



Empowerment of Mediation as an Alternative Dispute Resolution for Divorce Cases in the Religious Court of West Nusa Tenggara

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ABSTRACT

The empowerment of mediation as an alternative solution to divorce cases in the Religious Court of West Nusa Tenggara is imperative to ensure that every case can be resolved amicably, following the parties' agreement. Therefore, it is necessary to improve the certification training for non-certified mediator judges. This will enable them to acquire the requisite skills to reconcile parties in litigation and enhance the success rate of mediation. This study examines the Empowerment of Mediation as an Alternative Dispute Resolution to Divorce Cases in the Religious Court of West Nusa Tenggara as a principle to reduce the backlog of cases in the Religious Court, even up to the Cassation Level in the Supreme Court. It used primary legal sources from interviews with competent sources such as Mediator Judges in the Religious Courts, lawyers for the parties, and the parties involved in litigation. Meanwhile, relevant scientific literature, case studies, and expert opinions were used as secondary legal sources. The lack of legal awareness of the parties involved has also contributed to this problem, as many do not comply with existing legal rules. Furthermore, a contributing factor is the lack of infrastructure, such as the insufficient number of courts with adequate mediation rooms and equipment for remote audio-visual communication in courts

INTRODUCTION

The prevalence of marital problems, such as relatively high divorce rates, significantly influences Indonesian society. This phenomenon can be attributed to various factors, including adultery, gambling, forced marriage, and extramarital affairs. Furthermore, the tendency to prioritize biological desires in pursuing marriage also plays a role. A closer observation shows that several Indonesian marriages are founded on a flawed mentality.

In Islam, marriages are expected to be upheld with sacred vows and maintained permanently by the husband and wife. However, this religion also understands that marital disputes and prolonged conflicts can arise between partners, causing household disharmony and adverse effects. Therefore, Islam provides a solution in the form of divorce as the last alternative when the household cannot be maintained. In this religion, the divorce process is lengthy, and the disputes between spouses do not immediately lead to the termination of marriage but involve a process of mediation and reconciliation.

The Qur'an reminds individuals to avoid divorce and maintain marriages since the effects are felt by the husband and wife, their children, and extended families. The effects of divorce are not limited to the loss of material rights and responsibilities but also have significant psychological implications for spouses and their children. Considering the significant impact, divorce as the last alternative to resolving marital problems should be performed through a legal process.

Article 39, paragraph (1) of Law No. 1 of 1974 on marriage states that divorce can only be carried out before a court hearing after attempting and failing to reconcile both parties. Furthermore, paragraph (2) asserts that if a husband wishes to divorce or a wife initiates the proceedings, adequate justification demonstrating that they cannot coexist amicably as spouses should be provided.

Siqaq is a dispute between the husband and wife, and it is different from nusyuz, occurring on one party. To overcome the escalating marital crisis, Islam commands that both parties send two arbitrators to seek an alternative. The resolution through a third party known as a mediator is based on the Qur'an, Surah An-Nisa' verse 35: "If you anticipate a split, appoint a mediator from his family and another from hers. If they desire reconciliation, Allah will restore harmony between them. Surely Allah is All-Knowing, All-Aware".

This verse recommends the presence of a third party or mediator who can assist in finding a solution. A group of mediators, comprising representatives from both parties, will facilitate dispute resolution, and the mediators appointed have limited authority in siqaq cases. The mediators are not granted the authority to finalize the talaq (divorce) while undergoing the reconciliation process. Additionally, the wife's mediator is not permitted to initiate khulu' (divorce initiated by the wife) without obtaining consent. The mediators hold the position of representatives and are authorized to make decisions solely with the mutual agreement of both parties involved.

Mediation is a highly significant alternative dispute resolution mechanism where conflicts arise among parties, resulting in a more cost-effective and efficient settlement. Furthermore, this process can effectively reduce the backlog

of cases in the court system. The high number of cases filed in the court system often causes lengthy proceedings, which can be expensive and often result in unsatisfactory outcomes. By promoting public order in settling disputes, mediation provides an opportunity for achieving a resolution acceptable to all parties.

Given the responsibility to uphold the tenets of Islam as a religion of compassion within their jurisdiction, judges presiding over cases in the Religious Court are attentive to the guidance that divorce should be viewed as a last resort even though it is permitted. In divorce cases, the primary duty of religious and general judges is to reconcile families torn apart rather than simply fulfilling legal requirements related to granting or denying petitions. Efforts should be made to achieve peace by reinforcing the judges' responsibility to prevent divorce and restore the integrity of families experiencing problems.

