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EFFECTIVENESS OF COURT-ANNEXED MEDIATION IN JOINT PROPERTY DISPUTES: EVIDENCE FROM THE MAKASSAR RELIGIOUS COURT

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Abstract

The increasing number of joint property disputes following divorce has highlighted the importance of mediation as an alternative dispute resolution mechanism within the Religious Courts. Despite its mandatory implementation under Indonesian procedural law, the effectiveness of mediation in resolving joint property disputes remains questionable. This study aims to analyze the effectiveness of mediation in joint property cases at the Makassar Religious Court in 2024 and to identify the factors supporting and hindering its implementation. This research employed a qualitative descriptive design using an empirical juridical approach. Data were collected through observations, semi-structured interviews with judge-mediators and court officials, and analysis of court documents concerning joint property cases. The collected data were analyzed descriptively by relating empirical findings to the legal effectiveness framework proposed by Soerjono Soekanto. The findings reveal that mediation has been effectively implemented procedurally, as 20 of 24 cases (83.33%) underwent mediation in accordance with Supreme Court Regulation No. 1 of 2016. However, substantive effectiveness remains limited, with only six cases (25%) successfully reaching settlement agreements, while most disputes proceeded to litigation. The study further identifies that mediator professionalism, the parties' good faith, adequate mediation facilities, and a culture of deliberation constitute the principal factors supporting successful mediation. Conversely, post-divorce emotional conflicts, the high economic value of disputed assets, lack of good faith, litigation-oriented legal representation, and the perception of mediation as a mere procedural formality significantly impede its effectiveness. These findings suggest that improving mediator competencies, strengthening public understanding of mediation, and promoting a legal culture favoring consensual dispute resolution are essential to enhancing the effectiveness of mediation in joint property disputes within the Religious Courts.

Keywords: *Mediation effectiveness; joint property disputes; Makassar Religious Court; dispute resolution.*

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Abstrak

Meningkatnya jumlah sengketa harta bersama setelah perceraian menunjukkan pentingnya mediasi sebagai mekanisme alternatif penyelesaian sengketa di lingkungan Peradilan Agama. Meskipun pelaksanaannya telah diwajibkan dalam hukum acara perdata di Indonesia, efektivitas mediasi dalam menyelesaikan sengketa harta bersama masih menjadi persoalan. Penelitian ini bertujuan untuk menganalisis efektivitas pelaksanaan mediasi dalam perkara harta bersama di Pengadilan Agama Makassar pada tahun 2024 serta mengidentifikasi faktor-faktor yang mendukung dan menghambat keberhasilannya. Penelitian ini menggunakan metode kualitatif deskriptif dengan pendekatan yuridis empiris. Data diperoleh melalui observasi, wawancara semi-terstruktur dengan hakim mediator dan aparaturnya pengadilan, serta analisis dokumen perkara harta bersama. Data yang terkumpul dianalisis secara deskriptif dengan mengaitkan temuan empiris pada teori efektivitas hukum Soerjono Soekanto. Hasil penelitian menunjukkan bahwa secara prosedural mediasi telah dilaksanakan secara efektif, di mana 20 dari 24 perkara (83,33%) telah menempuh proses mediasi sesuai dengan Peraturan Mahkamah Agung Nomor 1 Tahun 2016. Namun, efektivitas secara substantif masih tergolong rendah karena hanya 6 perkara (25%) yang berhasil mencapai kesepakatan damai, sedangkan sebagian besar perkara tetap berlanjut ke proses litigasi. Penelitian ini juga menemukan bahwa profesionalitas mediator, iktikad baik para pihak, ketersediaan sarana mediasi, serta budaya musyawarah merupakan faktor utama yang mendukung keberhasilan mediasi. Sebaliknya, konflik emosional pascaperceraian, tingginya nilai ekonomi objek sengketa, rendahnya iktikad baik para pihak, orientasi litigatif kuasa hukum, serta anggapan bahwa mediasi hanyalah formalitas prosedural menjadi faktor utama yang menghambat efektivitas mediasi. Temuan ini menunjukkan bahwa peningkatan kompetensi mediator, penguatan pemahaman masyarakat mengenai manfaat mediasi, serta pembangunan budaya hukum yang mendukung penyelesaian sengketa secara damai merupakan langkah strategis untuk meningkatkan efektivitas mediasi dalam penyelesaian perkara harta bersama di lingkungan Peradilan Agama.

