

# Implementation of Virtual Mediation on Divorce Settlement at Dumai Religious Court

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# Implementation of Virtual Mediation on Divorce Settlement at Dumai Religious Court

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**Abstract**—During the Covid-19 pandemic, proceedings in court must follow health protocols. Settlement of divorce cases at the Religious Courts by Supreme Court Regulation Number 1 of 2019 concerning the Administration of Cases in Courts Electronically. The arrangement of virtual proceedings is only regulated in the Regulation of the Supreme Court (PERMA). Likewise, with mediation, no separate rules are governing virtual mediation. Of course, some things hinder or there are shortcomings and advantages of resolving divorce cases through virtual mediation. The problem in this research is how is the virtual mediation process the settlement of divorce cases at the Dumai Religious Court? The purpose of the study is to explain the virtual mediation process in the settlement of divorce cases at the Dumai Religious Court. The research method used is sociological juridical, which is an empirical study to find theories regarding the process of occurrence and regarding the process of working law in society based on applicable laws and regulations relating to the Implementation of Virtual Mediation in the Religious Courts with a descriptive research nature. The research was conducted using structured interviews with judges and mediators as well as clerks related to virtual mediation cases. The results of the research show that having a virtual event will make it easier to hold proceedings in the Religious Courts without having to come in person but do it virtually, this is to avoid the spread of Covid-19. The proceedings are also online as usual, only face-to-face online or via a laptop or mobile phone. Online proceedings conclude that although during the pandemic the parties can hold proceedings without the need to go to court by PERMA 1 of 2019, while the obstacles encountered are when problematic networks are encountered such as slow loading on laptop and mobile devices so that it causes disturbances in proceedings that should be able to run. fluent.

**Keywords**—divorce, implementation, virtual mediation

## I. INTRODUCTION

The settlement of divorce cases through mediation will change the habit of litigation in court through litigation or suing. The plaintiffs and defendants must understand that mediation is a negotiation of the parties which is guided and organized by a neutral and impartial mediator called a mediator. The principle of complicating divorce means that it is

like an emergency door on an airplane that does not need to be used except in an emergency.

If the marriage can no longer be maintained, then in the life of the state in Indonesia, the procedure for divorce is regulated, namely in Article 39 of the Marriage Law which states: "Divorce is only considered valid if it is carried out in a court of law". With the sound of the article, it can be understood that a divorce made outside the court is considered invalid.

The problem in this research is how is the virtual mediation process in the settlement of divorce cases at the Dumai Religious Court?

The research that has been done on this mediation, among others, I Made Sukadana, in 2006 Universitas Brawijaya dissertation entitled *Mediation in the Indonesian Judicial System to Realize a Fast Judicial Process and Low Cost*. His dissertation concludes that mediation can help reduce a slow judicial process to a fast one. Moch Riyadi, 2016, Universitas Airlangga with a dissertation title on Principles of Settlement of Medical Practice Malls through Mediation. The conclusion of his dissertation, in this study, is expected to provide a solution to the void or ambiguity of the law which will become a technical guideline for resolving medical malpractice disputes in particular, as well as efforts to provide health services through mediation outside the judiciary. The purpose of this research is the existence of a fast, simple, and low-cost judicial principle, speeding up the process of proceedings in religious courts. By Perma 1 of 2019 concerning the Administration of Cases in Courts Electronically, in this pandemic situation, it is urgently needed to proceed quickly without ignoring health protocols.

## II. RESEARCH METHODS

The research method used is sociological legal research, which is an empirical study to find theories regarding the process of occurrence and regarding the process of working law in society based on applicable laws and regulations relating to the Implementation of Virtual Mediation in the Religious Courts.

The technique of collecting data is by holding direct questions and answers to respondents, namely the chairman of the Dumai Religious Court, judges and mediators as well as clerks who are directly involved in this virtual event.

### III. DISCUSSION

Mediation is a way of resolving disputes through a negotiation process to obtain an agreement between the parties with the assistance of a mediator [1]. Mediation is a dispute resolution process outside the court that is currently used by courts as a case settlement process. The form of settlement of cases using mediation which is now practiced is integrated with the judicial process [2]. Settlement of cases using mediation which is currently practiced in courts has a peculiarity, namely when the case has been registered in court (court-connected mediation) [3]. Its juridical basis began in 2002 and underwent improvements in the process and its implementation with the Supreme Court Regulation Number 7 of 2003 concerning Mediation Procedures, this rule will be able to reduce the accumulation of cases in court, because mediation is more effective than the litigation process and this Supreme Court Regulation is enhanced by Regulation The Supreme Court Number 1 of 2008, requires that every case must be resolved through mediation if the settlement of the case is not through mediation then the litigation process is null and void, as well as Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court. Mediation if implemented effectively is certainly very beneficial for the disputing or disputing parties, especially in divorce cases, because with the realization of this, the judiciary indirectly also helps in realizing the goals of a marriage that is *sakinah, mawaddah, warohmah*, and eternal.

Mediation is not only beneficial for the disputing parties but also provides several benefits for the judiciary.

To an alternative dispute resolution in 1976 a former judge, Chief Justice Warren Burger in *The Roscoe Pound Conference* invited conference participants consisting of academics, judges, and lawyers to look for other ways to resolve disputes. Since then, the Alternative Dispute Resolution (ADR) has been developed as an alternative to out-of-court dispute resolution.

The development of ADR is also supported by several factors, including (1) the method of solving it is well known in various cultures; (2) the settlement is non-adversarial; (3) enable all parties, directly or indirectly related to the dispute, to be included in the negotiations; (4) the achievement of a win-

win solution. There are various forms of out-of-court dispute resolution, as Nolan-Haley wrote, "ADR is an umbrella term which refers generally to an alternative to court adjudication of disputes such as negotiation, mediation, arbitration, mini-trial and summary jury trial," [4].

Mediation is an alternative dispute resolution currently being developed in Indonesia. Dispute resolution outside the court and one way are through mediation, it is hoped that the community can take advantage of this method so that the dispute resolution process can be carried out more quickly and the results are satisfactory to the parties.

### IV. RECOGNITION

The results of the study show that having a virtual event will make it easier to hold proceedings in the Religious Courts without having to come in person but done virtually, this is to avoid the spread of Covid-19. The event is also online (on the network) as usual, only face-to-face online or through a laptop or cellphone.

### V. CONCLUSION

Proceeding virtually by the E-Court is an electronic judiciary that is expected to achieve the objectives in the administration of justice which is of course by the principles of justice which are simple, fast and low cost. E-court offers a variety of conveniences by the principles of fast, simple, and low-cost justice. The fast settlement of cases from the beginning to the decision can be done electronically, simple when many things can be done via e-mail/paperless and low costs will reduce the cost of accommodation to the Court.

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