
	<p>Solo International Collaboration and Publication of Social Sciences and Humanities E-ISSN: 2988-3512 Vol.4, No.2, 2026, pp. 707-718 DOI: https://doi.org/10.61455/sicopus.v4i02.541</p>	
<p>Received November 23, 2025</p>	<p>Revised April 29, 2026</p>	<p>Accepted May 05, 2026</p>

The Executive Power of the Acte Van Dading in Mediation of Child Custody Disputes at the West Nusa Tenggara Religious Court

Ahmad Syauqy Alfani¹, Miftahul Huda², Teti Indrawati Purnamasari³

^{1,2,3}Universitas Islam Negeri Mataram, Indonesia

¹210402002.mhs@uinmataram.ac.id, ²miftahulhuda@uinmataram.ac.id,

³teti1975@uinmataram.ac.id

Abstract

Objective: This study aims to explain the legal review of various influencing factors and the urgency of implementing a Peace Deed in resolving child custody claims through mediation in Religious Courts, with a focus on court decisions in West Nusa Tenggara Province. **Theoretical Framework:** This study is grounded in normative legal theory, dispute resolution theory, and mediation theory, emphasizing the role of legal harmonization and judicial consistency in achieving justice, particularly in family law disputes involving child custody. **Literature Review:** Legal Framework of Mediation in Religious Courts, The Role of Peace Deeds in Dispute Resolution, Child Custody in Islamic Family Law, Judicial Consistency and Legal Certainty, and Harmonization of Laws and Regulations. **Method:** This study employs a qualitative approach through a literature review using a normative legal method, supported by statute, case, and conceptual approaches. Data collection was conducted through legal research. Primary legal materials include Article 130 HIR, Article 154 RBg, and PERMA No. 1 of 2016 concerning mediation procedures, while secondary data consist of relevant legal literature and scholarly works. **Results:** The findings reveal inconsistencies and disharmony between Article 130 HIR and Article 154 RBg with PERMA No. 1 of 2016 regarding the application of Peace Deeds in mediation processes. This lack of harmonization has resulted in overlapping and inconsistent judicial decisions, particularly in child custody cases decided by Religious Courts in several regions of West Nusa Tenggara Province. **Implications:** The study suggests the need for legal harmonization and clearer regulatory frameworks to ensure consistency in the application of mediation and Peace Deeds in Religious Courts, thereby enhancing legal certainty and protecting the best interests of the child. **Novelty:** This study offers a comprehensive legal analysis highlighting the urgency of harmonizing mediation regulations and strengthening the role of Peace Deeds in child custody dispute resolution within Religious Courts, particularly through the lens of case decisions in West Nusa Tenggara Province.

Keywords: implementation, settlement agreement, mediation, child custody, acte van dading.

INTRODUCTION

The protection of children's rights following divorce is a crucial issue in the global family law system, which places the principle of "the best interests of the child" as its central doctrine [1], [2]. Within the Indonesian legal landscape, the implementation of custody rights (*hadhanah*) is often mired in protracted litigation, despite Article 105 of the Compilation of

Islamic Law (KHI) providing normative guidelines [3], [4]. This phenomenon calls for a shift from a confrontational litigation approach toward Alternative Dispute Resolution (ADR) mechanisms to minimize psychological trauma to the child [5].

The essence of resolving custody disputes is now shifting toward the use of mediation formalized through an *Acte Van Dading* (Peace Agreement). Theoretically, this agreement serves as an instrument to provide final and binding legal certainty, as stipulated in Article 130 of the HIR and Article 1851 of the Civil Code [6]. The enforcement of settlement agreements in court is a manifestation of the harmonization between substantive and procedural law aimed at achieving judicial efficiency [7]. The success of mediation in several courts, such as the Dompu and Mataram Religious Courts, demonstrates that consensual agreements are better able to ensure the continuity of parental support and care compared to a judge's coercive ruling [8].