Kata kunci: Efektivitas mediasi; sengketa harta bersama; Pengadilan Agama Makassar; penyelesaian sengketa

INTRODUCTION

Laws are fundamentally established to foster an orderly, just, and predictable society (Afifah & Warjiyati, 2024). In resolving disputes, the state provides the judiciary as a formal institution to uphold the rule of law and safeguard the rights of the parties involved. However, litigation does not always restore harmonious relationships between disputing parties. Court judgments, which inherently produce prevailing and losing parties, often leave one side dissatisfied and may even prolong conflict after the case has been adjudicated (Sentana et al., 2020). This situation indicates that achieving justice is not always sufficient through case adjudication alone but also requires a resolution approach capable of fostering communication and agreement among the parties.

One dispute resolution mechanism that accommodates this need is mediation. Mediation is a dispute resolution process through negotiation involving a neutral and impartial third party – the mediator – with the aim of helping the parties find a mutually agreed-upon solution (Gustami & Marpaung, 2024). Unlike litigation, which is oriented toward a judge's ruling, mediation places the parties at the center of the process in finding a way out of the problems they face. Therefore, mediation is viewed as more flexible, efficient, and capable of preserving social relationships between the disputing parties (Wisudawan et al., 2019).

Within the Indonesian Religious Courts, mediation plays a particularly significant role in the resolution of family law disputes, including divorce, the division of joint

property, and inheritance disputes (Asari, 2024). Such cases involve not only legal issues but also emotional, social, and familial dimensions. Accordingly, mediation is expected to produce settlements that not only satisfy formal legal requirements but also embody the principles of justice and social utility for the parties concerned (Mukhrom & Nelli, 2026). This principle aligns with the values of Islamic law, which regard peace as one of the primary means of resolving disputes.

The principle of resolving conflicts through peaceful means is also legitimized in the Qur'an (Irfan, 2023). Allah the Almighty states in Surah Al-Hujurat/49:10:

إِنَّمَا الْمُؤْمِنُونَ إِخْوَةٌ فَأَصْلَحُوا بَيْنَ أَخَوَيْكُمْ وَاتَّقُوا اللَّهَ لَعَلَّكُمْ تُرْحَمُونَ

Translation:

"Indeed, the believers are brothers; therefore, reconcile your two brothers (who are in conflict) and fear Allah so that you may receive His mercy."

The verse underscores that reconciling disputing parties constitutes an integral moral and social value in Islam. In the context of dispute resolution, its message provides an important normative foundation for establishing mechanisms that prioritize dialogue (Harahap, 2025), reconciliation, and the restoration of social relationships.

One category of disputes that particularly requires an amicable resolution is the division of joint property (*gana-gini*) following divorce. Disputes concerning joint marital property represent one of the more complex forms of family litigation (Putri & Wahyuni, 2021) as they involve questions of property ownership, the parties' respective economic contributions during the marriage (Kurniawan, 2018), and their competing interests after the dissolution of the marital relationship. At the Makassar Religious Court, the number of joint property disputes has shown an upward trend. According to the court's 2024 case statistics, more than 24 joint marital property cases were processed during the year. This increase indicates that disputes over joint marital property have become one of the most prevalent legal issues arising in the aftermath of divorce.

The growing number of joint marital property disputes represents not only an administrative challenge for the judiciary but also reflects the complex social and economic relationships that persist between former spouses (Maniya et al., 2026). Resolution through judicial proceedings alone often fails to address the parties' interests comprehensively, as court judgments may strengthen the legal position of one party while leaving the other dissatisfied (Dewi, 2022). Under such circumstances, mediation serves as an important alternative by encouraging solutions that are more responsive to the parties' shared interests and more conducive to achieving equitable outcomes..

Normatively, the obligation to conduct mediation in civil cases in court has a strong legal basis. Provisions regarding mediation procedures are set forth in Regulation of the Supreme Court of the Republic of Indonesia No. 1 of 2016 on Mediation Procedures in Court. This regulation stipulates that, in principle, every civil case filed in court must first be resolved through mediation before the substantive hearing proceeds (Putra & Utama, 2022). Furthermore, the authority of the Religious Courts to handle family matters and certain property disputes for members of the Muslim community is also affirmed in Law

No. 7 of 1989 on Religious Courts, as amended by Law No. 3 of 2006 and Law No. 50 of 2009. Thus, mediation is not merely an option for dispute resolution but a mandatory stage in the judicial process (Prasetyo, 2021).

