

## EFFECTIVE MEDIATION STRATEGIES: THE TECHNIQUES USED BY MEDIATORS IN RESOLVING DIVORCE CASES

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### **Abstract**

The implementation of mediation is expected to reduce or suppress the high divorce rate, but in reality the success rate is still relatively low so it is not in accordance with expectations. Therefore, the role of a professional mediator with the right skills is needed so that the mediation process can really run optimally in creating peaceful options for the parties to the dispute. The purpose of this study is to describe the role and function of mediators as well as the techniques and skills applied by mediators so that effective mediation strategies can be known. The type of research used is empirical research with interview and documentation data collection techniques. The results of the study show that the Mediator has the role and function of a neutral party that helps resolve conflicts by creating conducive conditions for the parties to reach a peaceful agreement. In practice, M2C Mediators use 4 skills in the mediation process, namely communication, negotiation, organization, and facilitation skills.

**Keywords: Roles and Functions; Mediators; Skill Techniques**

### **Abstrak**

Pelaksanaan mediasi diharapkan dapat mengurangi atau menekan tingginya angka perceraian, namun pada kenyataannya tingkat keberhasilan masih tergolong rendah sehingga tidak sesuai dengan yang diharapkan. Oleh karena itu, peran mediator yang profesional dan memiliki teknik keterampilan yang tepat sangat dibutuhkan agar proses mediasi benar-benar bisa berjalan secara optimal dalam menciptakan pilihan-pilihan damai bagi para pihak yang bersengketa. Tujuan dari penelitian ini adalah mendeskripsikan peran dan fungsi mediator serta teknik keterampilan yang diterapkan oleh mediator sehingga bisa diketahui strategi mediasi yang efektif. Jenis penelitian yang digunakan adalah penelitian empiris dengan Teknik pengumpulan data wawancara dan dokumentasi. Hasil penelitian menunjukkan bahwa mediator memiliki peran dan fungsi sebagai pihak netral yang membantu menyelesaikan konflik dengan menciptakan kondisi yang kondusif bagi para pihak untuk mencapai kesepakatan damai. Dalam praktiknya, Mediator M2C menggunakan

4 keterampilan dalam proses mediasi yaitu keterampilan komunikasi, perundingan, perorganisasian, dan fasilitasi.

**Kata Kunci: Peran dan Fungsi, Mediator, Teknik Keterampilan**

## Introduction

Marriage Law Number 1 of 1974 has stated that marriage is an innate bond between a man and a woman to become a husband and wife with the aim of helping a family or household full of happiness and eternal based on the One God.<sup>1</sup> Having the ideal of a peaceful and happy family is the desire of every couple. As mentioned in the Qur'an Surah Al-Rum verse 21, God has created humans on earth in pairs with the aim of getting to know each other, so that with this recognition will create love and affection between them.<sup>2</sup> However, sometimes the purpose of this marriage simply disappears in a domestic life, so it will end up in divorce.<sup>3</sup>

Divorce is the last and best way or action in a domestic relationship, if the household that is already running has more impact on the harm.<sup>4</sup> The factors that cause divorce are infidelity, economic pressure and domestic violence (KDRT).<sup>5</sup> In addition, the results of the pre-study show that the divorce rate in Malang City in 2024 is still quite high. Based on the results of an interview with one of the non-judge mediators of the Malang City Religious Court, it was shown that the two main factors that caused divorce were the economy and quarrels. Even lately, online gambling has also become one of the causes of divorce.<sup>6</sup>

In an effort to minimize the occurrence of divorce, mediation has become one of the alternatives to dispute resolution that is relied on to resolve divorce conflicts between couples. Basically, mediation is an alternative dispute resolution that involves a third party in the negotiation process between the two parties where the third party must be neutral and impartial between them.<sup>7</sup> Mediation is also not only about narrowing the dispute resolution process but

<sup>1</sup> "Pasal 1 Undang-Undang Perkawinan No 1 Tahun 1974 Mengenai Pengertian Pernikahan".

<sup>2</sup> Quraish Shihab, *Tafsir Al-Misbāh*, in XI, 1 ed. (Jakarta: Lentera hati, 2001). 68

<sup>3</sup> Sami Faidhullah, "Taklik talak sebagai alasan perceraian (tinjauan hukum islam dan hukum positif)," *AL-RISALAH* 13, no. 1 (2017): 91–124.

