

## Optimizing the Role of Mediators in Realizing Peace Deeds: A Study of Mediation at the Religious Court of Padangsidempuan City

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Article Info	Abstract
Received: 22-02-2025 Accepted: 26-04-2025 Published: 27-04-2025  <b>Keywords:</b> Mediator; Mediation Process; Peace Deed.	The role of the mediator is crucial in resolving problems in the mediation stage. The peace deed obtained from successful mediation has the same legal force as a court decision, meaning that the deed can be carried out and executed like a judge's decision. The Padangsidempuan City Religious Court has judge and non-judge mediators who have different backgrounds, including judges, lawyers, and lecturers. So that with this diversity of backgrounds, each of the mediators carries out their role in solving problems. This study aims to determine how to optimize the role of the mediator in the mediation process to obtain a peace deed and find out about it. The research was conducted using a field research method to determine legal justice in the priority of knowing the role of the mediator and obtaining a peace deed. Data collection was carried out by means of observation, interviews and documentation of data relevant to the study in this study. From the results of the study, it can be concluded that the role of the mediator in resolving mediation cases is determined based on the acquisition of a peace deed. The acquisition of peace deeds obtained from data from 2021-2023 obtained 3 peace deeds from a total of 74 mediation cases.
Info Artikel	Abstrak
<b>Kata Kunci:</b> Mediator; Proses Mediasi; Akta Perdamaian.	Peran mediator menjadi krusial dalam menyelesaikan masalah dalam tahapan mediasi. Akta perdamaian yang diperoleh dari keberhasilan mediasi memiliki kekuatan hukum yang sama dengan putusan pengadilan, artinya akta dapat dijalankan dan dieksekusi seperti putusan hakim. Pengadilan Agama Kota Padangsidempuan memiliki mediator hakim dan non hakim yang memiliki latar belakang berbeda diantaranya hakim, pengacara, dan dosen. Sehingga dengan keberagaman latar belakang ini menjadikan masing-masing dari mediator melaksanakan perannya dalam penyelesaian masalah. Penelitian ini bertujuan untuk mengetahui bagaimana mengoptimalkan peran mediator dalam proses mediasi untuk memperoleh akta perdamaian dan mengetahuinya. Penelitian dilakukan dengan metode penelitian lapangan untuk mengetahui keadilan hukum dalam prioritas mengetahui peran mediator dan memperoleh akta perdamaian. Pengumpulan data dilakukan dengan cara observasi, wawancara dan dokumentasi data-data yang relevan

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dengan kajian dalam penelitian ini. Dari hasil penelitian dapat disimpulkan bahwa peran mediator dalam menyelesaikan perkara mediasi ditentukan berdasarkan diperolehnya akta perdamaian. Perolehan akta perdamaian yang didapatkan dari data tahun 2021-2023 diperoleh 3 akta perdamaian dari jumlah perkara mediasi 74 perkara.

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## **INTRODUCTION**

Settlement of civil cases according to procedural law goes through a mediation process. In general, mediation is part of the negotiation or consensus process between two parties with the status of plaintiff and defendant in a case who are assisted by a mediator to jointly reach a peaceful agreement. In practice, mediation is carried out without deciding/forcing the case to be resolved. Mediation judges and non-mediator judges during the mediation process do not have the authority to decide cases at the mediation stage.

In the provisions of the Supreme Court's regulations regarding the mediation stages, it is stated that for every civil case dispute, efforts must be made to resolve it through mediation. This provision is part of the instrument to implement the principles of justice that are low cost, fast, simple and increase the effectiveness of dispute resolution by the court. In a study that some violations of the law or cases can be resolved other than by the mediation process can be done in a family way. 80% of community problems are resolved amicably by the family. (Dasrol & Riska Fitriani, 2022.107.)

The existence of the mediation process in increasing access to justice in the current technological era is also supported by the Supreme Court regulations regarding electronic mediation in court. So it can be seen that each mediator has an important role in improving dispute resolution by providing the ability, professionalism and sincerity to help the parties obtain justice. However, mediators have the authority to be neutral and mediate in resolving cases. (Perma No.3 of 2022)

The mediator has a procedure in the mediation stage, the mediator is required to make a peace agreement or partial peace agreement. This stage is an important part of mediation, the mediator must be able to mediate between the parties to conclude a peace agreement. Which then provides a report on the stages of whether the mediation was successful, unsuccessful or could not be carried out. Then provide a report regarding

having good faith to the judge handling the case. This is for a peace agreement to be recognized with a peace deed.