Despite its strong legal foundation and strategic significance, the implementation of mediation continues to face substantial challenges in practice. The success rate of mediation in resolving joint marital property disputes remains suboptimal (Syafei & Djazimah, 2021) as the majority of cases ultimately proceed to full judicial adjudication. Several factors contribute to this condition, including sharply conflicting interests between the parties, heightened emotional tensions following divorce (Pulungan & Andriati, 2024), limited public understanding of the role and function of mediation, and the mediator's ability to identify and address the parties' underlying interests (Sudrajat, 2025).

The success of mediation is greatly influenced by the mediator's ability to fulfill their role effectively. Mediators are not only required to understand legal aspects but must also possess communication and negotiation skills, as well as psychological insight, to create an atmosphere conducive to reaching a settlement (Sulistiyawati & Hariyanto, 2021). In practice, some parties still view mediation as a mere formality before proceeding to trial, so the mediation process has not yet been fully utilized as a space for optimal dispute resolution.

Based on this description, there is a gap between the ideal goal of mediation as a fast, simple, and fair dispute resolution instrument and the reality of its implementation in cases involving joint property at the Makassar Religious Court. Therefore, this study is important to analyze the effectiveness of mediation implementation in joint property cases at the Makassar Religious Court in 2024 and to identify the factors that support or hinder the success of mediation. In legal research, effectiveness is not only understood as the implementation of a legal procedure but also as the degree to which the law succeeds in achieving its intended objectives. According to Soerjono Soekanto, the effectiveness of the law is influenced by five factors: legal substance, law enforcement officials, resources or facilities, society, and legal culture (Yusuf DM et al., 2025). Therefore, the effectiveness of mediation should not be assessed solely on whether the mediation process has been conducted in accordance with the Supreme Court Regulation (PERMA) but also on its ability to produce dispute resolutions that genuinely fulfill the objective of achieving reconciliation.

LITERATURE REVIEW

A review of previous studies constitutes an essential component of scholarly research, as it enables researchers to examine the current state of knowledge, identify similarities and differences with earlier studies, and determine the remaining academic gaps that warrant further investigation. In the context of examining the effectiveness of mediation in joint property disputes at the Makassar Religious Court in 2024, prior studies consistently indicate that successful mediation is influenced not only by the applicable legal framework but also by the parties' willingness to participate, the nature

of the dispute, and the mediator's ability to facilitate communication and guide the parties toward a mutually acceptable resolution.

A study by Litti et al., (2023) entitled "The Effectiveness of Mediation in Divorce Cases at the East Jakarta Religious Court," examined the implementation of mediation in divorce proceedings and found that the success rate of mediation remained relatively low. The study revealed that many litigants participated in mediation merely to satisfy procedural requirements before proceeding to trial, rather than with a genuine intention to reach an amicable settlement. It further identified emotional tensions arising from marital conflict and the mediator's limited ability to uncover the parties' underlying interests as key factors contributing to unsuccessful mediation. This study is relevant to the present research because both recognize the parties' willingness and the mediator's role as critical determinants of mediation effectiveness. However, whereas the previous study focused on divorce cases in general, the present study specifically examines joint property disputes, which involve distinct dynamics due to their economic implications and the allocation of property rights following divorce.

Similarly, Fadel (2023) in a study entitled "The Success of Mediation in Non-Property and Joint Property Disputes at the Jakarta Religious Court," found that mediation was generally less successful in joint property disputes than in non-property disputes. The study attributed this difference to the stronger economic interests involved, which made the parties less willing to compromise. It also emphasized that mediator competence is a decisive factor in achieving successful mediation, particularly the ability to employ effective communication and psychological approaches to identify and reconcile the parties' underlying interests. This finding closely aligns with the present study, as both examine the effectiveness of mediation in joint property disputes and explore the factors that facilitate or impede successful mediation. Nevertheless, Fadel's research focused on joint property disputes within a particular community context, whereas the present study investigates the implementation of mediation directly within the institutional setting of the Makassar Religious Court.

Another relevant study was conducted by Shalahuddin (2021) under the title "Online Mediation at the Jakarta Religious Court: Effectiveness and Challenges." This research examined the implementation of electronic mediation and concluded that online platforms could improve procedural efficiency, particularly in terms of time management and administrative processes. Nevertheless, the study found that the effectiveness of mediation continued to depend primarily on the parties' willingness to reconcile. It further emphasized that while technology can facilitate the mediation process, it cannot replace the mediator's essential role in fostering communication, building trust, and addressing the parties' emotional concerns. This study is relevant to the present research because both identify the parties' motivation as a key determinant of mediation success. However, Shalahuddin's research focused on online mediation, whereas the present study examines face-to-face mediation in joint property disputes, taking into account the social dynamics of the parties appearing before the Makassar Religious Court.

