed to the meaning of marriage as a sacred bond (*miitsaqan ghalidzan*) based on consensus deliberation. Thus, mediation will be returned to both parties to truly understand the meaning of a holy and sacred marriage with the aim of forming an eternal and happy family based on the One Godhead. The ideal model of divorce mediation is based on the meaning of a sacred marriage with the basis of making divorce difficult.

### **Divorce Mediation in the Renewal of Indonesian Marriage Law as an Effort to Minimize the Divorce Rate.**

The weakness of mediation in Perma No. 1 of 2016 is not only because it is part of the proceedings in court, but also related to other elements. As described above, the success of divorce mediation is greatly influenced by the factors that cause conflicts, the qualifications of mediators, mediation facilities and facilities, community compliance and the legal culture of the community itself, in addition to the weaknesses of the substance of mediation in the laws and regulations.

To assess the effectiveness of a law and regulation based on several aspects, including:<sup>22</sup>

- a) Laws and regulations must accommodate the values that live in society according to needs. Thus, it was found that there was a relevance of the law to the needs of the community.
- b) The behavior of law enforcement officials, namely the police, prosecutors, judges, and advocates, greatly affects the work of the law.
- c) Facilities and facilities are factors that determine the effectiveness of a law and regulation.

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<sup>22</sup> Nindia Viva Pramudha Wardani and Widodo Tresno Novianto, "Factors Affecting Law Enforcement Against the Circulation of Magic Mushroom or Letong Mushroom in the Jurisdiction of the Special Region of Yogyakarta Police" *Riceidive*, Volume 7, No. 2 (2018): 209.

- d) The community environment is related to the law applied. This factor is a support for the effectiveness of laws and regulations, it is influenced by the sociological basis of law enforcement.
- e) Community culture. The law must be based on the values that live in society. Laws that do not accommodate the values that live in society there is a possibility that effectiveness will not work.

The provisions of Article 39 paragraph (1) of Law No. 1 of 1974 state that divorce is carried out in front of a court session after the court is unable to reconcile. The court's duty to resolve divorce disputes through mediation is regulated in Article 56 paragraphs (1) and (2) of Law No. 7 of 1989 concerning Religious Courts as amended by Law No. 3 of 2006 and the second amendment to Law No. 50 of 2009 paragraph (2) the court examines and adjudicates the case, and does not rule out the possibility of an effort to resolve the case peacefully through mediation. Based on these provisions, peace or mediation is the main "spirit". Divorce is also regulated in Article 65 of Law No. 50 of 2009 that divorce can only be done in front of a court session after the court concerned has tried and failed to reconcile the two parties. The judge at the first hearing of the divorce examination must try to resolve it through mediation so that a peaceful agreement can be reached for both parties. It was concluded that mediation through consensus deliberation to reach a peace agreement is the "commander of the law" and is the best solution in resolving divorce disputes.<sup>23</sup>

Based on the provisions of Articles 56, 65, 73, 82 paragraphs (2) and 83 of Law Number 7 of 1989 concerning Religious Justice as amended by Law No. 3 of 2006, the second amendment is the Law on Religious Justice. 50 of 2009 which stipulates that reconciliation efforts must be taken by the judge as long as the case has not been decided. Mediation of divorce cases as stipulated in Article 39 paragraph (1) of Law No. 1 of 1974 is carried out in every trial. Although mediation is always offered in every trial, in reality mediation in divorce cases has many failures.

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<sup>23</sup> Abdul Mustopa, "Virtual/Online Mediation in Perma No. 1 of 2016," <https://palegon.go.id/artikel/>, 2023, 49-mediiasi-secara-virtual-online-in-regulation-court-agung-no-1-year-2016., accessed on 2016. April 26, 2023.