The increasing number of divorce cases yearly also occurs in the Religious Court of the West Nusa Tenggara region. Due to various reasons and factors, the rates have been increasing in certain regions, necessitating mediator judges' involvement. In reality, the implementation of mediation rarely results in a peace agreement in some courts, including the Religious Court of the West Nusa Tenggara region. Conventional verdicts that determine winners and losers are typically produced with only a few instances of a mutually beneficial outcome. Therefore, it can be argued that the success rate of judges' sincerity, ability, and dedication to reconciliation is low, rendering Articles 130 HIR and 154 RBg in procedural law as decoration or lifeless formulae.

Based on the descriptions, the problem formulations are as follows:

- a). How does the community's legal culture influence mediation as an alternative dispute resolution in the West Nusa Tenggara Religious Court regarding divorce cases?
- b). What is the ideal legal framework to empower mediation as an alternative dispute resolution in divorce cases?

METHODOLOGY

This is a socio-legal study with a non-doctrinal or empirical approach. This method identifies the appropriate answers by examining evidence from several significant social factors related to the law. The data is patterns of correlational and causal legality or relationships among various phenomena that manifest the presence of law as observable by the senses. The non-doctrinal study considers law as a social institution always related to other variables. Therefore, the law cannot be studied solely through a series of books but should also be examined in practice, historical background, and relationship with the nation. According to Hans Kelsen, the law in action and practice are different and contradictory. The non-doctrinal study is born in empirical analyses of sociological jurisprudence, which produces many legal products based on the sociology of law. Empirical means that a non-doctrinal study examines social interactions directly in society. Law is no longer interpreted as a written document that reflects a philosophical and moral concept as *ius constituendum* or "law as it should be," nor is it perceived as positivist *norma ius constitutum* or "law as it is on paper."

This study critically evaluates legal rules, doctrines, concepts, and legislation in their appropriate contexts. The first step is to compile an inventory of positive legal sources relevant to divorce mediation, followed by an examination and analysis of interviews conducted with the mediator judge overseeing the divorce case and the parties involved in the dispute.

DISCUSSION AND RESULT

The Influence of Community Legal Culture on Mediation as an Alternative Resolution to Divorce Cases in the West Nusa Tenggara Religious Court

The success of judicial mediation is not only supported by the rules and professional implementation of mediation but also requires public awareness of the meaning of peace in life. As part of social norms, the law is not separate from the values applied in a society. It can even be said that the law reflects the values in society. A well-formulated legal framework involves adhering to the “living law” prevalent in the community, which aligns with the prevailing social values. These values are indissolubly linked to the attitudes and attributes of individuals as members of society. In a transition society, these values are also subjected to a change process. Therefore, special attention is needed to societal changes and the values held.

The effectiveness of law originates from society and aims to achieve peace. From a certain point of view, the parties involved in the dispute can influence the implementation of mediation in court. In this case, the mediator only provides solutions and directions without forcing the parties involved. The mediator endeavors to foster an understanding of the imperative need for peace. However, the disputing parties exhibit significant pride and are unwilling to compromise. This poses a challenge for the mediator, who may have already held caucuses to listen to the parties’ reasons but persist in refusing to negotiate and resolve their issues. The factors that contribute to the success of mediation in the judiciary are not solely dependent on various regulations of mediation and professional mediators. They necessitate public awareness concerning the significance of peace in an individual’s life, known as culture by Lawrence M. Friedman. Legal culture denotes a community’s consciousness regarding compliance with several rules constructed on an appreciation of the peace value.

According to Soerjono Soekanto, legal culture can be seen from the perspective of societal and cultural factors as supporting elements for the effectiveness of law enforcement. The societal factor refers to the community’s perception of law and is viewed as a norm, knowledge, and legal system. However, the cultural factor encompasses several values underlying the applicable law. Mediation is a legal product that should be applied and implemented in the dispute resolution system in court. Article 2, paragraph (3) of Supreme Court Regulation Number 1 of 2016 explains that failure to undergo the procedures based on this regulation violates Articles 130 HIR and 154 Rbg, resulting in a null and void decision. Therefore, it is imperative for law enforcers and the community to implement this concept. The parties in divorce cases are reluctant to mediate due to their lack of understanding and the low cultural awareness of reconciliation.