The foregoing review demonstrates that mediation within the judicial system has been extensively examined, particularly with respect to procedural effectiveness, the role of mediators, and the factors contributing to the success or failure of mediation. Nevertheless, an important research gap remains. Previous studies have generally concentrated on mediation success rates or the factors influencing settlement outcomes, while relatively little attention has been given to evaluating mediation effectiveness through the broader perspective of legal effectiveness theory. Yet, the effectiveness of mediation should not be measured solely by procedural compliance or by the number of disputes successfully settled. Rather, it should also be assessed in terms of the extent to which mediation fulfills its legal objectives by providing dispute resolution that is fair, efficient, and sustainable. Accordingly, this study seeks to extend the existing literature by providing a more comprehensive analysis of the implementation of mediation in joint property disputes at the Makassar Religious Court in 2024. Specifically, it examines the factors that facilitate and hinder mediation effectiveness, as well as the mediator's role in promoting amicable settlements, using the theory of legal effectiveness as its analytical framework.

METHODS

This study employs a descriptive qualitative research design using an empirical juridical approach. Descriptive qualitative research seeks to describe, understand, and analyze legal phenomena in depth based on empirical realities. This approach was selected because the study focuses not only on the legal framework governing mediation but also on examining its practical implementation in the resolution of joint property disputes before the Makassar Religious Court. As a field-based study, primary data were collected directly from the research site through observations, semi-structured interviews, and document analysis. These data were used to examine the mediation process, assess its effectiveness, and explore the dynamics between mediators and disputing parties in joint property disputes.

The empirical juridical approach was employed to analyze the relationship between the legal provisions governing mediation and their implementation in judicial practice. Specifically, the study examines how the legal framework regulating mediation procedures in civil cases, particularly joint property disputes, is applied by the Makassar Religious Court. The research data were obtained through interviews with judge-mediators, court officials, and other relevant stakeholders, and were complemented by an analysis of relevant documentary sources. The collected data were analyzed using a descriptive-analytical approach by relating the empirical findings to the concept of mediation effectiveness, the factors facilitating and constraining successful mediation, and the principles of amicable dispute resolution.

RESULT AND DISCUSSION

Implementation of Court-Annexed Mediation in Joint Property Disputes at the Makassar Religious Court in 2024

The implementation of mediation in joint property disputes at the Makassar Religious Court constitutes an integral stage of judicial proceedings. Once a case is registered and proceeds to the initial hearing, the panel of judges first verifies the attendance of the parties and informs them of the mandatory mediation process, which must be completed before the court proceeds to examine the merits of the case. At this stage, the parties are provided with an explanation of the objectives of mediation, namely to facilitate the resolution of disputes through deliberation and negotiation with the aim of achieving an amicable settlement.

During the mediation process, the parties are given the opportunity to select a mediator whom they consider capable of facilitating the resolution of their dispute. Where the parties fail to reach agreement on the appointment of a mediator, the panel of judges appoints a mediator from the roster of certified judge-mediators at the Makassar Religious Court. This procedure demonstrates that mediation has become a substantive component of judicial proceedings rather than merely an administrative requirement that must be completed before litigation continues.

Based on the 2024 case records of the Makassar Religious Court, this study examined a total of 24 joint property disputes. Of these cases, 20 cases (83.33%) proceeded to the mediation stage, while 4 cases (16.67%) did not undergo mediation. These findings indicate that, from a procedural perspective, the mandatory mediation requirement has been implemented effectively, as the vast majority of cases were provided with the opportunity to pursue an amicable settlement through court-annexed mediation.

The high proportion of cases entering mediation reflects the judiciary's institutional commitment to implementing the principle of peaceful dispute resolution. Mediation provides the parties with an opportunity to communicate their respective interests directly, allowing disputes to be resolved through mutual agreement rather than relying exclusively on judicial determination. In the context of joint property disputes, this approach is particularly significant because such disputes involve not only legal questions but also continuing social and emotional relationships between former spouses.