<sup>4</sup> Ramlah, "Faktor-Faktor Yang Mempengaruhi Tingginya Tingkat Perceraian Di Indonesia (tinjauan Terhadap Hukum Acara Peradilan Agama)," *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 14, no. 02 (1 Desember 2018): 350–68, <https://doi.org/10.30631/al-risalah.v14i02.455>.

<sup>5</sup> Andi Hartawati, Sumiati Beddu, dan Elvi Susanti, "Model Mediasi Dalam Meningkatkan Keberhasilan Penyelesaian Perkara Perceraian Di Pengadilan Agama," *Indonesian Journal of Criminal Law* 4, no. 1 (2022): 59–73.

<sup>6</sup> Abbas Arfan, Mediator Non Hakim M2C (Mediasi Maliki Center) Pengadilan Agama Kota Malang, wawancara, Januari 2025.

<sup>7</sup> Rizky Kurniyana dan Muchamad Coirun Nizar, "Tingkat Keberhasilan Mediasi Oleh Hakim Dan Non-Hakim Di Pengadilan Agama Purwodadi Tahun 2019," *ADHKI: Journal of Islamic Family Law* 3, no. 1 (2021): 69–82.

also about eliminating resentment and strengthening friendship in the life of a society with diverse cultures and different norms. In this case, the author emphasizes more on the mediation strategies used by mediators in handling divorce conflicts.

Regarding the advantages of mediation, among others, the stages and time used are more flexible, the results of mediation are *win-win solutions*, the mediation process is kept confidential, and mediation can also maintain the relationship between the parties in the future. On the other hand, the mediation process carried out in court is still not able to reduce the high divorce rate.<sup>8</sup> The community is still not able to carry out mediation in the conflict that hits itself optimally. Most of the mediation carried out in the religious court was unsuccessful. In addition to being caused by the lack of good faith of the parties themselves, the techniques and skills of the mediator are also a problem in the mediation process.

The techniques and skills of the mediator are significant in the mediation process. Because of this, it can affect the sincerity and willingness of the parties in negotiating the problem. If the mediator has a smart and professional strategy, then the final estuary of this mediation process will be outlined in the form of a peace deed.<sup>9</sup> And vice versa, if the mediator does not have a good strategy, it will end up failing to achieve peace. The Legal Regulations regarding mediation already have clear rules. However, Indonesian society basically has a culture of deliberation for consensus, so that in facing a dispute or problem, they often try to find a solution through mediation rather than directly taking the case to court.<sup>10</sup> In practice, mediation does not always guarantee the complete peaceful resolution of disputes as expected. As the table described by the author from the annual report of the Malang City Religious Court below:

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<sup>8</sup> Bambang Sutiyoso, *Hukum Arbitrase Dan Alternatif Penyelesaian Sengketa*, 1 ed. (Yogyakarta: Gama Media, 2008). 58

<sup>9</sup> M. Akil dan Andi Hasriani, "Strategi Mediator Pada Tingkat Keberhasilan Mediasi Dalam Perkara Perceraian," *Qanun: Journal of Islamic Laws and Studies* 2, no. 1 (2023): 45–49.

<sup>10</sup> Khoirul Anam, "Strategi hakim mediator dalam mencegah terjadinya perceraian," *Yustitiabelen* 7, no. 1 (2021): 115–27.

**SUCCESS RATE OF MEDIATION**

<b>YEAR</b>	<b>MEDIATED MATTERS</b>	<b>SUCCEED</b>	<b>NOT SUCCESSFUL</b>
<b>2019-2020</b>	533	50	481
<b>2021</b>	494	67	426
<b>2022</b>	483	20	378
<b>2023</b>	433	11	322
<b>2024</b>	432	9	244