The less effective implementation of mediation in court is due to the low awareness of the community toward peace efforts. The law is less effective due to behavior not supporting the existing legal system. The mediators, including judges, court officials, and mediation regulations, as well as the community, should support each other to realize legal ideas or desires. To achieve these legal ideas, the management aspect cannot be separated, which is a set of activities or processes to coordinate and integrate the use of resources to achieve goals through people, techniques, and information based on a certain organizational structure. Therefore, a law enforcement organization includes people, behavior, facilities, and organizational culture.

The functioning of law enforcement agencies is first and foremost determined and limited by formal guidelines from various legal formulations. However, relying on these formal designs is insufficient to understand and explain the organizational behavior of these institutions. Meanwhile, the mediator judges cannot be explained without including cultural elements. Values are involved in law enforcement within the organization, giving rise to legal culture.

The legal enforcement or justice system is a unity of various subsystems consisting of "substance," "structure," and "culture." As a law enforcement system, the process of litigation is closely related to these three components, namely legal norms (substantive and normative components), law enforcement institutions, structures, or apparatus (structural and institutional components, as well as procedural and administrative mechanisms), and legal, cultural values (cultural components). Furthermore, legal cultural values in law enforcement are focused on the philosophy in society and its awareness of legal and social behavior, as well as legal education.

From a socio-legal perspective, it is a process of activities to realize the goals and aspirations of the law. The process involves many factors, including cultural values, courts, mediator judges, clerks, infrastructure, rules of the game, social forces, and financial resources. These factors determine the success and failure of the law enforcement process, including efforts to mediate divorces.

Internal and external factors contribute to the low legal culture of the society in pursuing peace through mediation. The first factor related to the attitude that originates from within the individual is the perception of society regarding mediation manifested in their behavior to reject the process. Meanwhile, the external factor is in the form of influence from other parties that also affect both sides not to pursue mediation.

Some of the factors causing divorce in several Religious Courts in West Nusa Tenggara, such as in the Religious Court of Mataram, Giri Menang, Praya, Selong, Taliwang/Sumbawa Barat, Sumbawa Besar, Dompu, and Bima are as follows: 1) Unsolvable *tsiqoq* or endless disputes and quarrels between the two parties, mostly due to trivial reasons, which eventually leads the parties to file a divorce petition in the Religious Court. 2) Departing from a relationship due to infidelity by one spouse with either a woman or a man. 3) Domestic violence between the two parties. 4) Economic factors due to migration abroad, leaving the partners neglected without sending news or money for their family's

livelihood in the village, apart from layoffs. 5) Husband's polygamy or remarriage with another woman because the partner refuses to accept being a second wife, eventually leading to filing a lawsuit in the Religious Court. 6) The husband may engage in problematic behaviors such as gambling, excessive drinking, or addiction, or either party may engage in adultery with a person of the opposite gender. 7) In some cases, either of the spouses may have a physical disability, hence an inability to fulfill the obligation. 8) Political differences may also contribute to the breakdown of a marriage. For example, when one spouse becomes a politician, the relationship may become strained due to busy schedules and responsibilities, ultimately resulting in one of the parties initiating divorce proceedings or filing a lawsuit to dissolve the marriage. Due to the province's high number of marriage and divorce problems, the Human Development Index in West Nusa Tenggara is low. Moreover, it causes the neglect of children's education and lowers their health quality.

The role of religious figures in preventing divorce and promoting the age of marriage is also crucial, specifically in West Nusa Tenggara, where people still follow the instructions of teachers, ulema, and other religious or community leaders, to reduce the divorce rate. As mandated by the Supreme Court Regulation Number 1 of 2016 concerning mediation procedures in court, divorce cases should be mediated when both parties are present. In mediating the cases, the application of psychological approaches greatly influences and determines the success of mediation, including raising the awareness and understanding of the parties regarding the root of the problem and obstacles.