Therefore, it is necessary to carry out legal development in the field of marriage law, especially mediation in divorce cases. As stipulated in Article 39 paragraph (1) of Law No. 1 of 1974, divorce is only carried out in front of a court session after the court concerned has not succeeded in reconciling. This provision is clarified in Article 4 of Perma No. 1 of 2016 that all civil disputes submitted to the court must be resolved through mediation, including divorce cases. So far, divorce dispute mediation has been carried out after the dispute has been submitted to court.

The weakness of divorce dispute mediation so far has occurred because mediation is part of the proceedings in court. Disputes that are resolved through the courts usually result in winners and losers, and as a result the relationship between the two parties becomes hostile. But on the other hand, mediation, which is expected to be the best solution in dispute resolution, has not shown results. This is because: the mediation provisions in Perma No.1 of 2016 are incomplete, the mediator only carries out his role because of formality and is not optimal, and the professionalism is inadequate. Lack of legal awareness of the public, especially the parties who do not understand the benefits and disadvantages of mediation dispute resolution, as well as the impact and influence of advocates as the power of the parties.<sup>24</sup>

The above factors encourage the need for legal reform in the field of marriage law, especially in the field of mediation of divorce disputes. The legal reform is a strategy that is an effective driver of the resolution of divorce disputes outside the court through mediation. So far, mediation has been integrated with the proceedings in court so that the parties to the dispute already have a definite outcome of winning and losing. The intention of both parties that the purpose of the divorce dispute being submitted to court is to divorce. Therefore, it is necessary to reform the law so that community leaders become the main supporters in re-functioning the mediation institution as a dispute resolution institution based on consensus deliberation. Establish an alternative institution for marriage dispute resolution that is effective, efficient and productive that reflects the institution of peace as an alternative to divorce dispute resolution. Mediation of divorce disputes will be

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<sup>24</sup> Mariah S.M. Purba, "Reconstruction of Perma No. 1 of 2016 as an Alternative to Dispute Resolution in Court," *Journal of Justice Ocean Law* Volume, 13, No. 1 (2018): 22.

effective with the support of legal culture with the foundation of legal awareness of the community itself. The weak success of mediation is due to the lack of public understanding of the benefits and disadvantages of mediation itself. The community's mindset about mediation as the best solution to divorce dispute resolution has not yet been formed, so the level of compliance and understanding is still low. The key to the level of effectiveness of divorce dispute mediation is the best solution if the community's understanding and compliance with mediation is good. In addition, good public understanding and compliance need to be supported by good legal factors. The law is identical to the regulations made by the authorities that aim to serve as a guideline in human behavior. In addition, the law functions to regulate the relationship of human interests with each other. Therefore, the law is coercive so that a person must obey and obey the regulation, so that the law regulates behavior between human beings that is accepted together. Law is a code of behavior accepted by the community so that it runs in accordance with its function and the law also accepts the possibility of changes in society so that the law itself must be able to adjust according to the needs of the community.<sup>25</sup>

Law No. 1 of 1974 concerning Marriage as a unification in the field of marriage law and as a means of change that includes the best solution in divorce disputes. In the provisions of Article 39 paragraph (1), divorce disputes can be resolved in court after the court is unable to reconcile the parties. Reconciliation here means that if there is a divorce dispute, it must be resolved through mediation first. In the event that mediation is unsuccessful, it will only be continued in the court proceedings. The unsuccessful mediation as an alternative to resolving divorce disputes needs to be changed to be effective. Mediation, which was originally part of the proceedings in court, needs to be reconstructed into mediation before the dispute is registered in the court case. Mediation carried out before the case is registered in court is carried out through an official institution formed by the government that has the authority to resolve divorce disputes. Re-functioning BP4 (Advisory Board for the Development of Marriage Preservation) as an institution that has the authority to

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<sup>25</sup> Yunanto, "Reform of Indonesian Marriage Law," *Diponegoro Private Law Review*, Volume 3, No. 1 (2018): 262.

resolve marriage disputes outside the court. as an official institution, special laws and regulations were formed regarding the duties and authorities of BP4 which is a partner of the Supreme Court in realizing a happy and eternal family based on the Almighty Godhead, Sakinah mawadah and warahmah.<sup>26</sup> BP4 has the task of fostering and resolving marriage disputes through mediation in order to realize household integrity. In the development of marriage law today, it is necessary to restore the function and role of the BP4 institution as an institution that plays a role in realizing a family that is moral, happy, and eternal based on the One Godhead so as to avoid various conflicts that end in divorce.