Source: Annual Report of the Malang City Religious Court

Based on the presentation of the table above, it is known that the number of cases mediated at the Malang City Religious Court every year is almost consistent, with the number of cases ranging from 400 to 500 cases. Although the number of cases remains stable, the success rate of mediation from 2019 to 2024 is declining, and the results are not in accordance with the expectations that have been set. The decline in the number of successes is influenced by two main factors, namely the role of the parties involved in the case and the strategies used by mediators. Therefore, this study aims to describe more deeply the role and function of mediators as well as the techniques and skills applied by non-judge mediators of M2C institutions (Maliki Center Mediation) in handling divorce cases. The M2C Institute (Maliki Mediation Center) is one of the consultation and legal aid laboratories under the auspices of the faculty of sharia of the State Islamic University Maulana Malik Ibrahim Malang. Basically, this institution was formed to provide an alternative dispute resolution service, especially mediation for people who are in dispute. In the institution, there are 19 certified non-judge mediators.

### **Research Methods**

This research is included in the type of empirical research. Empirical research is legal research whose data is obtained from the results of interviews or direct observations with predetermined informants and aims to investigate the applicable legal regulations and see how they are implemented in the reality of society.<sup>11</sup> The data collection technique in this study uses two methods, namely interviews and documentation.<sup>12</sup> The interviews in this study were aimed at several non-judge mediators in the M2C Institute (Maliki Center Mediation). Meanwhile, documentation is used by the author as a way to search for data related to research topics that can be done in the form of notes, transcripts, books, and the like. The location of the research contained in this article is the Faculty of Sharia UIN Maulana Malik Ibrahim Malang, especially at the Maliki Center Mediation institution

<sup>11</sup> Mukti Fajar dan Yulianto Achmad, *Dualisme Penelitian Hukum Empiris & Normatif*, 5 ed. (Yogyakarta: Pustaka Pelajar, 2019). 50

<sup>12</sup> Derita Prapti Rahayu, "Metode Penelitian Hukum," *Yogyakarta: Thafa Media*, 2020. 40

## The Role and Function of Mediators in the Mediation Process

The existence of a mediator is very significant because in an effort to resolve the conflict, a third party or neutral party is needed who can condition and guide the course of conflict resolution proposed by the parties so that it can achieve a satisfactory result for both.<sup>13</sup> In the mediation process, a mediator can be appointed by the conflicting party or a party with certain authority. In addition, in essence, the essence of mediation is to influence the parties to the conflict with all kinds of methods and techniques and skills not to proceed to the litigation process and prioritize the peace agreed upon by the two parties to the litigation.<sup>14</sup> The mediator himself has no *conflict of interest* regarding the outcome of the negotiations. Here are some of the roles and functions that a mediator must perform:<sup>15</sup>

### 1. Mediators Encourage the Parties to Be Fair

This role of the mediator has the function of encouraging the parties to make their own formulation of the dispute resolution arrangement, in addition to the mediator can provide dispute resolution options to the conflicting parties. If the parties are more active in seeking a joint settlement, it will make the mediator's task easier. Because the parties did not hinder but instead jointly formulated a settlement.<sup>16</sup>

### 2. Reading the Balance of the Positions of the Parties to the Dispute

If mediation wants to reach a peace agreement immediately, there are several conditions that mediators need to carry out the mediation process:

- a. There is a negotiation that has a balance between the two parties
- b. There is hope for the parties to maintain friendship with each other in the future
- c. There is a purpose that leads to a quick resolution of disputes
- d. There is no deep enough hostility between the two sides to speed up the peace agreement process.<sup>17</sup>

The position of the parties is very important to be read by a mediator, because from the balance of the positions of the parties it can be adjusted to the needs of the parties' dispute resolution. Therefore, the mediator's

<sup>13</sup> Agustini Andriani dan Susi Susanti, "Peran Dan Kontribusi Mediator Dalam Mediasi Sengketa Perceraian Di Pengadilan Agama Sungai Penuh," *Syntax Idea* 6, no. 3 (2024): 1498–1506.

<sup>14</sup> Endang Hadrian, "Urgensi Perma No. 1 Tahun 2016 Berkaitan Dengan Tata Cara Mediasi Di Pengadilan," *Krtha Bhayangkara* 12, no. 2 (2018): 193–206.

