

ABSTRACT

NURWATHON, , Mediation on Divorce Cases in Religious Courts among Jakarta Capital Special Region by Principle of Simple, Fast, and Low cost. Dissertation. Under the guidance by Prof. Dr. Hj. Waty Suwanti H., S.H., M.H., as a Promotor, and Dr. Darwati, S.H., M.H., as a Co-Promotor.

Based on ontological fundamental forming Supreme Court of the Republic of Indonesia the regulation subsection 1 in 2016 about Procedure of Mediation in the court emphasize that mediation is the effective way to solve the lawsuit and at once as an implementation of justice through simple, fast, and low cost principles. Therefore, all the civil cases which already submitted to the courts, including divorce, have an obligation to do a mediation.

In fact, the implementation divorce cases among Jakarta Capital Special Region only raised an average around 3% (three percent) which concluded conducting a mediation is not effective yet. Hereby the problem statements of this study: why the implementation of mediation on divorce cases are not effective yet? And how the norm construction of mediation in religious court could be fitted with simple, fast, and low cost principles?. This study is using an empirical juridical approach method.

This study found the effects behind mediation on divorce cases are not effective: (a) the parties stated they did not need mediations; (b) the parties headed to mediations only as formality; (c) the court councils did not succeed throughout mediations; (d) the exception of divorce cases only verstek; and (e) the parties went to the court only want to get the divorce are legitimated. There are several implications consists of: (a) the procedures are not straight to the point; (b) a long time needed; (c) highly cost; (d) uncertainty to get law status fast; (e) delayed cases; (f) women protection is low; and (g) most of parties chose their cases by verstek.

Construction of norm based on the conducting a justice by simple, fast, and low cost principles is to complete the norm in section 4 and subsection (1) the regulation of Supreme Court of the Republic of Indonesia subsection 1 in 2016 with some classifications: (a) **excepted** mediation for verstek divorce cases; (b) **required** to go through mediation, divorce cases that separated on dwelling in less than 6 (six) months; (c) **recommended** to go through mediation, divorce cases that already separated on dwelling between for 6 (six) months until 2 (two) years, and (d) **freed up** for mediation, divorce cases that already separated on dwelling for more than 2 (two) years.

Recommended: improvement on mediation norms of divorce cases with regulate mediation classifications in order to aligned with the conducting a justice by simple, fast, and low cost principles.

Keyword: Mediation on Divorce cases in Religious Courts.