In Australia, the success rate of mediation is very high, because mediation is run by independent institutions such as *the Community Justice Center (CJC)* in New South Wales, with a success rate of 80%. The CJC is an independent mediation institution established by the government separate from the courts. In carrying out its duties, the CJC has been fully supported and funded by the government since 1983, which has consistently shown a success rate in resolving disputes through mediation. The entire community can take advantage of mediation services in resolving disputes and are provided free of charge. CJC services are free of charge and mediation services can be carried out near the residences of the parties to the dispute such as mobile trial services.<sup>27</sup>

Based on this description, what makes mediation in Australia have a high success rate is: *First*, mediation institutions provide free dispute resolution services. This mediation institution provides free mediation services that are fully funded by the state so that state regulations stipulate that mediation services must be free of charge. The existence of free services from mediation institutions makes this institution really an alternative to dispute resolution for the parties in particular and the public in general. *Second*, the cost of the case in court is very expensive, and also the cost of lawyer services. This factor is certainly the driving force for the

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<sup>26</sup> Fikri Bayu Siregar, "The Implementation of Mediation Through Religious Courts in the Resolution of Polygamous Domestic Disputes at the Religious Court of Rantau Prap, North Sumatra INDONESIA," *Ar Raniry Journal*, Volume 8, No. 2 (2021): 142.

<sup>27</sup> Destiny Rahmadi, "Why Is Mediation So Successful In Australia?," <https://badilag.mahkamahagung.go.id/seputar-ditjen-badilag/seputar-ditjen-badilag/kenapa-mediasi-begitu-sukses-di-australia>, n.d., accessed on 2014. April 27, 2023.

community to choose free mediation services whose results are in accordance with the expectations of the parties, namely based on the agreement with the results of all the winners, with fast and cheap mediation time. Third, mediation service institutions are fully supported with the involvement of executive, legislative and judicial institutions. The Australian state and government fully support and are directly involved in the existence of institutions as an alternative to dispute resolution. The existence of institutions that handle disputes through mediation is mostly established with funding by the government, both public and private institutions. Therefore, the existence of this mediation institution is very popular and has become a community solution institution in resolving disputes. This mediation institution is fully supported by the legislative institution with the establishment of laws and regulations as the juridical basis of the institution. This institution provides mediation services to the community before the case is heard in court.<sup>28</sup>

The need for reform in the field of divorce mediation is an important and very important and urgent need considering the factors in society, among others, the high divorce rate in every region of Indonesia, the failure of divorce mediation in every judicial jurisdiction in Indonesia, the function of Perma which regulates mediation that is not relevant as mediation of divorce disputes, considering that divorce disputes are special disputes and are different from disputes that other.<sup>29</sup> For this reason, it is necessary to have an independent and independent mediation institution that specializes in resolving divorce disputes. The specificity of divorce mediation is that if this mediation is successful, it can strengthen the institution of marriage and save children and extended families in a complete marriage bond.

Based on the factors mentioned above, reform in the field of marriage law will be carried out immediately considering the age of Law No. 1 of 1974 entering the age of 49 (forty-nine) years. In fact, laws and regulations cannot always meet the needs of the community perfectly, because society experiences faster development

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<sup>28</sup> Destiny Rahmadi, *Ibid.*

<sup>29</sup> Azzuhri Al Bajuri, "Reconstruction of the Indonesian Family Mediation Process," *Islamic Law, Volume* 20, No. 1 (2020): 147.