<sup>15</sup> Maskur Hidayat, *Strategi Dan Praktik Mediasi Berdasarkan Perma No 1 Tahun 2016 Tentang Prosedur Mediasi Di Pengadilan*, Pertama (Jakarta: Kencana Perdana Media Grup, 2016). 90

<sup>16</sup> Maskur Hidayat. *Strategi Dan Praktik Mediasi Berdasarkan Perma No 1 Tahun 2016 Tentang Prosedur Mediasi Di Pengadilan*, 91

<sup>17</sup> Maskur Hidayat. *Strategi Dan Praktik Mediasi Berdasarkan Perma No 1 Tahun 2016 Tentang Prosedur Mediasi Di Pengadilan*, 92

understanding of the balance of the positions of the parties greatly determines the priority needs of each individual.<sup>18</sup>

3. Build the image of the mediator in the view of the disputing party.

After all, the parties to the dispute should have confidence in the ability and credibility of a mediator. The parties must be willing to listen to the various suggestions and options that the mediator offers for him. And vice versa, in principle, the mediator must be completely in a neutral condition and must not take sides with one party. In general, the success of the mediation process is to foster a level of trust in a mediator.

What is meant by the trust of the parties is to foster the feeling of the parties that a mediator:

- a. A third party that truly maintains neutrality between the two parties
- b. There is a deep sense of sympathy by the mediator to each party in dispute so that sympathy can facilitate a peace agreement.
- c. On the suggestions or suggestions conveyed by the mediator to the parties to the dispute to give up some things that are not the substance of the negotiation so that they do not become the subject of debate.
- d. All efforts made by the mediator in the implementation of mediation against the parties are for the benefit of both parties.<sup>19</sup>

If the parties' trust in the mediator is strong enough, then all suggestions/solutions/options provided by the mediator will be easier to implement or agree upon by the parties.

With regard to the parties' trust in the mediator, efforts to foster trust in the mediator are very important, because the nature of mediation is *non-coercive*. That is, the parties who are in dispute have a significant role without the consent of the parties, so a peace agreement cannot be implemented. Therefore, the role of the parties to the dispute if it is not balanced with a mediator who can be trusted to provide useful options, mediation will be difficult to carry out.<sup>20</sup>

The suitable conditions for the mediation process to be carried out are if the parties to the dispute have good faith or a great desire to achieve peace. In fact, the formulation of the problem solution comes from each party to the dispute. The good faith of the parties to agree on peace is the main factor to resolve the problems faced.<sup>21</sup> If the parties do not have great hopes or good

<sup>18</sup> Syelin Gety, "Kehadiran Pihak dalam Proses Mediasi pada Perkara Perdata," *Syntax Idea* 6, no. 1 (2024): 334–53.

<sup>19</sup> Maskur Hidayat, *Strategi Dan Praktik Mediasi Berdasarkan Perma No 1 Tahun 2016 Tentang Prosedur Mediasi Di Pengadilan*. 93

<sup>20</sup> Natasyah Winda Oktavianca, "Peran Mediator Dalam Penyelesaian Kasus Perceraian" (PhD Thesis, Universitas Islam Sultan Agung Semarang, 2024), <http://repository.unissula.ac.id/33741/>.

<sup>21</sup> Muhammad Yusuf Afandi dan Dahlan Dahlan, "Kekuatan Hukum Akta Van Dading Hasil Mediasi Sebagai Bagian Dari Putusan Perkara Perceraian di Pengadilan Agama Tebing Tinggi," *Santhet (Jurnal Sejarah Pendidikan Dan Humaniora)* 9, no. 1 (2025): 241–54.

intentions to make peace or often hinder the negotiations that have been carried out in the mediation process, then the role of the mediator must be carried out as a respected third party and have an active attitude to lead the parties towards more serious talks or lead to peace clauses.

### **Mediation Strategy: Mediator Techniques and Skills in Handling Divorce Cases in Malang City**

The main or main task of a mediator is to find peace clauses that are acceptable to the parties to the dispute. Because the characteristics of dispute resolution through the mediation process are different from the litigation or trial routes, therefore the implementation of mediation cannot be carried out in a rigid and tense way. As the nature of the trial or litigation must be subject to the decision that has been determined by the judge. Mediation is carried out in a relaxed manner, not full of tension and there are no rules of procedural law that govern it in a standard manner. Various forms of communication that are able to bridge the parties can be implemented in order to achieve the main goal of the mediation process.