The legal force of the mediation results with the peace deed read out in the court decision is the same as a decision with permanent legal force so that no legal action can be appealed. (Sassan, Jonhi, 2021: 45) The result of mediation is an agreement that has permanent legal force. Therefore, optimizing the mediation role of the mediator in the Padangsidempuan city religious court is a study that needs to be researched, in order to review the impact of the peace deed as part of the mediator's authority and expertise to mediate in the process of resolving cases through negotiation stages based on ethics to help increase effectiveness. settling cases at the first level which is part of legal awareness and the usefulness of the law by the community. (Harsana Opniel, 2016: 73)

In the literature review, researchers found research conducted by Anam, the results of the research stated that the factors that cause a person to divorce are irresponsibility, violence in the household, disharmony, low economy, and the presence of a third party. The mediator makes efforts to resolve the case at the Tulungagung Religious Court using several methods, namely using logical, religious, family and psychological approaches. (Khoirul Anam, 2021.115.)

Then research conducted by Dewi stated that mediators consisting of substitute judges and clerks could reconcile and mediate the problems of both parties to the dispute. The effectiveness of mediators in resolving civil cases at the Pasuruan District Court is going well. The mediator must understand his role as a mediator so that there are no deadlocks or obstacles in the mediation process. Based on field data, the inhibiting factors that cause the failure of the mediation process are: the mediator is still not proactive in carrying out mediation, among others, the parties to the dispute, the non-judge mediator does not understand the mediation procedures that are relevant to the applicable regulations, and disagreements often occur. between parties because focusing on winning or losing alone is not a win-win solution for mutual agreement. (Ristiana Dewi, 2021: 35)

Research conducted by Julkipli and Budi states that fundamentally disputes that occur in industrial relations can be resolved through deliberation to achieve peace. Preindustrial law regulates the resolution of industrial problems. The mediator as an independent third party acts as a liaison between the disputing parties. (Julkipli, 2022: 257)

Research conducted by Anugrah et al. states that every mediator in PA Makassar has a legal background, in practice a professional mediator is needed to be able to analyze the

root causes of disputes. Recruitment of mediators at PA Makassar is carried out in accordance with Per MA 1/2016. However, the parties often neglect the timing and implementation of mediation, this causes mediators to have difficulty reconciling the parties (Reskiani, Anugrah, 2016: 258)

The novelty in this research is that the author reviews the role of the mediator as an empirical factor in taking action to optimize the mediation process as well as the impact of the peace deed which is a normative factor which in this case can be directly related to the role of the mediator, judge or society which requires certainty, justice and legal benefits by using. This research has significant differences from other research, especially with the presence of several rules related to the mediation process which are refreshing in this research, especially in relation to technological advances in carrying out mediation.

## **RESEARCH METHOD**

To be able to carry out research in this research, the researcher chose to use a qualitative method, the aim of which was to provide a description in the view of the informant. This research uses evaluation with field research. This is done by conducting a case study treatment. This activity covers a series of scientific activities which aim to provide answers to problem formulations that are novel in research. This evaluation aims to systematically collect all data containing information on a series of research activities and characteristics. (Moleong, 1989: 3)

The hermetic approach is an approach used to be able to describe the data being evaluated. A very general trait in domain-wide hermeneutics. Makes hermeneutics analyze data in the form of text and non-text, apart from phenomenology which is related to human behavior and sociology. (Ashadi, 2017: 5) The description of the evaluation aims to understand the impact of the peace deed on optimizing the mediation process in civil cases at the Padangsidempuan City Religious Court. Qualitative research continues to follow research progress, by analyzing data obtained from observation, field data collection, documentation, into a series of research activities in order to obtain research answers.

The object of this research is reviewing the impact of the peace deed on optimizing the mediation process in civil cases at the Padangsidempuan City Religious Court, then reviewing the optimization of the mediation process in civil cases at the Padangsidempuan City Religious Court, and reviewing the mediation process at the Padangsidempuan City Religious Court.