Nevertheless, procedural compliance with the mediation requirement does not necessarily translate into substantive success. This is evident from the mediation outcomes, where only 6 of the 20 mediated cases (30%) resulted in a settlement agreement, whereas the remaining 14 cases (70%) concluded without any agreement being reached.

These findings suggest that although mediation has been effectively implemented as a mandatory procedural mechanism, its effectiveness in producing mutually acceptable settlements continues to face considerable challenges. Accordingly, the implementation of mediation in joint property disputes before the Makassar Religious Court may be regarded as effective in terms of procedural compliance, but not yet fully effective when evaluated on the basis of its substantive outcome – namely, the successful resolution of disputes through agreement between the parties.

This pattern reflects the distinctive nature of joint property disputes. Unlike other family law disputes, which may be more amenable to resolution through emotional reconciliation and familial considerations, joint property disputes typically involve competing economic interests, the valuation of assets, and conflicting claims of ownership. Consequently, the negotiation process becomes substantially more complex, as the parties are concerned not only with preserving interpersonal relationships but also with protecting their respective financial interests.

This observation is corroborated by the Chair of the Panel of Judges at the Makassar Religious Court, who stated that the success of mediation largely depends on the parties' good faith from the outset of the judicial proceedings. According to the Chair, when the parties remain willing to engage in communication and constructive dialogue, the likelihood of achieving an amicable settlement increases significantly without requiring the court to render a final judgment.

Overall, the implementation of mediation in joint property disputes at the Makassar Religious Court demonstrates a genuine institutional commitment to promoting mediation as a peaceful and collaborative dispute resolution mechanism. However, its ultimate success remains largely dependent upon the parties' willingness to communicate in good faith and to pursue mutually acceptable solutions.

Effectiveness of Mediation in Joint Property Disputes: Indicators of Settlement Success, Party Satisfaction, and Time and Cost Efficiency

The effectiveness of mediation in resolving joint property disputes cannot be assessed solely by whether the mediation process has been conducted but must also be evaluated in terms of the extent to which it achieves the objectives of dispute resolution (Utami et al., 2023). In this context, mediation effectiveness encompasses several key dimensions, including the successful attainment of settlement agreements, the parties' satisfaction with the mediation process and its outcome, time efficiency, and the reduction of litigation costs (Syafei & Djazimah, 2021).

Based on the mediation records of the Makassar Religious Court in 2024, the success rate of mediation in joint property disputes remained relatively low. Of the 24 cases examined, only 6 cases (25%) were successfully resolved through mediation and resulted in a settlement agreement. Meanwhile, 14 cases (58.33%) failed to reach an agreement, while 4 cases (16.67%) did not proceed to mediation.

The relatively low settlement rate indicates that mediation has not yet fully achieved its potential as an effective mechanism for resolving joint property disputes through amicable settlement. Nevertheless, these findings should not be interpreted as evidence that mediation lacks value. The effectiveness of mediation should not be measured solely by the number of disputes successfully settled but also by the quality of the process itself, particularly its capacity to provide the parties with an opportunity to articulate their respective interests and pursue outcomes that are more acceptable to both sides.

From the perspective of settlement success, the achievement of a mutually agreed settlement constitutes the principal indicator of mediation effectiveness. Cases that

culminate in a settlement demonstrate that the parties have been able to identify common ground through communication and negotiation. Such agreements offer significant advantages over judicial decisions because they are voluntarily reached by the parties themselves, thereby creating greater opportunities for mutually beneficial (win-win) outcomes.

Interviews with the mediators revealed that successful mediation is strongly influenced by the parties' openness and willingness to engage in constructive dialogue. Parties who are able to manage emotional tensions and are willing to consider their shared interests are considerably more likely to reach a settlement agreement. Conversely, mediation is less likely to succeed when the parties approach the process with the primary objective of prevailing in the dispute and insist on maintaining their respective claims.

In addition to settlement success, mediation effectiveness may also be evaluated through the level of party satisfaction, particularly whether the outcome is perceived as beneficial to all parties involved (Maryam & Irianto, 2023). The findings indicate that parties who successfully reached a settlement generally reported higher levels of satisfaction because the dispute was resolved through direct communication, allowing each party to express their interests and expectations openly. This satisfaction stemmed from the fact that the final outcome reflected a mutually negotiated agreement rather than a unilateral decision imposed by the court.