Based on the results of interviews with several M2C mediators (Maliki Center mediation) regarding the techniques and skills that must be possessed and applied by mediators when dealing with parties in conflict in divorce cases or others who do not have good faith or hinder deliberation in the mediation process so that they can realize an effective mediation strategy divided into several parts, according to him there are 4 that must be emphasized by a mediator, namely communication skills, Negotiation skills, organizational skills, facilitation skills:

#### 1. Communication Skills

A professional mediator must have exceptional communication skills, as communication is at the heart of any mediation process. Without good communication skills, a mediator will have difficulty in bridging the interests of the disputing parties. In practice, these communication skills cover various important aspects that must be thoroughly mastered. First, the proper use of verbal and nonverbal language is necessary to create a conducive atmosphere. Verbal language includes word selection, intonation, and clarity in conveying the message, while nonverbal language involves facial expressions, body gestures, and eye contact that can strengthen or weaken the meaning of the message conveyed. The balance between the two is an important factor in building effective and persuasive communication.<sup>22</sup>

In addition, mediators must also have the ability to refrain or reframing, which serves to change the perspective of the warring parties in order to be able to see the problem from a more positive and constructive perspective.

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<sup>22</sup> Erik Sabti Rahmawati, Mediator M2c Fakultas Syariah Uin Maulana Malik Ibrahim Malang, 21 Januari 2025.

With reframing, mediators can help avoid heated debates and direct the conversation to a more optimal solution. The ability to listen and take notes effectively is also no less important. A mediator must be able to listen attentively to every piece of information conveyed, note the essential points, and show that he really understands what each party is saying. By actively listening, the mediator not only gains a better understanding of the conflict, but also builds trust from both sides.<sup>23</sup>

The art of asking questions is also a crucial skill in mediation. The right questions can help dig deeper into the problems that occur, clarify unclear information, and encourage parties to think more openly about alternative solutions. However, asking questions in the context of mediation is not just about asking questions, but also about considering the right way and time so as not to cause misunderstandings or greater tension. In the process, the mediator must also have the ability to build empathy. By putting themselves in the shoes of the disputing parties, the mediator can better understand their emotions, needs, and concerns, thus creating a more comfortable and conducive atmosphere for them to speak honestly and openly.<sup>24</sup>

Furthermore, paraphrasing skills are indispensable to ensure that all the information conveyed has been properly understood. Re-iteration, or repeating important points that have been raised, can help to confirm understanding and avoid misunderstandings that can complicate the mediation process. Meanwhile, paraphrasing allows the mediator to reconvey what the disputing party has said in a clearer and more neutral form, so as not to trigger an excessive emotional reaction. The ability to conclude is also a key factor in mediation, as the mediator must be able to summarize the conversations that have taken place in a fair, objective, and impartial manner. A good conclusion will help the parties understand the progress that has been made and the next steps that need to be taken.

Finally, the proper use of humor can be a very useful tool in mediation. Humor can melt the tense atmosphere, reduce emotional tension, and make the parties feel more relaxed in communicating. However, humor must be used wisely, according to the context, and not offend either party so as not to cause the opposite effect. By mastering all of these communication skills, a mediator can carry out his or her role more effectively, build a harmonious relationship between the parties to the dispute, and create an environment that supports the achievement of a fair and sustainable agreement.<sup>25</sup>

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<sup>23</sup> Erik Sabti Rahmawati. Mediator M2c Fakultas Syariah Uin Maulana Malik Ibrahim Malang

<sup>24</sup> Erik Sabti Rahmawati. Mediator M2c Fakultas Syariah Uin Maulana Malik Ibrahim Malang

<sup>25</sup> Erik Sabti Rahmawati. Mediator M2c Fakultas Syariah Uin Maulana Malik Ibrahim Malang, 21 Januari 2025

## 2. Negotiation Skills

Mediators in the mediation process not only play the role of communication facilitators, but also as leaders of negotiations who are responsible for ensuring that discussions take place in a structured, fair, and optimal manner. To achieve an effective outcome, the mediator must have the skills to manage the negotiations well, starting from making clear negotiation rules. This rule serves as a guideline for all parties involved so that the discussion runs in an orderly manner and does not deviate from the main goal, which is to reach an agreement that benefits both parties. In its preparation, the rules must be inclusive and mutually agreed, so that all participants feel valued and have an equal role in the mediation process.<sup>26</sup>