The research or informal background is the research sample, namely Judge Mediator and Non Mediator of the Padang Sidempuan City Religious Court and the Padang Sidempuan City Religious Court. Purposive techniques are used to carry out sample collection techniques. This method is used so that evaluations can be carried out to dissect the basic problems in the research. Apart from that, the location in the research is also an attractive strategic choice as a research location. Research data collection includes: 1) Interviews are carried out by researchers by collecting data directly through informant data which is non-structured, open and free. To be able to understand the meaning of the questions asked by the researcher to the resource person which is useful in collecting the main research data. (Soekanto Soejono, 1986: 230) Data from open interviews are direct quotes obtained from informants who have the experiences, opinions, feelings and knowledge of the informants; 2) Observation data from observations is described in the policies or regulations of the Padangsidempuan City Religious Court regarding the rules and regulations for processing mediation at the Padangsidempuan City Religious Court; 3) Collection of data in the form of tracing documents or physical evidence is called documentation for this research, such as data on civil cases involving mediation, geography of the research area, other documents directly related to the research. This data collection technique is more detailed in terms of index and strengthens other research data collection. (Basrowi, dkk, 2008: 158)

The research data analysis technique uses guidelines for presenting reduction, then presenting conclusions from the analysis results. In this case, the researcher's ability to analyze a problem is really needed, apart from activities that use research data, researchers need an initial hypothesis, to obtain the truth of the research data. (P.Joko, 1997: 106)

## **RESULTS AND DISCUSSION**

The legal theory in this research is a normative-empirical study which is an inseparable part of knowing the effectiveness of the law itself. Law is a symptom of the fact that a pluralistic society has many sociological aspects. Law grows from the interaction processes that exist on social lines, which form society and then become a state. A country must have laws to run the government, and so on. So legal theory teaches that it must be stable, but it must not be silent or rigid. (Surya Achmad, dkk, 2020: 28)

The three legal identities are the principle of certainty which is the normative basis that exists in a regulation that is promulgated with certainty, to regulate it clearly and

logically so as not to conflict with norms. The existence of this provision brings general legal certainty by making people understand what is right and wrong, as well as laws that are safe for people from arbitrary laws made by the state. These provisions must be implemented to prove legal certainty. (Wijayanta Tata, 2014: 219)

Legal justice is a principle that cannot be considered equally, meaning that fairness in a case must be weighed individually or whether fairness for one party cannot be completely fair for the other party. The purpose of rules is to regulate social relations in order to create fair regulations. (Nasruddin, 2019: 75) Justice must be able to present balanced values between equal rights and obligations, but must still be in accordance with the mechanisms issued by law so that it can provide substantive legal certainty. So the principle that every human being is equal before the law can be realized effectively. Justice can be achieved through interpretation, namely the effort to explore, discover and understand the values and norms that live and develop in society as a basis for consideration in formulating laws and determining decisions in solving problems. (Ali, 2008: 41)

Then legal utility is a principle that combines legal certainty and legal justice. Because to obtain legal benefits there must be a result from considering the previous principles. However, law exists to anticipate or be a solution to prevent legal actions by humans and so that these laws can be obeyed by humans. The benefits of law are very urgent in reviewing how society expects benefits from law enforcement. In practice, law enforcement should not cause anxiety among the public, meaning that the benefits of the law must be enforced proportionally. (Prayogo, Tony R, 2016: 195)

The mediation process is carried out by non-judge mediators who try to provide advice and suggestions on the psychological aspect rather than the ratio. So that the reasons in the application letter or lawsuit of the parties can be considered with feelings and rational thinking. The success of mediation is determined by the ability of the mediators in approaching the parties and the ability to master the main problem. (Darmawan, Aldy, 2023: 110-125)

This research uses legal theory based on three legal identities, namely certainty, justice and legal expediency considering that the author will review how the role of mediators in resolving civil cases is the main part of the legal analysis study. Legal theory is part of the analysis of whether the role of law enforcement is in accordance with empirical studies, and reviewing how the impact of the peace deed is part of the need for legal certainty and legal justice which is beneficial for the parties. This theoretical review is a

relevant unit, considering that the regulations regarding mediation are part of civil procedural law.