However, the effectiveness of the *Acte Van Dading* still faces serious challenges due to regulatory disharmony. There is a conflict of norms between Article 130 (2) of the HIR, which states that a settlement agreement is not subject to appeal, and the dynamics of the mediation procedure under Supreme Court Regulation (Perma) No. 1 of 2016 [9]. This inconsistency creates a legal loophole that could undermine the stability of child custody enforcement. Internationally, legal harmonization in family mediation is considered a cornerstone for ensuring that agreements reached by the parties possess enforceability equivalent to a final and binding court judgment [10], [11].

Therefore, an in-depth study on the synchronization of regulations is necessary to address this legal ambiguity. Uncertainty in the application of the *Acte Van Dading* not only hinders court efficiency but also jeopardizes the protection of children's fundamental rights due to incomplete legal processes [12]. Based on these issues, this study aims to analyze the legal implications of the application of Article 130(2) of the HIR regarding child custody mediation in Religious Courts. This study is expected to contribute to the global discourse on strengthening the legality of ADR within the family justice system [13].

LITERATURE REVIEW

A review of child custody and settlement agreements within the realm of family law has become a dynamic topic of discussion among academics. One important reference is the thesis research conducted by Alifa Dewi Djoyosugito in 2015. In her study, Djoyosugito focused her analysis on the legal validity of notarized settlement agreements as the basis for the division of joint property and the determination of child custody at the Singaraja District Court. That research emphasized the general civil law sphere, whereas the current study takes a different approach by focusing its analysis on the Islamic law sphere within the Religious Court. Beyond the difference in litigation forums, this study offers a deeper analysis of regulatory overlaps that result in disharmony in the application of settlement agreements during the implementation of child custody rulings [14].

Another perspective is presented by Febri Safrian in the *Journal of Law* (2022), which provides a normative and practical evaluation of the court's decision on a settlement agreement at the Samarinda Religious Court. Safrian emphasizes the court's passive role and the dominance of the parties in determining the success of mediation. While Safrian delves more into sociological factors such as the mediator's competence and the parties' good faith, this study places greater emphasis on legal-implementation aspects. Its primary focus is on aligning the two regulations governing settlement agreements to analyze the complexity of existing regulations, rather than focusing solely on the mediation process itself [15].

An in-depth study of child custody is also found in Muhammad's (2017) thesis, which examines a specific case involving a mother with bipolar disorder at the Central Jakarta Religious Court. Muhammad employs Al-Ghazali's *Maqasid al-Sharia* approach and a descriptive-analytical method based on literature review. A significant distinction emerges in

this study, which opts to use theories of positive law as an analytical tool to address the issue of overlapping regulations [16]. Furthermore, this research shifts from a mere literature review to field research by employing case studies of rulings at the Religious Court to obtain a more concrete empirical picture [17].

Furthermore, Masriah Hi. Salasa (2022) explored the implementation of shared parenting at the Gedong Tataan Religious Court using the Maqasid Syariah theoretical framework. That study was limited to a single specific ruling, whereas this study expands the scope of the analysis by referencing several rulings in the West Nusa Tenggara region. The focus of this study is further clarified by not using the Maqasid Syariah theory as the primary foundation, but rather by emphasizing the principles of positive law used by judges in formulating rulings based on settlement agreements [18].

Finally, the thesis research by Nora Eka Putri (2017) contributes to our understanding of the Supreme Court's jurisprudence regarding fathers' custody rights. Nora highlights judges' *contra legem* actions as a form of progressive law in the best interests of the child. Although both studies address the issue of child custody, Nora's research is universal in the realm of jurisprudence, whereas this study specifically examines the regulatory instruments used in the drafting of the settlement agreement itself. Through a critical normative-doctrinal legal approach, this study seeks to fill a gap that has not yet been addressed in the discourse regarding the legal certainty of settlement agreements in Indonesia [19].

METHODOLOGY

This research is normative legal research, which is a scientific procedure to discover the truth based on scientific logic from a normative perspective, where the object is the law itself [20], [21]. This research was conducted to examine the extent to which the rules of law are implemented in a normative legal study, or in this case, a literature study or reference materials. It also uses a statute approach, case study, and conceptual approach. The Religious Court and its implementation, which is of course closely related to the certification of the officials who draft the settlement agreement itself [22].