than the development of the law itself. Like the concept of the Indonesian legal state which is based on the philosophy of Pancasila, every conflict is basically resolved through deliberation to reach a consensus. This is also applied in Law No. 1 of 1974, namely divorce disputes submitted to the court must first undergo mediation. If the mediation is not successful, it will be processed in a court session, this is regulated in Article 39 paragraph (1) of Law No. 1 of 1974. This provision is not effective with the high divorce rate which is getting higher every year. Mediation of divorce disputes is very beneficial, especially for both parties. The success of divorce dispute mediation, the judicial institution also assists both parties to the dispute in realizing a harmonious and harmonious marriage in accordance with the principle of the purpose of eternal and happy marriage based on the One Godhead.<sup>30</sup>

The success of mediation in divorce disputes has a noble purpose because it can end the dispute so that divorce does not occur. The role of the mediator as an important position is obliged to reconcile the two parties outside the trial. Failure and success during the mediation process require expertise and a strategic model in mediation. As a challenge in the law to reach future needs in line with the development of Indonesian society. Law is always related to humans, therefore what will happen in the future is difficult to be reached by laws and regulations. This is what happened in Law No. 1 of 1974, especially those that regulate divorce disputes, only regulating peace after the dispute is registered in a case in court. In reality, a person who has registered his dispute with the court will be taught that the case can only be resolved through a court hearing. In accordance with the ideals of the state of Pancasila law, the concept and implementation are realized systematically, structured and massive so that it can be integrated with the aspects of life in society, nation and state in the reform of national law, especially the Indonesian marriage law. Law is formed as a means in the framework of realizing the goal of the Indonesian state, namely the formation of a just and prosperous

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<sup>30</sup> Andi Hartawati, Sumiati Beddu, and Elvi Susanti, "Mediation Model in Increasing the Success of Divorce Case Resolution in Religious Courts," *Indonesian Journal of Criminal Law (IJoCL)*, Volume 4, No. 1 (2022): 61.

society.<sup>31</sup> Therefore, a just and prosperous society begins with a strong family fortified by a complete and harmonious marriage.

The household is the upright pillar of a nation. If the household is fragile, the nation is also fragile. Therefore, the government must seriously overcome the phenomenon of binding divorce rates from year to year, especially the need to reform the law that regulates the mediation of divorce disputes. So far, mediation has been integrated with the proceedings in court, it is time for mediation to be carried out separately from judicial events, so that mediation becomes the authority of mediation institutions that are independent of the court. This refers to mediation institutions in Australia which are managed by independent institutions, fully supported and fully funded by the government. In fact, the mediation institution is supported by legislative, executive and judicial institutions with the establishment of special laws and regulations that regulate mediation outside the court. Mediation services are carried out free of charge, carried out at the location closest to the parties' residences. Reflecting the success of mediation in Australia, it is necessary to immediately change the laws and regulations regarding divorce mediation. Full support from legislative institutions with the making of laws and regulations on divorce mediation which is carried out before the case is registered in court which is carried out by an independent institution. Thus, the reconstruction of Article 39 paragraph (1) of Law No. 1 of 1974 should have stipulated that "divorce can only be carried out in front of a court session after the parties mediate through a marriage dispute mediation institution but are unsuccessful. Then paragraph (2) should be final and binding on the decision of the marriage dispute mediation institution. If there is a party who does not accept the decision, they can file an objection to the Court".

The reconstruction of the laws and regulations is believed to be effective, because mediation must be pursued at a marriage dispute mediation institution that is independent and independent, legal, and fully supported by the government with

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<sup>31</sup> Arief Hidayat, "*The State of Law with the Character of Pancasila*," in National Seminar "Increasing Understanding of Citizens' Constitutional Rights for Teachers of Pancasila Education and Citizenship with National Achievements," 2019, p. 4.