Mediation in court is a form of the law enforcement process, namely the implementation of Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures. Therefore, the process in the West Nusa Tenggara Religious Court can be analyzed through several factors. These factors can support the success or even cause the mediation process to be less successful, including:

1. Legal Factors

Legal factors are the substance of a law enforcement process. The rules governing the mediation process are contained in Supreme Court Regulation Number 1 of 2016, which is a form of change and development from previous regulations, such as Supreme Court Regulation Number 1 of 2008. It is a form of change and development from the previous regulation, namely Supreme Court Regulation Number 2 of 2003. Before the Supreme Court Regulation was enforced, the mediation process was only regulated by Supreme Court Circular Letter Number 1 of 2002. Furthermore, the series of regulations is a follow-up to the content of Article 130 HIR / 154 RBg. Several explanations exist for integrating mediation in civil procedural law, including a). Articles 130 HIR / 154 RBg which regulates the judge's obligation to reconcile the disputing parties, b). Supreme Court Circular Letter Number 1 of 2002 Regarding the Empowerment of Mediation Institutions; c). Supreme Court Regulation Number 2 of 2003 Concerning Mediation Procedures in the Court, d). Supreme Court Regulation Number 1 of 2008 Concerning Mediation Procedures in the Court,

and e). Supreme Court Regulation Number 1 of 2016 Concerning Mediation Procedures in the Court.

In essence, the initial goal of integrating mediation is to reduce the number of cases at the appellate and cassation levels to avoid accumulation in the Supreme Court. Some of the substantive emphasis is that the mediation time limit is shortened, obliging the disputing parties to attend the mediation process accompanied by legal counsel, except for legitimate reasons and good faith on the part of the parties. The most substantial form of emphasis in the latest regulation is the rule on good faith and the legal consequences for parties. The rules regarding good faith are detailed in Article 7, Paragraphs (1) and (2) of this Supreme Court Regulation.

Mediation is often seen as a mere formality that fails to achieve a peaceful settlement between the parties involved in a dispute. This aligns with the observation times on resolving divorce cases in several religious courts. Based on the experiences of some judges, mediation is frequently attempted before submitting the dispute to court. However, in many instances, the process fails to yield an agreement between the parties. Therefore, attempts to mediate and reconcile parties in a dispute are usually unsuccessful.

Mediation in religious courts in the province of West Nusa Tenggara can be quite good. However, several reasons create loopholes in its implementation, failing to achieve a peaceful settlement for the parties involved. Mediation conducted before filing a lawsuit in a religious court is often perceived by parties involved in a dispute as a mere formality. This perception may be attributed to the infrequency of peaceful settlements. For instance, in cases where the parties involved are subjected to a religious divorce and enter into new marriages without notifying one another, legalizing their divorce through submitting a lawsuit or petition to the court becomes the only feasible option.

2. Law Enforcement Factors

The effectiveness of mediation depends not only on the legal provisions but also on the competency and proficiency of human resources tasked with implementing the regulations. The law enforcement factors related to human resources in implementing the rules are contained in the Supreme Court Regulation mediation. Law enforcement individuals are directly or indirectly involved in the administration of justice. Concerning mediation in court, the law enforcers include judges, lawyers, and mediators. The individuals qualified to act as mediators in court include judges or other judicial officials who hold mediator certificates, are not certified, and possess mediator certificates and specialized skills, apart from court officials.

3. Judge.

Judges should order or direct both parties to mediate in court. In this case, the court, judge, or mediator has their roles, such as a) providing a mediation room, facilities, and infrastructure that are cool, neat, and comfortable according to the standard set by the Supreme Court, b) providing an explanation of mediation and ordering both parties to carry out mediation in court, c) providing advice and helping parties obtain solutions to resolve cases peacefully.

One of the challenges in enhancing the effectiveness of mediation is the limited number of judge-mediators in the religious courts of West Nusa Tenggara Province with certification training from the Technical Education Center of the Supreme Court. Due to inadequate skills and expertise, judge-mediators may struggle to employ specialized techniques and strategies to reconcile disputing parties. To enhance the proficiency in mediating divorce cases, it is recommended that they attend the Judge-Mediator Certification Training program.

One challenge that judge-mediators face when conducting mediation is the significant volume of cases handled, leading to a lack of free time and less-than-optimal mediation. It is recommended that there should be a collaboration with non-judges to address this issue, particularly certified mediators who have received training from the Technical Education Center of the Supreme Court or institutions. This assists in overcoming obstacles related to the workload of judge-mediators to perform their duty effectively. Furthermore, they should also prioritize time management to facilitate the process. Another obstacle faced when mediating parties is the language barrier, particularly for those with low levels of education who cannot speak Indonesian. In this case, the assistance of experts or other parties to translate the language into Indonesian is necessary.