The data sources in this normative legal research are secondary data as the main data and primary data as supplementary or supporting data. The primary legal materials used as the main legal materials in this case are specific laws and regulations affiliated with regulations related to this research [23]. This refers to the merits and demerits of the settlement agreement sought and to be achieved by the two disputing parties, both inside and outside the court, which can be further broken down into persuasive authority (which includes laws and regulations of other countries but refers to the same issue) and mandatory authority (which includes laws and regulations made in their jurisdiction and court decisions). and decisions of judges in other countries. It is also supplemented with secondary legal materials in the form of books, journals, and writings from academics that are certainly related to the issues to be studied in this research. It also discusses the authority of public officials in making a peace agreement.

Table 1. Research Method Used in This Study

Aspect	Description
Type of Research	Normative legal research focusing on law as a system of norms or written rules
Approach	Statute approach, case study approach, and conceptual approach
Research Objective	To analyze the implementation of legal rules related to dispute resolution through peace agreements, particularly within Religious Courts, and the certification of officials responsible for drafting such agreements

Rationale for Approach	The normative approach is used to examine the consistency, conformity, and application of legal norms in practice, as well as to evaluate the legal strength of peace agreements both inside and outside the court.
Key Figures Analyzed	Religious Court judges, mediators, and public officials are authorized to draft peace agreements.
Main Data Sources	Secondary data as the primary source (laws, regulations, and court decisions), with primary data as supporting data
Method of Analysis	Qualitative normative analysis through legal interpretation, regulatory synchronization, and comparison between mandatory authority and persuasive authority
Theoretical Framework	Normative legal theory, dispute resolution theory, and the theory of authority of public officials in drafting agreements
Focus of Analysis	Harmonization of regulations, legal strength of peace agreements, implementation in Religious Courts, and the authority of officials in drafting settlement deeds
Expected Outcome	A comprehensive understanding of the effectiveness and legal certainty of peace agreements, along with recommendations for regulatory harmonization and strengthening legal practices in Religious Courts

RESULTS AND DISCUSSION

Legal Impact of Settlement Agreements

In Islam, legal issues that arise in a social context are given great attention. This is evident in Islamic law, where letters or other written evidence, in this case, peace agreements, used in court proceedings or case settlements in civil matters, are recommended, and some even consider them mandatory for the sake of evidence in a case as a provision in case of future disputes. This is based on the words of Allah SWT in Surah Al Baqarah, verse 282. O you who believe, when you transact business for a specified period, write it down. And let a scribe among you write it down fairly. And let not the scribe refuse to write as Allah has taught him, so let him write, and let the debtor dictate (what is to be written), and let him fear Allah his Lord, and let him not reduce anything from the debt. If the debtor is of weak intellect or weak condition) Or is unable to acknowledge it himself, then let his guardian acknowledge it with honesty. And have two male witnesses from among you bear witness. If there are no two men, then one man and two women from among those whom you approve as witnesses, so that if one of them forgets, the other may remind her. Let not the witnesses refuse when they are called upon, and do not grow weary of writing down the debt, whether it be small or large, until the time of its payment. That is more just in the sight of Allah and more reliable as evidence and more likely to prevent doubt among you. (Write down your transactions), Except for cash transactions that you conduct among yourselves, for there is no sin on you if you do not write them down. And have witnesses when you buy and sell, and let neither the writer nor the witnesses find difficulty in doing so. If you do so, then indeed, it is a transgression against yourselves. And fear Allah; Allah teaches you; and Allah is All-Knowing of everything [24]."

As explained in Article 130 HIR and Article 154 Rbg, when the hearing has been set for both parties to appear in court, the judge must immediately attempt to reconcile them. For reconciliation, the judge is required to play an active role in accordance with the provisions of Article 130 HIR and Article 154 Rbg. If the hearing must be postponed, it is to give the parties time to seek reconciliation. After that, at the next hearing, if reconciliation is achieved, the results of the reconciliation efforts are submitted to the judge, usually in the form of a deed or a stamped letter of reconciliation. Therefore, based on the realization of a

settlement agreed upon by both parties, the judge will issue a ruling in the form of an *acte van regelijk*, which contains sanctions for the parties to comply with the peace agreement that has been agreed upon by both parties. The legal force of this peace agreement is the same as a normal ruling and can be implemented like any other ruling, with the proviso that no appeal can be lodged.