### **The Role of the Mediator in Settlement of Civil Cases**

By conducting field observations and field interviews in several data sources in this research, several data were produced, as follows:

**Table 1.** Data on the Number of Mediators in the Padangsidimpuan City Religious Court

<b>No</b>	<b>Name of Mediator</b>	<b>Status</b>	<b>Information</b>
1	A. Latif Rusydi Azhari Harahap, S.H.I., M.A	Hakim Mediator	Chairman
2	Marlin Pradinata, S.H., M.H	Hakim Mediator	Vice Chairman
3	Zainul Fajri, S.H.I., M.A	Hakim Mediator	Judge
4	Dr. Putra Halomoan, S.H., M.H., CPM	Mediator Non Hakim	Lecturers/Academics
5	Heni Yunasih Kaloko, S.H., CPM	Mediator Non Hakim	Lawyer/Advocate
6	Tohiruddin Siregar, M.H., CPM	Mediator Non Hakim	Lawyer/Advocate
7	Ahmad Sukri, S.H.I., CPM	Mediator Non Hakim	Lawyer/Advocate
8	Risalan Basri Harahap, M.A., CPM	Mediator Non Hakim	LBH
9	Puji Kurniawan, S.H.I., MA.Hk., CPM	Mediator Non Hakim	Lecturers/Academics
10	Nurhotia Harahap, S.H.I., M.H., CPM	Mediator Non Hakim	Lecturers/Academics
11	Wilda Rahma Nasution. S.H.I., M.H.I., CPM	Mediator Non Hakim	Lecturers/Academics
12	Nada Putri Rohana, S.H., M.H., CPM	Mediator Non Hakim	Lecturers/Academics
13	Badai Husain Hasibuan, S.H.I., M.H.I., CPM	Mediator Non Hakim	Lecturers/Academics
14	Abdullah Maksum Matondang, S.H., CPM	Mediator Non Hakim	Staff
15	Dr. Habibi. S.H., M.Hum, CPM	Mediator Non Hakim	Lecturers/Academics

From the table above, it can be seen that the number of Mediator in the Padangsidimpuan City Religious Court is 15 people. The data is mediator data from 2023 to the present.



**Table 2.** Data on the Number of Successful Mediation Cases

Year	Number of Mediated	Cases Not Eligible for Mediation	Successful Mediation Cases
2021	89	397	55
2022	75	349	54
2023	93	260	54

**Table 3.** Data on the Number of Partially Successful Mediation Cases and Unsuccessful Mediation Cases At the Padangsidempuan City Religious Court

No	Year	Number of Partially Successful Cases	Number of Unsuccessful Cases
1	2021	20	55
2	2022	35	19
3	2023	19	39

**Table 4.** Data on the Number of Peace Deeds for 2021-2023 At the Padangsidempuan City Religious Court

No	Number of Peace Deeds
1	3

### **Optimizing the Mediation Process to Obtain a Peace Deed**

The success of the mediation process at the Padangsidempuan City Religious Court is influenced by several factors. First, a juridical review of Supreme Court Regulation Number 1 of 2016. The government has accommodated the need for mediation by issuing Supreme Court Regulation (PERMA) No. 1 of 2016 concerning Mediation Procedures in Court. Low legal awareness also has an influence, where parties who litigate in court do not seek justice but rather to win the case. (Sugito, 2019: 89)

Therefore, it is not uncommon to hear that there are parties who do not want to implement the court's decision, usually they are the party who feels defeated. The following



is the implementation of mediation procedures at the Padangsidempuan City Religious Court, namely: there is a special room for mediation, there's room for a caucus, the mediator has been optimal in seeking peace, the time limit of only 30 days means that the mediator does not delve into the parties' problems and leaves the proceedings to the trial, the parties are affected by their power of attorney, there is no good faith in implementing peace between the parties, and this has been a long-standing matter, the parties do not want peace. (Riyanto, 2018: 124)

The implementation of mediation at the Padangsidempuan City Religious Court must be seen as an implementation of the HIR and RBG provisions, so that if the PERMA procedures are not followed it means it is RBG. The legal sanction is an examination by law or *Nietigbaar*, meaning that it is deemed that there has never been an examination and decision on the case. Every civil case examination at the Padangsidempuan City Religious Court must seek peace and mediation itself is an extension of peace efforts. Mediation will bridge the parties in resolving deadlocked issues in order to reach/obtain a solution for them. (Nastangin, Soraya, 2022: 205)

Second, the qualifications of the Mediator, that is, the success of the mediation can also be seen from the effectiveness of the mediation implementation which relies on the professionalism of the mediator judge in carrying out the mediation process (expertise in the field of formal and material law, as well as expertise in the psychological field), the mediator judge must be certified, the existence of legal substance or clear and detailed regulations to strive for peace seriously. All mediator judges must have mediator certification to ensure that the mediator has the skills and ability to resolve cases using good and effective techniques and that the mediation can be successful. (Kasmarusdiana, 2023: 163)

Third, the mediation room facilities and facilities at the Padangsidempuan City Religious Court are quite good overall, there is 1 room measuring around 6x7 m and inside it there is 1 long round table which is located in the middle and there are 6 chairs according to what is needed at the time. while mediation is taking place.