The parties' level of satisfaction is also closely associated with the preservation of social relationships following the resolution of the dispute. In joint property disputes, the parties were previously spouses; therefore, an amicable settlement provides greater opportunities to maintain a constructive relationship after divorce. This constitutes one of the principal advantages of mediation over full-scale litigation, as mediation seeks not only to resolve the legal dispute but also to minimize the social and interpersonal consequences of the conflict.

By contrast, in cases where mediation fails to produce a settlement, the parties generally report lower levels of satisfaction. According to an interview with one participant whose case did not result in an agreement, the failure of mediation was primarily attributable to each party's insistence on protecting their individual interests and their inability to reach a mutually acceptable compromise. This finding suggests that the success of mediation depends not only on procedural compliance but also on the parties' psychological readiness to consider alternative solutions and engage in meaningful negotiation.

From the perspective of time efficiency, mediation offers significant advantages over conventional litigation. Cases successfully resolved through mediation do not proceed to the evidentiary stage or final adjudication, thereby substantially shortening the overall dispute resolution process. This finding is consistent with the fundamental objective of court-annexed mediation, namely to provide dispute resolution that is simple, expeditious, and cost-effective.

In addition to saving time, mediation also reduces the financial burden on the parties (Jalianery & Yestati, 2023). Settlement through mutual agreement can eliminate the costs associated with continued court proceedings, transportation expenses, and the potential additional costs arising from appeals or other post-judgment legal remedies. In joint property disputes, cost efficiency is particularly important because prolonged litigation may diminish the economic value or practical utility of the disputed assets.

Taken together, these findings indicate that the effectiveness of mediation in joint property disputes before the Makassar Religious Court in 2024 is mixed. From a procedural perspective, mediation has been implemented effectively, as the majority of cases complied with the mandatory mediation requirement. However, when evaluated in terms of substantive outcomes, the rate of successful settlements remains relatively low and requires further improvement. Accordingly, the effectiveness of mediation depends not only on the existence of an appropriate legal framework but also, and more importantly, on the quality of communication, the parties' openness to negotiation, and their willingness to resolve disputes through an amicable settlement.

Factors Supporting and Hindering the Effectiveness of Mediation in the Resolution of Joint Property Disputes at the Makassar Religious Court in 2024

The effectiveness of mediation in resolving joint property disputes is determined not only by the existence of a legal framework governing mediation procedures but also by a range of factors related to law enforcement personnel, the parties' readiness to participate, institutional support, and the prevailing legal culture within society. From the perspective of legal effectiveness theory, the successful implementation of a legal rule cannot be assessed solely by compliance with procedural requirements (Rahmawan & Amrullah, 2025) as prescribed under Supreme Court Regulation No. 1 of 2016, but must also be evaluated according to its ability to achieve the law's substantive objective of facilitating the peaceful resolution of disputes. Based on interviews, field observations, and an analysis of joint property disputes adjudicated by the Makassar Religious Court in 2024, this study found that the effectiveness of mediation is shaped by the interaction between internal factors associated with the parties themselves and external factors arising from the judicial institution.

These findings are reflected, among others, in Case Nos. 143/Pdt.G/2024/PA.Mks, 1860/Pdt.G/2024/PA.Mks, and 1884/Pdt.G/2024/PA.Mks. The parties who successfully reached settlement agreements explained that the mediation process initially took place amid intense emotional conflict stemming from prior marital disputes. However, through the dialogue facilitated by the mediator, each party gradually developed a better understanding of the other's interests, ultimately recognizing that resolving the dispute through deliberation and mutual agreement offered greater benefits than pursuing prolonged litigation.

These findings demonstrate that the success of mediation depends not merely on the existence of procedural legal requirements but also on a transformation in the parties' attitudes—from a conflict-oriented mindset to one focused on dispute resolution. The willingness to listen to one another, engage in open dialogue, and collaboratively seek

mutually acceptable solutions constitutes a fundamental prerequisite for achieving an amicable settlement. From the perspective of legal effectiveness theory, this finding indicates that societal factors – particularly the parties' good faith in participating in the mediation process – represent one of the key determinants of the successful implementation of court-annexed mediation.

The findings further identify several factors that support the effectiveness of mediation in joint property disputes before the Makassar Religious Court.

1. Professionalism of Judge-Mediators

The mediator occupies a central role in determining the success of the mediation process (Dewi, 2021). In cases that resulted in settlement agreements, the mediator functioned not only as a neutral third party but also as a facilitator capable of assisting the parties in identifying the underlying interests giving rise to the dispute. The mediator's ability to foster effective communication, manage emotional conflict, and employ appropriate negotiation techniques proved instrumental in creating a constructive environment for dialogue.