PERMA (Supreme Court Regulation) Number 1 of 2016 concerning Mediation Procedures in Court, issued on February 4, 2016, revoking PERMA Number 1 of 2008 because PERMA Number 1 of 2008 was deemed inefficient and the Supreme Court Regulation of the Republic of Indonesia Number 1 of 2008 concerning Mediation Procedures in Court was considered not yet optimal in important matters in the implementation of higher quality mediation and had a significant impact on the success of mediation in court. PERMA Number 1 of 2016 contains important matters in mediation, including that all matters relating to civil cases submitted to the High Court must first be resolved through reconciliation with the assistance of a mediator. On the other hand, a judge is required to explain the mediation procedure and the costs involved to the parties concerned.

PERMA Number 1 of 2016 emphasizes that the task of mediation in court is assigned to another person, not to the judge who initially examined the case, but to another person outside the court, in this case, a mediator. This is similar to what is stipulated in SEMA Number 2 of 2003, but many courts do not implement the provisions of SEMA Number 2 of 2003 because the settlement procedure according to SEMA Number 2 of 2003 will take longer than if it were handled by the judge who initially handled the case. and it is also considered impractical because a mediator must be found. If the disputing parties use a mediator from outside the court, it is clear that this will increase the costs of the case and contradict the principles of speed, simplicity, and low cost. Furthermore, there are already provisions in Article 130 HIR and Article 154 Rbg that are far more practical and time-saving because they are handled by a judge and are imperative in nature [25].

A deed is a letter or document created to serve as evidence of an event and signed by its creator. Based on this definition, it can be understood that a letter can be considered a deed if it is deliberately created and signed for use by the person for whom the letter was created. Based on the law, an authentic deed or official deed has full evidentiary force (*volledig bewijs*), meaning that if a party submits an authentic deed, the judge must accept it and consider what is written in the deed to have actually occurred, so that the judge may not order further evidence to be added [26]. Article 1851 of the Civil Code states that a settlement is only valid if it is made in writing. This means that a settlement deed must at least be proven by a private deed [27]. It should be noted that an authentic deed is also a strong piece of evidence in court, and if a settlement has been agreed upon, no further evidence is required. This is considered proof that everything contained in the agreement or settlement deed must be deemed true, unless binding evidence to the contrary is presented. The law also explains that evidence in the form of a deed is indeed the most important means of proof; it is understandable why the law requires the creation of a deed for certain acts or agreements that are considered very important.

The probative force of a settlement deed can be divided into three types, namely formal probative force, material probative force, and external probative force. Formal probative force concerns the question of whether the statements made by the persons who signed the deed are true. The material probative force concerns the question of whether the statements in the deed are true. Meanwhile, the extrinsic probative force is the probative force based on extrinsic circumstances, what is apparent on the surface. Ultimately, the legal impact of the existence of a deed of settlement used in every Religious Court decision greatly influences the quality of every decision issued or ratified. The formation of a legal product greatly influences various things that need to be considered, including paying attention to the hierarchy of laws and regulations, the principles of forming laws and regulations, the content,

and other legal principles, so that the legal product to be formed does not conflict or overlap with other laws and regulations. In other words, harmonization and synchronization are necessary in the formation of a legal product [28]. The implementation of harmonization and synchronization of a legal product is not limited to the formation of a legal product, but also applies to legal products that have already been formed. Synchronization and harmonization are carried out due to the dynamics of the law upon the formation or enactment of a new law, which causes some legal products to become inconsistent or unsynchronized with the newly enacted law.