4. Advocate/Legal Attorney

Based on Law Number 18 of 2003 concerning Lawyers/Legal Counsel, a lawyer provides legal services, including consultation, assistance, exercising power of attorney, representing, accompanying, defending, and performing other legal actions for clients' interests. One factor determining the success of mediation in court is the role of the counsel to accompany or represent parties in litigation. However, in divorce cases, legal counsel should not participate in mediation. The roles and presence of legal counsel can vary, and participating in mediation recognizes this process' value and substantial benefits. It can have a positive impact, leading to their active participation by providing advice to respective clients in settling disputes. However, some legal counsels do not recognize the significance of mediation or consider it less important. These legal counsels may believe that longer cases will lead to higher costs, making it challenging to achieve a peaceful resolution during mediation.

According to societal perceptions, the involvement of legal counsels is one of the primary factors contributing to the high failure rate of mediation in religious courts. The case the lawyer handles will be concluded when a peaceful agreement is reached through mediation in court.

5. Mediator

A mediator is a judge or other party with a certificate as a neutral party who helps in the negotiation process to find solutions to disputes without using methods of determination or forcing a settlement. The skill and ability to read the case are compulsory to achieve a peace agreement between parties in a dispute. This party is one of the law enforcement factors directly involved in the mediation process. Regarding the ability to mediate a case, the certificate is one of the requirements recognized by the Supreme Court Regulation concerning mediation.

In its implementation, the Supreme Court, through the Research and Development, Legal Education and Training Agency, carries out mediator certification by holding special training and education to become legitimate mediators recognized by the legality in the court.

6. Facility and Infrastructure Factors

Mediation implementation in the Religious Court in the West Nusa Tenggara Province is conducted in the available mediation rooms in each court's office. However, all religious courts in the West Nusa Tenggara Province do not have adequate mediation rooms. This makes the parties feel uncomfortable during mediation or caucus, currently conducted in a small room measuring 3x4, considered inadequate due to limited facilities.

Regarding facilities, Article 5, paragraph (3) of the Supreme Court Regulation on Mediation Procedures in Court stipulates that mediation can be conducted using remote audio-visual communication to see and hear each other directly and participate in meetings. However, only the Mataram, Praya, and Selong Religious Courts in the West Nusa Tenggara Province currently have remote audio-visual communication equipment. The Giri Menang, Taliwang, Sumbawa Besar, Dompu, and Bima Religious Courts do not have such a facility, hence mediation is conducted directly with the parties and the available mediator.

The facilities for mediation in some religious courts in the West Nusa Tenggara Province are inadequate. The rooms used for mediation are unsuitable and do not support the safe and comfortable conduct of the mediation process. Subsequently, this is one of the inhibiting factors in implementing the Supreme Court Regulation on Mediation Number 1 of 2016 in the religious courts.

7. Community Factors

Legal awareness among the people of West Nusa Tenggara province is not new and has been built for a long time through customary law. The populace has been extensively trained to abide by the law. The customary law that persists to this day remains binding upon individuals belonging to the indigenous community.

Besides obeying the law, some people do not comply with the existing regulations. Regarding the mediation of cases, most have already divorced under Islamic law (thalak 1, 2, or 3). Reconciliation is no longer viable, even though the parties have resorted to mediation or pursued legal proceedings in the courtroom. Therefore, the community factor contributes to the less successful mediation process.

Most disputing parties from rural communities with low education levels do not fully understand the true meaning of mediation due to a lack of knowledge and socialization on the importance of this stage.

8. Cultural Factors

Customary law requires the conduct of communication when a dispute arises. This term refers to a deliberation process by traditional leaders to settle a problem. The deliberation process is highly prioritized when a problem arises within the community, which goes for family conflicts or divorce cases. In this

province, the community undergoes a mediation process assisted by traditional leaders or influential figures.

Ideal Legal Construction to Empower Mediation as an Alternative Resolution of Divorce Cases

As a litigation institution, the religious court implements the guidance of Supreme Court Regulation Number 1 of 2016 concerning mediation procedures. However, the religious court is still not optimal in carrying out this task, as other institutions, namely the Marriage Guidance and Counseling Body (BP4), can perform this task. Under the institution's history before the enactment of Law Number 1 of 1974, as amended by Law Number 16 of 2019 concerning marriage, this institution has greatly reduced the divorce rate in a country with a majority Muslim population. In Islam, there is *As-Shulhu* or *Tahkim*, and the concept precedes several theories used by European countries. This is because *tahkim* is also conducted in a familial approach following Islamic teachings contained in *As-Shulhu*.