funds from the state, so that people who use the services of marriage dispute mediation institutions are free of charge. The marriage dispute mediation institution is an independent and separate institution from the court, so mediation must be taken before the case is heard in court. Public awareness, clear regulations and good law enforcement, a culture of community quality that is obedient and compliant with laws and regulations are important and influential factors in the success of marriage dispute mediation. In addition, the success of divorce dispute mediation will be effective with the support of strict and strong legal rules for the realization of law enforcement in the field of marriage law. Community development certainly has an impact on the law. Legal development includes draft regulations, compliance with regulations and the quality of their implementation. As with the reform in the field of divorce dispute mediation, a draft regulation is needed that includes policies in the form of laws, their legal structures, as well as legal dynamics, legal frameworks according to the socio-economic conditions of the community. These factors greatly determine whether a law or regulation is effective or not. The next factor is community compliance with the rule of law. The quality factor of law enforcement is determined by the capacity of the state and political will. Therefore, reform in divorce dispute mediation will be realized if there is political will and freedom in the context of law and legal development. As Lawrence Friedman theorized, law enforcement is one of the factors of the legal structure consisting of the organization and behavior of law enforcement officials. The dynamics between the law, legal framework, and institutions are factors that greatly determine the effectiveness of a law and regulation, so the law will not be effective if it is not supported by the appropriate legal framework and regulations on institutions.<sup>32</sup>

The specificity of divorce dispute mediation, the Indonesian state has very urgent to update the marriage regulations that regulate divorce dispute mediation separate from the judicial process. Therefore, it is very important and urgent to establish laws and regulations on Mediation of divorce disputes which are the

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<sup>32</sup> Yong-Shik Lee†, "Introduction: The Third Moment in Law and Development Theory and the Emergence of a New Critical Practice," *Cornell International Law Journal* Volume 50, no. 3 (2017): 441.

authority of independent mediation institutions that are fully supported by the state. More certainly, a Marriage Dispute Mediation Institution was established by law.

Mediation as a solution to resolve disputes peacefully has long been regulated in Article 13 of the HIR and Article 154 of the RBG. This provision is the legal basis for mediation as a solution to civil case settlement. But in reality, people are more likely to resolve their disputes through the trial process than through mediation. This is due to the lack of information and socialization conveyed to the public so that they can understand and know the meaning and important benefits of mediation as the best solution to resolve civil disputes, especially divorce disputes. Through mediation, it can minimize prolonged disputes that occur in the community, because they can resolve by consensus based on the agreement of both parties. Mediation failures are often caused by the parties only representing their legal representatives to be present in the mediation process. This certainly results in the lawyer indirectly feeling the hurt they feel, so that the mediation process cannot run as expected. Moreover, divorce disputes are classified as heart disputes so that emotional factors are very important in realizing a peaceful agreement. The success of divorce dispute mediation is highly dependent on the presence or absence of the parties in the mediation process. The ideal model of mediation based on "*miitsaqan ghalidzan*" can be the best solution in marital disputes. The presence of the parties directly in the mediation process, assisted by a mediator from religious leaders, community leaders and traditional leaders will guide psychologically to be able to reach an agreement through deliberation. The ideal model of mediation invites the parties to return to the beginning of marriage in accordance with the purpose of marriage in Article 1 of Law No. 1 of 1974 concerning Marriage, namely forming an eternal and happy household based on the One Godhead, realizing a family that is Sakinah, mawadah and warrahmah. The ideal model of divorce dispute mediation is based on "*miitsaqan gholidzan*" in accordance with Islamic teachings, namely applying the concept of shuro in a familial manner or deliberation for consensus based on science.<sup>33</sup> The concept of syuro is very suitable to be applied

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<sup>33</sup> Ais Surasa, Enung Herningsih, and Novia Laela, "Marriage Dispute Resolution Through Mediation as a Prevention of Divorce", *Khazanah Multidisplin*, Volume 3, No. 2 (2022): 169.

as a solution to dispute resolution through mediation with the final result being "a peaceful agreement, thus the marriage can be saved with a complete marriage bond.