Analysis of Regulatory Inconsistencies in Mediation and Arbitration Procedures Within the Judicial Branch

The General Courts and Religious Courts, as the bodies exercising judicial power under the Supreme Court, have a constitutional mandate to uphold the law fairly and authoritatively, as outlined in Article 18 of Law No. 48 of 2009. The Supreme Court, through its regulatory function (*regelende functie*), seeks to fill procedural legal gaps by issuing PERMA No. 1 of 2016 to optimize mediation, which was previously regulated only in limited terms under Article 130 of the HIR/154 RBg. However, the transformation of mediation from a voluntary instrument into an imperative procedural obligation poses a serious challenge to the doctrine of legal certainty. The strengthening of mediation through this regulation creates a layer of extremely rigid “procedural formalism,” where failure to follow mediation procedures results in a decision that is “null and void.” In international legal discourse, excessive formalism is often viewed as a barrier to access to justice rather than a substantive solution for reconciliation for those seeking justice [29].

The crucial point of this regulatory disharmony is found in divorce cases based on *syiqaq* at the Religious Court. There is a clear functional overlap between the mediation mechanism under PERMA and the *Hakam* institution as regulated in Article 76 of Law No. 7 of 1989 [30]. A critical analysis reveals the existence of inefficient procedural redundancy; on the one hand, mediation is positioned at the outset of the trial as the gateway to litigation, yet on the other hand, the appointment of a *Hakam* is mandated through an interim ruling following the evidentiary phase [31]. This structure forces the parties to navigate two layers of “peace bureaucracy” that mechanically share the same objective yet operate at different stages of the proceedings. This phenomenon demonstrates that procedural law in Indonesia has not yet sharply synchronized the boundaries between mediation as a modern ADR (Alternative Dispute Resolution) instrument and special procedures rooted in Islamic family law. Without harmonious coordination, this dualism actually triggers procedural confusion that undermines the authority of the judiciary [32].

Implications for the principles of simple, swift, and cost-effective adjudication: The inconsistency between mediation regulations and special procedural laws tangibly undermines the principles of simple, swift, and cost-effective adjudication mandated by Article 2(4) of Law No. 48 of 2009 [33]. In child custody disputes, this procedural overlap results in prolonged legal uncertainty regarding the child’s status. Internationally, systemic delays in resolving family cases are regarded as a failure to safeguard the best interests of the child [34]. Furthermore, the accumulation of time and costs resulting from convoluted processes demonstrates that the efficiency envisioned by ADR regulations is distorted into an exhausting process. The effectiveness of mediation, which should reduce case backlogs, is hindered by redundant administrative burdens, ultimately harming vulnerable groups in family disputes [35].

The Urgency of Reconstruction Based on the *Lex Specialis* Principle. Doctrinally, the principle of *lex specialis derogat lex generalis* should position the *Hakam* procedure as a special rule that supersedes the general mediation requirement within the scope of specific family disputes in Religious Courts. However, the dominance of the universally applicable PERMA Mediation regulations often overlooks the uniqueness and effectiveness of these

Islamic legal procedures [36]. Without comprehensive synchronization and review of mediation regulations, the judicial system will remain trapped in the trap of procedural formalities that disregard substantive justice. A more integrative and adaptive restructuring of regulations is urgently needed to ensure that every instrument of reconciliation reinforces rather than hinders one another, thereby realizing legal protection responsive to the dynamics of contemporary society [37].

Table 2. Analytical Framework of Regulatory Inconsistencies in Mediation and Hakam Procedures

Component	Core Issue	Impact	Reconstruction
Mediation Regulation	Mandatory & formalistic mediation (PERMA 1/2016)	Limits access to justice	Procedural flexibility
Regulatory Disharmony	Overlap between mediation and Hakam	Procedural redundancy	Regulatory harmonization
Procedural Dualism	Two separate reconciliation stages	Inefficiency & confusion	Mechanism integration
Judicial Principles	Not simple, fast, low-cost	Increased time & cost	Process simplification
Child Protection	Prolonged dispute resolution	Legal uncertainty for children	Case acceleration
Lex Specialis	Hakam marginalized	Misapplication of law	Affirm lex specialis
System Reform	Lack of synchronization	Formalism over justice	Integrative reconstruction

