

## ABSTRAK

Penumpukan perkara di Mahkamah Agung solusi mengatasinya dengan pemberdayaan pasal 130 HIR/ 154 Rbg dan intensifitas Perma No. 2 Tahun 2003 dan telah diperbaharui dengan Perma No. 1 Tahun 2008 tentang prosedur mediasi di pengadilan yang mewajibkan proses mediasi sebelum pemeriksaan perkara. Permasalahan yang terjadi adalah bagaimana pelaksanaan mediasi sebagai Alternatif Penyelesaian Sengketa di Pengadilan Agama Medan serta apa yang menjadi penyebab keberhasilan dan kegagalan mediasi di Pengadilan Agama Medan. Pemecahan masalah tersebut dilakukan penelitian secara yuridis, sosiologis untuk menganalisis pelaksanaan mediasi sebagai alternatif penyelesaian sengketa di Pengadilan Agama Medan, persentase keberhasilan mediasi, faktor-faktor penyebab efektifitasnya di Pengadilan Agama Medan dengan melakukan penelitian terhadap hakim/mediator, advokat dan pencari keadilan. Pada pembahasan masalah dalam melakukan analisis dipergunakan teori islah.

Pelaksanaan mediasi di Pengadilan agama Medan, dibagi dalam 4 (empat) tahapan, yaitu : 1). Tahap pendaftaran Perkara, 2). Tahap penetapan Mediator, 3). Tahap pelaksanaan Mediasi dan 4). Tahap akhir Mediasi.

Faktor-faktor yang mempengaruhi keberhasilan mediasi di Pengadilan Agama Medan adalah aspek Mediator, aspek Perkara, aspek para pihak dan aspek Sarana sedangkan faktor yang menjadi penyebab kegagalan mediasi di Pengadilan agama Medan yaitu: (1) faktor substansi hukum (2 Struktur hukum, dan (3) Cultural hukum (masyarakat/budaya),

Mengatasi ketidakpastian pelaksanaan mediasi diperlukan pembaharuan terhadap peraturan Mahkamah Agung perlu memaksimalkan fungsi lembaga Mediasi profesional di luar pengadilan dengan membuat aturan setiap perselisihan/sengketa hendaknya diselesaikan terlebih dahulu pada lembaga Mediasi profesional di luar pengadilan sebelum akhirnya dibawa penyelesaiannya ke pengadilan dan diharapkan Peradilan Agama dapat dijadikan sebagai peradilan keluarga, sehingga Pengadilan Agama memerlukan bentuk mediasi yang ideal yang dituangkan dalam bentuk undang-undang yang dapat dijadikan landasan hukum bagi pelaksanaan mediasi di Pengadilan Agama, khususnya Pengadilan Agama Medan, yaitu mendudukkan mediasi atau *specifically mediasi* keluarga secara proporsional dalam konteks penyelesaian sengketa keluarga di Indonesia dengan demikian diharapkan dapat meminimalisir perkara yang menyangkut keluarga.

**Kata Kunci: Mediasi, Alternatif Penyelesaian Sengketa, Pengadilan Agama**

## **ABSTRACT**

*Stacking cases in the Supreme Court can be solved by empowering Article 130 HIR/154 Rbg and intensifying the Regulation of Supreme Court No.2/2003 which has been amended by the Regulation of Supreme Court No.1/2008 on the Procedure of Court Mediation which requires mediation process before the case investigation (proceedings). The problems discussed in this study was how mediation as the alternative to dispute settlement in Medan Religious Court was implemented and what caused the success and failure of mediation in Medan Religious Court. A sociological juridical study was conducted to solve the problem by analyzing the implementation of mediation as the alternative to dispute settlement in Medan Religious Court, the percentage of successful mediation, and the factors causing the effectiveness of mediation in Medan Religious Court by conducting a research on judges/mediators, advocates and litigants. The theory of reconciliation was used to discuss the problem in the analysis.*

*The implementation of mediation in Medan Religious Court is divided into 4 (four) phases: 1) case registration, 2) mediator establishment, 3) implementation of mediation, and 4) final stage of mediation.*

*The factors influencing the success of mediation in Medan Religious Court were the aspects of mediator, case, parties involved, and facility, while the factors that caused failure of mediation in Medan Religious Court were the factors of legal substance, legal structure, and legal culture (community/culture).*

*To solve the uncertain mediation implementation, the regulations of Supreme Court need to be reformed, the function of professional mediation institution outside of the court needs to be maximized by making the rule saying that any dispute should be first settled through the professional mediation institution outside of the court before the case is brought to court of law, and Religious Court can be functioned as family justice that Religious Court needs an ideal form of mediation set forth in the form of law that can be used as the legal base for the implementation of mediation in Religious Court, especially Medan Religious Court, to position the mediation or specifically family mediation proportionally in the context of family dispute settlement in Indonesia, and so it is expected to be able to minimize the cases related to family issues.*

***Keywords; Mediation, Alternative, Dispute Settlement, Religious Court***