Marriage is a sacred and sacred institution, solid and majestic between a man and a woman in accordance with the teachings of Allah SWT in order to form a family or "*mitsaaqan ghalidzan*", which is a noble and holy covenant, so marriage is in line with the covenant of Allah with the pre-Prophet. As in the Qur'an, Surah Al-Ahzab verse:7 which means;" Meaning: "*And when we took the covenant from the prophets and from you (themselves) from Noah, Abraham, Moses and Jesus the son of Mary, and we took from them a firm covenant.*" Even in the teachings of Protestant and Catholic marriage, marriage is a sacred institution that comes from God and for the happiness of society. The meaning of marriage that is sacred and sacred is adopted juridically regulated in laws and regulations as in Article 1 of Law No. 1 of 1974. The meaning of sacred and sacred marriage is that the institution of marriage is not the same as an ordinary covenant or contract, but is an innate bond of a man and a woman as husband and wife with the aim of forming a happy and eternal family based on God Almighty. Marriage and a happy household are likened to" heaven in the world, as the Prophet PBUH said it is called *Baitii Jannatii*, my family is heaven for me. As a sacred and sacred institution, marriage should be saved so that it remains intact, so if there is a dispute, it must try its best with various strategies to save the marriage.<sup>34</sup> Based on the provisions of Article 39 paragraphs (1) and (2) of Law No. 1 of 1974 and Article 4 of Perma No. 1 of 2016, and religious teachings, divorce is prohibited except after all means and efforts have been made to save the marriage, but to no avail. It is hinted at in the words of the Prophet Muhammad PBUH which means, An act that Allah hates the most is thalak narrated by H.R. Abu Daud Ibn Majah, Al Hakim.

### **Conclusion**

Based on the discussion mentioned above, it can be concluded that a happy and eternal marriage is heaven on earth, so as a sacred and sacred institution even

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<sup>34</sup> Juhar, "*Domestic Conflicts and Their Solutions According to Islam and Legislation*," <https://sumbar.kemenag.go.id/v2/post/50269/konflik-rumah-tangga-dan-solusinya-menurut-islam-dan-peraturan-perundang-undangan, 2023>, downloaded on April 28, 2023.

though there are disputes, as much as possible the marriage must be saved so that it does not end in divorce. Therefore, if a marriage dispute arises, it should be resolved immediately through mediation with an ideal model based on the "meaning of marriage" as *miitsaqaan gholidzan* towards *baitii Jannatii*. Divorce is the last resort and as an emergency that can be done, if the household can no longer be saved. Therefore, divorce is a finality effort, because previously mediation efforts have been made through deliberation to reach consensus with the help of a mediator by involving elements from religious leaders, traditional leaders and community leaders. Mediation as an alternative to dispute resolution is the commander of peace based on the agreement of the parties, as well as the spearhead in dealing with divorce disputes. Mediation regulated in Perma No. 1 of 2016 has so far experienced many failures because it is integrated with the procedural process in court. In this regard, it is necessary to immediately reform the marriage law, especially mediation of divorce disputes. Therefore, it must be separate so that it becomes a mediation carried out at the Marriage Dispute Mediation Institution as an independent institution that is legal and fully supported and funded by the state, and free of charge. The reform of the marriage law, especially Article 39 paragraph (1) of Law No. 1 of 1974 which originally stipulated that divorce can only be done in front of a court session after the court is unable to reconcile, is reconstructed into "paragraph (1) Divorce can only be done in front of a court session after the parties have mediated at the Marriage Dispute Mediation Institution but have not succeeded, then paragraph (2) of the Decision of the Marriage Dispute Mediation Institution is final and binding, if any party does not accept the decision, they can submit an "objection" to the court. Based on this presentation, divorce is the last solution after mediation is unsuccessful. The existence of the Marriage Dispute Mediation Institution is supported by legislative, executive and judicial institutions regulated by laws and regulations. Hopefully this idea will become a reality so that the Indonesian state has a legal Marriage Dispute Mediation Institution with independent funds separate from the court and legally tasked with helping to resolve divorce disputes and domestic conflicts so that it does not end in divorce.

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