The findings indicate that mediators who successfully establish open and constructive communication are better able to reduce tensions between the parties, enabling them to evaluate alternative settlement options more rationally. This demonstrates that the effectiveness of mediation is substantially influenced by the competence of judicial officers. From the perspective of Soerjono Soekanto's theory of legal effectiveness, law enforcement officials constitute one of the principal factors determining whether a legal rule is successfully implemented. Accordingly, the professional competence of judge-mediators represents an important external factor contributing significantly to the effectiveness of court-annexed mediation.

2. The Parties' Good Faith

The success of mediation also depends heavily on the parties' willingness to participate actively in the dispute resolution process (Sulistiyawati & Hariyanto, 2021). Parties who attend mediation in person, communicate their interests openly, and demonstrate a genuine willingness to compromise are considerably more likely to reach a settlement agreement. In joint property disputes, good faith is particularly critical because the subject matter of the dispute directly concerns the parties' respective economic interests. When the parties prioritize resolving the dispute rather than prevailing over one another, the mediation process becomes significantly more effective. This finding demonstrates that legal effectiveness is influenced not only by the existence of legal norms but also by the degree of public legal awareness and compliance with the dispute resolution mechanisms provided by law.

3. Availability of Adequate Mediation Facilities

Another important supporting factor is the availability of adequate mediation facilities at the Makassar Religious Court. Dedicated mediation rooms, well-defined procedural guidelines, and a structured scheduling system contribute to creating a comfortable and conducive environment for the mediation process.

A well-designed mediation environment enables mediators to facilitate communication more effectively, thereby encouraging the parties to express their interests openly and engage in meaningful negotiations. This finding suggests that the effectiveness of mediation depends not only on human factors but also on the institutional capacity to provide appropriate supporting facilities. From the perspective of legal effectiveness theory, the availability of adequate facilities and infrastructure constitutes a fundamental prerequisite for ensuring that mediation functions effectively. Accordingly, the institutional preparedness of the judiciary strengthens the effective implementation of court-annexed mediation.

4. A Deliberative Culture in Dispute Resolution

The cultural values of familial solidarity and deliberation (*musyawarah*) that remain deeply rooted in Indonesian society also constitute an important factor supporting the resolution of disputes (Butar et al., 2025). Some parties consider the long-term impact of conflict on family relationships following divorce, particularly where the interests of children are involved. Such considerations encourage the parties to pursue amicable settlements rather than prolong litigation. These findings indicate that legal culture continues to play a significant role in the effectiveness of mediation. The stronger the societal preference for resolving disputes through deliberation and consensus, the greater the likelihood that mediation will result in a mutually acceptable settlement.

Nevertheless, not all joint property disputes can be successfully resolved through mediation. An examination of Case Nos. 559/Pdt.G/2024/PA.Mks, 573/Pdt.G/2024/PA.Mks, and 692/Pdt.G/2024/PA.Mks identified several factors that hinder the achievement of amicable settlements.

1. Post-Divorce Emotional Conflict

One of the primary obstacles to successful mediation in joint property disputes is the parties' emotional condition following divorce. Prolonged marital conflict often gives rise to feelings of disappointment, resentment, and mistrust, making it difficult for the parties to engage in effective communication.

In several cases, mediation was perceived merely as a mandatory procedural step before trial rather than as a genuine opportunity to resolve the dispute. Consequently, negotiations failed to progress effectively because the parties remained defensive and unwilling to compromise. This finding indicates that the effectiveness of mediation depends not only on the existence of procedural legal requirements but also on the parties' psychological readiness to consider alternative methods of dispute resolution.

2. The High Economic Value of the Disputed Property

Joint property disputes differ from other family law disputes because they primarily involve competing economic interests. Disputed assets—such as residential property, land, motor vehicles, and business assets—often possess substantial economic value, leading each party to firmly maintain their respective ownership claims.

The significant financial interests at stake make compromise considerably more difficult, as each party believes they possess a legitimate entitlement to the disputed

property. This circumstance constitutes one of the principal reasons why the settlement rate in joint property disputes remains relatively low.

3. Lack of Good Faith on the Part of the Parties

The failure of mediation is also frequently attributable to the parties' lack of good faith. This was evident in cases where one or both parties failed to attend the mediation sessions in person, delegated the entire process to their legal representatives, or categorically rejected the settlement proposals presented during mediation.