In Islamic law, a mediator, called *hakam*, is a representative or delegate of the disputing parties (the husband and wife) involved in resolving the dispute. In certain circumstances, the court may appoint a *hakam*, including a mediator judge appointed by the institution. The involvement of other parties is a weakness because they may not know and care enough about the parties, unlike a *hakam* from the family. This is because the tendency of affection and feelings for both parties is greater than other people's judgment. A *hakam* from the family has some positive values, such as a) emotional and psychological closeness, making disputants to show their secrets. Even though confidentiality is maintained with an external mediator, *hakam* is preferable due to the closeness of family relationships, b) a mediator with greater influence can assist both parties in resolving their issues more effectively.

The concept found in the Qur'an is very convincing, as both parties are encouraged to avoid worsening the situation. Therefore, only representatives from each party are allowed to attend. This concept is highly suitable for implementation and provides a relatively unlimited timeframe, accommodating the interests of both parties. Parties are encouraged to participate less actively, as the mediator comprehensively understands the underlying issues.

Entrusting the judicial system with the resolution of divorce cases can prove ineffective, as it concerns human character, which is inherently complex. Handling divorce cases should prioritize a familial approach between the two parties. According to Lenard Marlow and S. Richard Saube, mediation is a mental health response to the problem of divorce. Therefore, a professional mediation institution can assist the parties involved in the dispute, but the final decision lies with both parties.

As for the reconstruction of mediation as an alternative to resolving divorce cases in the Islamic court based on justice, it can be accomplished by appointing a *hakam* from a family representative or restoring the mediator's role. The *hakam* knows the characteristics of the parties in the dispute and has a closer emotional relationship and affection towards their family. Therefore, they can perform good approaches with both parties to conduct mediation. According to

Surah An-Nisa' (4) verse 35, when both hakams intend to reconcile, Allah will surely guide both husband and wife toward reconciliation.

In resolving divorce cases, mediation through *ishlah* can be applied by implementing a mechanism of deliberation with the assistance of an external mediator, such as community leaders, religious figures, *kiyai*, and *ustadz*, with a greater influence on obedience and compliance with the law. The purpose of mediation through *ishlah* is for the benefit of the household, and integrity can be maintained to avoid divorce. The several positive values in resolving divorce cases through *ishlah* are a) allowing for a swift and cost-effective resolution of the case when compared to the more protracted and costly civil court proceedings, b) placing a strong emphasis on the genuine interests and emotional or psychological needs of both parties, beyond their mere legal rights and obligations, c) providing the ability for consensus between the husband and wife in the process and its outcome, d) fostering better mutual understanding between the disputing parties, and e) eliminating conflict or hostility in every forced decision made by a judge in court.

Marc Galanter stated that dispute resolution could be carried out anywhere, by the courts and various forums in its social environment based on indigenous law. Resolving divorce cases by certified external mediators such as community leaders/customary leaders, religious figures, *ustadz*, and *kiyai* aims to preserve and recognize the existence of Islamic and customary laws, which still applies to indigenous communities in West Nusa Tenggara. This aligns with Article 18B paragraph (2) of the 1945 Constitution, which recognizes and respects customary law communities' unity and traditional rights.

CONCLUSIONS

The influence of the community's legal culture on the effectiveness of mediation as an alternative dispute resolution for divorce cases is considered low in terms of legal compliance. Many parties involved in the dispute view mediation as an unproductive endeavor that consumes time and energy, leading to an unsuccessful outcome. The role of judges as mediators in attempting to bring peace to the parties is crucial. However, many West Nusa Tenggara Province judges are not certified and lack the necessary skills to mediate effectively, resulting in less than optimal mediation. There is also a shortage of free time due to the large number of cases handled, leading to rushed and less-than-optimal mediation. Inadequate infrastructure and facilities, such as mediation rooms, caucus rooms, and audio-visual equipment, also pose limitations.

The ideal legal construction to empower mediation as an alternative dispute resolution for divorce cases by prioritizing the noble values in Pancasila is through deliberation to reach a consensus. This should involve community figures serving as external mediators and having certificates, including religious and traditional leaders, as well as collaborating with the existing Mediation Hall in West Nusa Tenggara. Moreover, the role of judges in the mediation process is also crucial, as it can affect the success of the process. The selected or appointed judges from the family of either spouse can facilitate a more transparent and candid discussion of household issues between the parties involved.

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