The next step is to identify the main issues and interests of the parties, which are at the heart of any negotiation. The mediator must be able to carefully analyze the problem, distinguish between the positions and interests underlying the conflict, and explore potential solutions that are acceptable to all parties. In this process, the mediator's foresight in reading the situation and understanding the basic needs of each party plays a very important role in determining the direction of the discussion to remain productive. Once the main issues have been identified, the next step is to set an agenda for negotiations and manage the time effectively. A systematic agenda preparation helps ensure that every point of the problem is thoroughly discussed and that no important aspects are missed. Good timing is also important so that negotiations do not drag on without certainty, but rather run efficiently and remain focused on solving problems.

In addition, a mediator must be able to direct the negotiating position to a broader interest, not just defending the demands of each party. Many negotiations have stalled because the parties are too focused on their positions without looking at the real interests they want to achieve. In this case, the mediator plays a role in helping to shift the focus from rigid demands to more flexible and solution-solving goals. One strategy that can be used is to hold a caucus, which is a separate meeting with each party if necessary. This caucus allows mediators to dig deeper into the interests and boundaries of compromises they can consider, without pressure from the other side. With this strategy, the mediator can help find a more realistic common ground that is acceptable to both parties.

This entire process requires the mediator to have strong leadership skills, a deep understanding of the dynamics of negotiations, and analytical skills in navigating existing differences. With a systematic and inclusive approach, mediators can create an atmosphere conducive to the parties to dialogue openly, find the best solutions, and reach a fair and sustainable agreement.<sup>27</sup>

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<sup>26</sup> Musleh Herry, Ketua Mediator M2C Fakultas Syariah UIN Maulana Malik Ibrahim Malang, wawancara, 20 Januari 2025.

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### 3. Organizing skills

In the mediation process, careful preparation is the key to the success of negotiations. A mediator is not only responsible for the course of the discussion, but also ensures the technical and logistical aspects that support the smooth running of the meeting. One of the important aspects of this preparation is the timing and schedule of the meeting. The mediator must determine a time that works for all parties, ensuring that they have enough time to prepare and attend without any problems. The schedule must be made realistically, taking into account the complexity of the problems discussed and the availability of all parties. If the meeting takes place in multiple sessions, it is important to establish a clear timeline so that the mediation process remains directed and does not drag on without meaningful progress.<sup>28</sup>

In addition to managing the time, the mediator must also pay attention to the arrangement of the room where the mediation takes place. The room used must be neutral, comfortable, and support good communication between the parties. Factors such as lighting, room temperature, and seat layout must be considered to keep the atmosphere conducive. Seating arrangements, for example, can help create a sense of equality between the conflicting parties and reduce the impression of dominance from one party. The mediator should also avoid elements that could create tension, such as symbols or decorations that might be perceived as taking sides.

When the meeting begins, welcoming the parties in a friendly manner is an important first step in building a positive atmosphere. A professional, warm, and neutral attitude will help create trust and reduce any tension that participants may feel. The mediator needs to ensure that all parties feel valued and given equal opportunities in the discussion process. In this interaction, the mediator should avoid talking to only one party before or during the negotiations. This is important to maintain neutrality and prevent the appearance of partiality that can damage the credibility of the mediator and reduce trust from other parties. If the mediator needs to speak to either party separately, this must be done openly with the consent of all parties, such as in a caucus session.

In some situations, one party may not be able to attend the meeting in person. To address this, the mediator should encourage the parties to appoint a representative who can legitimately represent their interests. The presence of this representative must be agreed upon by all parties so that the results of the negotiations remain legitimate. The mediator also needs to ensure that the appointed representative has a sufficient understanding of the issues being discussed as well as the authority to make decisions or provide meaningful input in the mediation process.