Without the parties' active participation, mediators encounter considerable difficulty in identifying their underlying interests and facilitating the development of a mutually acceptable agreement. From the perspective of legal effectiveness theory, this finding reflects the weakness of the societal factor, particularly the parties' willingness to participate sincerely in the legal mechanism provided for dispute resolution.

4. Litigation-Oriented Approaches Adopted by Legal Counsel

In several cases, the role of legal counsel also influenced the mediation process. Where legal representatives adopted a strategy primarily focused on securing victory in litigation, the opportunity for meaningful compromise became increasingly limited.

This approach is inconsistent with the fundamental objective of mediation, which is not to determine a prevailing or losing party but rather to facilitate a resolution that is acceptable to both sides. Accordingly, legal counsel's understanding of the principles and objectives of mediation constitutes an important factor in supporting the successful achievement of amicable settlements.

5. Perceiving Mediation as a Mere Procedural Formality

Another significant obstacle is the persistent perception among some litigants that mediation is merely a compulsory procedural stage preceding judicial adjudication. This perception discourages parties from engaging meaningfully in the mediation process and prevents them from fully utilizing it as an opportunity to resolve their dispute through dialogue and mutual agreement.

Based on the overall findings, it can be concluded that the effectiveness of mediation in resolving joint property disputes before the Makassar Religious Court in 2024 is shaped by the interaction of normative, institutional, and social factors. From the perspective of Soerjono Soekanto's theory of legal effectiveness, the factors influencing the success of mediation identified in this study reflect the five principal elements of legal effectiveness. These include legal substance, as reflected in the implementation of Supreme Court Regulation No. 1 of 2016; law enforcement officials, represented by the professionalism of judge-mediators; facilities and infrastructure, demonstrated through the institutional support provided by the court; society, reflected in the parties' good faith during the mediation process; and legal culture, as manifested in both the continued practice of deliberation (*musyawarah*) as a means of dispute resolution and the public's perception of mediation.

These findings indicate that the implementation of mediation at the Makassar Religious Court has achieved procedural effectiveness, insofar as the mandatory mediation process has been properly implemented. However, its substantive

effectiveness remains largely influenced by societal factors and legal culture. Accordingly, enhancing the professional competence of judge-mediators, strengthening the parties' understanding of the objectives and benefits of mediation, and fostering a legal culture that encourages the peaceful resolution of disputes constitute essential strategic measures for improving the effectiveness of mediation in joint property disputes in the future.

CONCLUSION

The implementation of mediation in joint property disputes before the Makassar Religious Court in 2024 was carried out in accordance with the provisions of Supreme Court Regulation No. 1 of 2016. Of the 24 cases examined, 20 cases (83.33%) proceeded to the mediation stage, while 4 cases (16.67%) were not mediated due to specific procedural constraints. These findings indicate that the mandatory mediation requirement has been effectively implemented from a procedural perspective as an integral component of judicial proceedings. However, when assessed in terms of substantive effectiveness, the success rate of mediation remains relatively low, with only 6 cases (25%) resulting in settlement agreements, while the majority of disputes proceeded to litigation. Nevertheless, mediation continues to provide important benefits by creating opportunities for constructive dialogue, increasing the satisfaction of parties who successfully reach amicable settlements, and reducing the time and costs associated with dispute resolution compared with full judicial adjudication.

The findings further demonstrate that the effectiveness of mediation is shaped by the interaction of normative, institutional, and social factors. Viewed through the lens of Soerjono Soekanto's theory of legal effectiveness, the successful implementation of mediation reflects the operation of the five essential elements of legal effectiveness: legal substance, law enforcement officials, facilities and infrastructure, society, and legal culture. The professionalism of judge-mediators, the parties' good faith, the availability of adequate mediation facilities, and a cultural preference for deliberation (*musyawarah*) emerged as the principal factors supporting successful mediation outcomes. Conversely, post-divorce emotional conflict, the high economic value of the disputed property, the parties' lack of good faith, litigation-oriented approaches adopted by legal counsel, and the perception that mediation is merely a procedural formality were identified as the principal obstacles to effective mediation. Accordingly, strengthening the professional competence and capacity of judge-mediators, enhancing the parties' understanding of the objectives and benefits of mediation, and fostering a legal culture that encourages dispute resolution through deliberation and mutual consensus constitute strategic measures for improving the effectiveness of mediation in joint property disputes before the Makassar Religious Court.

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