Disintegration of PERMA with KUHPer on Settlement Agreements

According to Diani Sadiwati, there are still many regulatory issues. She believes that regulatory issues in Indonesia can be classified into four main problems, namely [38]:

Regulatory Conflict

There are many laws and regulations in Indonesia whose content or substance clearly contradict other regulations. These regulatory conflicts occur at the same level of legislation (horizontal conflict) and at different levels of legislation (vertical conflict). An example of this is the regulation of the term of Land Use Rights (HGU), where Law No. 5 of 1960 on Basic Agrarian Principles, Article 29 paragraphs (2) and (3), stipulates that HGU can be granted for a maximum term of 60 years, while Law Number 25 of 2007 concerning Investment Article 22 paragraph (1) letter a stipulates that HGU can be granted for a maximum period of 95 years.

Regulatory Inconsistency

Inconsistency in regulations occurs when a single piece of legislation contains many articles or provisions that are inconsistent with the provisions in its derivative regulations or other regulations that are still related to the legislation in question. An example is the article or provision related to the definition of investment, which in Article 1, paragraph 1 of Law Number 25 of 2007 concerning Investment emphasizes that investment is essentially all forms and processes of investing capital, which can come from local or foreign sources, to carry out business activities in Indonesia. Meanwhile, the definition of investment as stated in Article 1 paragraph 1 of Government Regulation Number 1 of 2007 in conjunction with

Government Regulation Number 62 of 2008 concerning Income Tax Facilities for Investment in Certain Business Fields and/or in Certain Regions emphasizes that investment is essentially an investment activity in form the and includes land, of with the tangible aim of goods investing new capital for business activities or to increase capital for an two definitions existing business activity. From these, it is clear that there is an inconsistency in the regulations related to the same topic, namely, the definition of investment.

Ambiguous Regulations

Ambiguous regulations occur when a clause or provision in a regulation or legislation contains unclear wording, whether in terms of the object, subject, or grammar, which can lead to various interpretations. This is certainly very dangerous because it contradicts the purpose and function of law, which is to achieve legal certainty. A provision that is open to multiple interpretations can create legal uncertainty and, even worse, can be politicized or used for political gain. An example is Article 156 letter a of the Criminal Code, which essentially states that everyone is prohibited from deliberately expressing feelings or committing acts of destruction, abuse, or desecration against certain religions practiced in Indonesia. Article 156 letter a then complements Law Number 1/PNPS of 1965 concerning the Prevention of Abuse and/or Desecration of Religion. This article is open to multiple interpretations as it does not clearly explain which religions are practiced in Indonesia, whether they include cultural religions or not. The Blasphemy Law also contains an article on unpleasant acts, which does not specify in detail what is meant by unpleasant acts.

Not Operational

Regulations that are actively enforced should have the ability and usefulness to resolve legal issues in society, create justice, and provide legal certainty, but in fact, they do not have this effectiveness and functionality. In addition, in legal theory, a regulation is considered inoperable if it is already in force but does not yet have implementing regulations.

These two provisions are also applied in the two regulations being studied, namely Article 130 of the HIR in conjunction with Article 153 of the RBg and PEMA No. 1 of 2016 concerning mediation procedures, whereby the legal force of mediation conducted outside of court cannot yet be used as a reference for the decision to have permanent legal force. Moreover, in the future, there will be many decisions originating from settlement deeds, which can be prevented by reviewing or re-explaining the articles contained in the regulations related to mediation. In the future, this will trigger irregularities committed by certain parties who do not understand the actual rules.

Disputes arise because there is no common ground between the parties concerned. In the event of a dispute, differences of opinion and prolonged debates can lead to the failure of the agreement process. In order to create an effective dispute resolution process, the requirements that must be met by both parties must take into account and uphold the rights of the other party. The dispute resolution process requires the parties to seek a mutually acceptable resolution. One way to do this is to resolve the dispute by drawing up a deed of settlement before a notary [\[39\]](#).