In addition, the mediator must ensure that accessibility for participants with special needs is met. If any participant has physical, sensory, or cognitive

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<sup>28</sup> Abbas Arfan, Mediator M2c Fakultas Syariah Uin Maulana Malik Ibrahim Malang, wawancara, 20 Januari 2025.

limitations, the mediator needs to ensure that the necessary facilities and support are available. This includes wheelchair access, sign language interpreters, documents in an easy-to-read format, or other assistance necessary for them to participate equally in the mediation. By ensuring good accessibility, the mediator not only demonstrates his commitment to inclusivity, but also creates a fair negotiating environment for all parties.<sup>29</sup>

#### 4. Facilitation Skills

In the mediation process, emotions often play a significant role, both from the disputing party and from the mediator himself. Therefore, a mediator must have the ability to deal with the emotions of the parties without getting emotionally involved. In conflict situations, anger, frustration, or even sadness can arise, and the mediator must remain calm and professional. The important thing is to acknowledge and validate the emotions that arise without taking sides or dissolving in tension. Techniques such as active listening, using calming body language, and showing empathy can help ease tension and keep discussions constructive.

In addition to managing the emotions of the parties, a mediator must also be able to overcome his own emotions. Not infrequently, mediators are faced with stressful situations, either due to the intensity of the debate, the confrontational attitude of one of the parties, or the tension that occurs during the mediation process. In this condition, the mediator must remain neutral, maintain calm, and avoid emotional reactions that could make the situation worse. Self-mastery, breathing techniques, as well as the separation of personal feelings from professional roles are key to ensuring that the mediator remains effective in carrying out his or her duties.

One of the biggest challenges in mediation is preventing a dead end. Impasse often occurs when both sides insist on each other's positions without any room for compromise. To overcome this, mediators must use various techniques such as reframing the issue, exploring the fundamental interests of both parties, and finding more flexible alternative solutions. A interest-based approach can be an effective strategy, where the mediator helps the parties see a mutually beneficial solution, rather than simply defending their demands. If the impasse continues, caucus sessions or separate meetings can be held to explore new options without pressure from the other side.

In the mediation process, it is also important for the mediator to balance the power between the parties. In some cases, there is an imbalance of power where one party has a more dominant position, either because of social status, economy, or communication skills. The mediator must ensure that each party gets an equal opportunity to express his views and interests. Techniques such as managing speaking time fairly, providing support to less dominant parties, and avoiding unnecessary interruptions can help create balance in negotiations. If the inequality is too great, the mediator can provide an opportunity for the

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<sup>29</sup> Abbas Arfan. Mediator M2c Fakultas Syariah Uin Maulana Malik Ibrahim Malang,

weaker party to bring in a representative or advisor who can help strengthen their position.

In addition, in finding solutions, the mediator must avoid criticizing the suggestions or options proposed by the parties. In mediation, all ideas should be valued as part of the solution exploration process. If the mediator shows a judgmental attitude or rejects ideas directly, this can hinder creativity in finding a solution and make one party feel unappreciated. Instead, the mediator may ask open-ended questions, ask for clarification, or direct discussions to improve and enrich the options presented. This approach will help create an open and collaborative environment, where parties feel free to express their ideas without fear of criticism or belittlement.<sup>30</sup>

## Conclusion

Mediation is supposed to be an alternative solution to dispute resolution, often unable to overcome divorce problems caused by various things. Thus, the importance of the skills and strategies used by non-judge mediators in the Malang City Religious Court is a key factor that affects the success of mediation. Mediators have an important role in the mediation process as a neutral party who helps resolve conflicts by encouraging a fair agreement for both parties. In its implementation, the mediator must have several skills and techniques so that the mediation strategy can run effectively. Some of the skills and techniques that must be possessed are communication skills, negotiation skills, organizational skills, and facilitation skills.

## References

### Interview

- Abbas Arfan. Mediator M2c Fakultas Syariah Uin Maulana Malik Ibrahim Malang. Wawancara, 20 Januari 2025.
- Erfaniah Zuhriah. Mediator M2c Fakultas Syariah Uin Maulana Malik Ibrahim Malang, 21 Januari 2025.
- Erik Sabti Rahmawati. Mediator M2c Fakultas Syariah Uin Maulana Malik Ibrahim Malang, 21 Januari 2025.
- Musleh Herry. Ketua Mediator M2C Fakultas Syariah Uin Maulana Malik Ibrahim Malang. Wawancara, 20 Januari 2025.