Fourth, there is community compliance regarding the behavior and attitudes of the parties during the mediation process, namely that often one or both parties feel that they are right (selfish), before the parties enter the case examination, they often have agreed to divorce. The parties are not cooperative, resulting in the mediation process completed quickly and the trial process can continue. That good faith from the parties is very

important to achieve the success of the mediation process in order to reach a win-win solution. (Amriani, 2012: 156)

From the results of calculating the success rate of the mediation process for 2021-2023, it can be concluded that the percentage of mediation success is still classified as moderate. Barriers to achieving peace in mediation. First, the attitude of the parties involved in the lawsuit no longer wants peace. Second, reluctant to communicate problems together. Third, there is no good faith on the part of the parties to carry out mediation to create peace. Fourth, the time limit of only 30 days causes the parties to want to settle in court. Fifth, the parties are influenced by their power of attorney to continue in the trial/litigation. Sixth, old matters from the start have been irreconcilable.

The results of the researcher's interview with a Mediator judge (Mr. Marlin Pradinata, S.HI, M.H), regarding the implementation of Pre-Mediation and the Mediation Process at the Padangsidempuan City Religious Court, the mediator judge stated that when the mediation process began to enter the settlement stage, then each party will convey their wishes based on their interests in the form of points of agreement. Based on Article 17 paragraph (1) PERMA mediation states "If mediation results in a peace agreement, the parties with the assistance of the mediator are obliged to formulate in writing the agreement reached and signed by the parties and the mediator." (Razali, M.Juliadi, 2011, 65)

The researcher asked about the provisions on obligations and agreements in making a Peace Deed, a mediator judge said that the provisions regarding the obligation for a peace agreement to be made in writing are also regulated in Article 1851 paragraph (2) of the Civil Code which states that "This peace agreement is not valid unless it is made in writing" Therefore, it is clear that peace as regulated in PERMA mediation and the Civil Code is an agreement that must be made in writing. This aims to anticipate that if one day one of the parties breaks it, the agreement document can be used as evidence to demand the implementation of the agreement that has been made. Unlike an arbitrator or judge, a mediator does not make decisions regarding disputes but only helps the parties to achieve their goals and find solutions to problems with win-win solutions. There is no winner or loser, all disputes are resolved in a friendly manner, so the outcome of the mediation decision is of course a consensus between both parties. (Usman, B, 2018: 35)

The effectiveness of mediation at the Padangsidimuan City Religious Court in terms of results is still less effective due to the large number of cases that fail in the mediation process. The benchmark for the effectiveness of mediation is that the

negotiations are ongoing. If you look at the results, if the mediation is successful, it means the mediation is effective and if it fails, it means the mediation is ineffective. Reconciling the parties involved in a lawsuit in court is not an easy job, especially if personal sentiments are more prominent than the actual subject matter. There are many factors that can hinder success in moving towards peace, among these many factors, one of which is the low level of success of mediation in court, which is largely due to the weak participation of the parties in the peace process being offered. Apart from that, the availability of adequate procedures for the peace process has an impact on the low level of legal initiative in seeking peace for the parties involved in the case.

## **CONCLUSION**

Whereas data on mediators at the Padangsidempuan City Religious Court has been collected in general, but it still needs to be processed and adjusted with data from interviews with the Chair of the Padangsidempuan City Religious Court, Deputy Chair of the Padangsidempuan City Religious Court and the Registrar of the Padangsidempuan City Religious Court as well as with the mediators. The interviews that have been conducted show that the role of the mediator is very important in resolving disputes, because the mediator will regulate the course of the mediation. Generally, mediation is carried out for 30 days (maximum), and the mediator must be able to formulate or master the main problem. And the mediator needs to master the field being mediated, so that he can optimize efforts to resolve the case and express it in the form of a peace deed if it is outside of a divorce case (peace in a divorce case is proven by withdrawing the case). The results of the research show how the number of cases mediated in the Padangsidempuan City Religious Court is based on data collected at the Padangsidempuan City Religious Court.

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