In the event of a settlement before or after a court hearing, and at both inside and outside the court, it will be possible to renegotiate the rights and obligations of the parties for the benefit of both parties based on the principle of reciprocity. The agreement reached is outlined in writing to be implemented by both parties. The legal consequence if the parties or one of the parties refuses to implement the mediation settlement agreement is that the trial may be continued if the mediation is conducted in court, so that a decision can be made by the Panel of Judges based on the trial undergone by the parties in the court process.

The Religious Court also has the authority to execute such matters so that a decision can be made immediately to provide the best solution to civil disputes that arise. Parties who do

not implement the settlement or mediation decision agreement outside of court also have the right to sue or file a lawsuit against the other party in court. This is because the status of a settlement agreement resulting from mediation is the same as a regular agreement, whereby if it is violated by a party involved in the agreement, the other party who has suffered losses can sue them in court for breach of contract [40]. The settlement in the form of a settlement agreement is binding on the parties to be complied with.

A settlement can only be implemented if the disputing parties have the ability to set aside their rights in order to agree to the settlement. The waiver of rights stated in the settlement agreement must be interpreted as a waiver of rights directly related to the dispute and for the sake of resolving the dispute itself. Once an agreement has been reached between the parties, the outcome of the settlement cannot be contested or disputed on the grounds of negligence, even if one of the parties feels aggrieved.

As an example to understand Article 130 HIR and Article 154 RBg regarding settlement agreements that do not stand alone. Therefore, to find out what is meant by the word valid or, more completely, "agreement made validly," we must also look at the previous articles, namely Article 130 HIR AND Article 154 RBg, which discuss the validity requirements of agreements or contracts. Then, in Article 130 HIR AND Article 154 RBg of the Civil Code, it is stated that an agreement is not valid if it is made due to error, coercion, or fraud. Historical interpretation is the interpretation of the meaning of a law according to its occurrence by examining its history, both the history of the law and the history of the law's enactment. Thus, two meanings cover historical interpretation, namely, the historical interpretation of the formulation of laws related to law [41].

The possibility of annulling a peace agreement remains if it can be proven that there was a mistake regarding the person or the subject of the dispute, or that fraud occurred. An Acte Van Dading or peace agreement made before a notary ultimately has the same force as a court decision that has permanent legal force (in kracht van gewijsde). The agreement or deed has the force of evidence that can be accounted for and has passed verification for use in certain legal cases. A settlement deed conducted outside of court should be recorded in the form of an authentic deed so that the judge can later pass a verdict on the deed that has been agreed upon before the notary.

The contents of the settlement deed are considered true, and the judge must trust what is stated therein. The deed can only be invalidated if there is strong evidence to the contrary. For example, an authentic deed can be declared false if, at the time of appearing before the notary, the person was already deceased or was abroad, so that the person couldn't sign at that time. Another simpler method is for the disputing parties to submit a certified copy of the authentic settlement agreement. By submitting this certified copy, the interested parties can directly file an execution request with the District and Religious Court without first going through a judge [42].

Regarding the case settlement process, a settlement deed can be used as the strongest evidence and can be used as needed because it provides concrete results in settling cases thoroughly, cost-effectively, and, of course, accountably. On the other hand, a settlement deed is a personal desire of the disputing parties, which is also a legal product that can be made before a Notary (to become an authentic deed) to carry out their authority and function in providing legal services to the general public and in their position as state officials, who adhere to the code of ethics of their position and profession as someone who is considered fair and impartial, and striving to resolve all issues for the parties involved to achieve certainty in the resolution of the case.

CONCLUSION

The nature of settlement agreements within the judicial system remains heavily dependent on the success of the mediation process undertaken by the disputing parties. Settlement agreements occupy a highly strategic position within civil proceedings in Religious Courts, as they serve as a crucial alternative dispute resolution mechanism, particularly when dealing with highly complex cases. Although the elements within it are essential for producing a decision that satisfies the sense of justice for both the plaintiff and the defendant, in practice, there remains an overlap in interpretation between Article 130 of the HIR and Article 154 of the RBg regarding the provisions of PERMA No. 1 of 2016 on Mediation Procedures. The issue of the legal force of such regulatory provisions reveals significant differences, particularly regarding the legal status that arises when a decision is deemed final and binding. The PERMA on Mediation does not specifically state that non-litigious mediation can automatically become a final and binding decision. This implies the need for additional procedures through the filing of a settlement deed in accordance with the provisions of Article 130 of the HIR so that the agreement can be ratified into a binding decision. Therefore, synchronization and harmonization between the two regulations have become an urgent necessity to avoid substantial and textual overlaps, thereby ensuring legal certainty and the effectiveness of future decision enforcement.