### Journals

- Afandi, Muhammad Yusuf, dan Dahlan Dahlan. "Kekuatan Hukum Akta Van Dading Hasil Mediasi Sebagai Bagian Dari Putusan Perkara Perceraian di Pengadilan Agama Tebing Tinggi." *Santhet (Jurnal Sejarah Pendidikan Dan Humaniora)* 9, no. 1 (2025): 241–54.

<sup>30</sup> Erfaniah Zuhriah, Mediator M2c Fakultas Syariah Uin Maulana Malik Ibrahim Malang, 21 Januari 2025.

- Agustini Andriani dan Susi Susanti. "Peran Dan Kontribusi Mediator Dalam Mediasi Sengketa Perceraian Di Pengadilan Agama Sungai Penuh." *Syntax Idea* 6, no. 3 (2024): 1498–1506.
- Faidhullah, Sami. "Taklik talak sebagai alasan perceraian (tinjauan hukum islam dan hukum positif)." *AL-RISALAH* 13, no. 1 (2017): 91–124.
- Gety, Syelin. "Kehadiran Pihak dalam Proses Mediasi pada Perkara Perdata." *Syntax Idea* 6, no. 1 (2024): 334–53.
- Hadrian, Endang. "Urgensi Perma No. 1 Tahun 2016 Berkaitan Dengan Tata Cara Mediasi Di Pengadilan." *Krtha Bhayangkara* 12, no. 2 (2018): 193–206.
- Hartawati, Andi, Sumiati Beddu, dan Elvi Susanti. "Model Mediasi Dalam Meningkatkan Keberhasilan Penyelesaian Perkara Perceraian Di Pengadilan Agama." *Indonesian Journal of Criminal Law* 4, no. 1 (2022): 59–73.
- Khoirul Anam. "Strategi hakim mediator dalam mencegah terjadinya perceraian." *Yustitiabelen* 7, no. 1 (2021): 115–27.
- M. Akil dan Andi Hasriani. "Strategi Mediator Pada Tingkat Keberhasilan Mediasi Dalam Perkara Perceraian." *Qanun: Journal of Islamic Laws and Studies* 2, no. 1 (2023): 45–49.
- Ramlah. "Faktor-Faktor Yang Mempengaruhi Tingginya Tingkat Perceraian Di Indonesia (tinjauan Terhadap Hukum Acara Peradilan Agama)." *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 14, no. 02 (1 Desember 2018): 350–68. <https://doi.org/10.30631/al-risalah.v14i02.455>.
- Rizky Kurniyana dan Muchamad Coirun Nizar. "Tingkat Keberhasilan Mediasi Oleh Hakim Dan Non-Hakim Di Pengadilan Agama Purwodadi Tahun 2019." *ADHKI: Journal of Islamic Family Law* 3, no. 1 (2021): 69–82.

## Books

- Bambang Sutiyoso. *Hukum Arbitrase Dan Alternatif Penyelesaian Sengketa*. 1 ed. Yogyakarta: Gama Media, 2008.
- Derita Prapti Rahayu. "Metode Penelitian Hukum." *Yogyakarta: Thafa Media*, 2020.
- Maskur Hidayat. *Strategi Dan Praktik Mediasi Berdasarkan Perma No 1 Tahun 2016 Tentang Prosedur Mediasi Di Pengadilan*. Pertama. Jakarta: Kencana Purnada Media Grup, 2016.
- Mukti Fajar dan Yulianto Achmad. *Dualisme Penelitian Hukum Empiris & Normatif*. 5 ed. Yogyakarta: Pustaka Pelajar, 2019.
- Quraish Shihab. *Tafsir Al-Miṣbāḥ, in XI*. 1 ed. Jakarta: Lentera hati, 2001.

## Thesis

- Natasyah Winda Oktavianca. "Peran Mediator Dalam Penyelesaian Kasus Perceraian." PhD Thesis, Universitas Islam Sultan Agung Semarang, 2024. <http://repository.unissula.ac.id/33741/>.

## **Laws and Regulations**

“Pasal 1 Undang-Undang Perkawinan No 1 Tahun 1974 Mengenai Pengertian Pernikahan,”