Acknowledgments

We extend our heartfelt gratitude to the Mataram State Islamic University for the invaluable support and resources provided throughout this research journey. Your esteemed institution has not only facilitated our academic pursuits but has also offered an environment that encouraged innovation and critical thinking.

Author's Contributions

All authors contribute equally to the publication of this paper, all authors read and agree to this paper, and all authors declare no conflict of interest.

Conflicts of Interest

All authors declare no conflict of interest.

REFERENCES

- [1] T. Liefwaard, "Child-friendly Justice and Procedural Safeguards For Children in Criminal New Momentum For Children," *Bergen J. Crim. Law Crim. Justice*, vol. 8, no. 1, pp. 1–17, 2020, <https://doi.org/10.15845/bjclcj.v8i1.3188>.
- [2] W. Wahidah, S. F. A. Rahman, and M. H. M. Hasan, "A Comparative Analysis of Islamic Inheritance Practices in Malaysia and Indonesia: Legal Frameworks, Judicial Interpretation, and Community Impact," *ASEAN J. Islam. Stud. Civiliz.*, vol. 1, no. 2, pp. 230–251, 2024, <https://doi.org/10.62976/ajisc.v1i2.1515>.
- [3] C. Williams, *Handbook of Communication in the Legal Sphere*. 2023.
- [4] M. Mustafid, K. Rajab, A. Arisman, and M. F. Algifari, "Child Custody Rights After Divorce in Indonesia from a Contemporary Islamic Family Law Perspective," *Al-Hurriyah J. Huk. Islam*, vol. 10, no. 2, pp. 150–164, 2025, <https://doi.org/10.30983/al-hurriyah.v10i2.10096>.
- [5] O. Melenko, "Mediation as an alternative form of dispute resolution: Comparative-legal analysis." *Eur. J. Law Public Adm.*, vol. 7, no. 2, pp. 46–63, 2020, <https://doi.org/10.18662/eljpa/7.2/126>.
- [6] S. M. Bilalu, N., Jamal, R., Harun, N., & Subeitan, "Compilation of Islamic Law as Judge's Consideration at a Religious Court in North Sulawesi, Indonesia," *Samarah J. Huk. Kel. Dan Huk. Islam*, vol. 6, no. 2, pp. 514–536, 2022, <https://doi.org/10.22373/sjhk.v6i2.12441>.

- [7] H. M. Hosen, “Legal Harmonization of Civil Dispute Settlement Use for Legal Unification,” *Atl. Press*, vol. 205, pp. 466–473, 2021, <https://doi.org/10.2991/aer.k.210825.079>.
- [8] J. Mastorat, M., Kasmar, K., Munir, M., Iksan, I., & Jufrin, “A Study on the Settlement of Divorce Cases for Undocumented Marriages at the Raba-Bima Religious Court,” *Atl. Press.*, vol. 556, no. 1, pp. 330–335, 2021, <https://doi.org/10.2991/assehr.k.210525.101>.
- [9] S. Hidayat, T., Dian, R., & Jenvitchuwong, “Disharmonization of Supreme Court Regulations in Material Judicial Rights,” *J. Hum. Rights, Cult. Leg. Syst.*, vol. 2, no. 3, pp. 149–166, 2022, <https://doi.org/10.53955/jhcls.v2i3.34>.
- [10] M. Chen, “Commercial mediation in mainland China: pitfalls & opportunities,” vol. 23, no. 2, 2023.
- [11] D. Santi, P. Sarfitri, and R. Damayanti, “Battle for Blood : Child Custody Conflicts in Divorce – Islamic vs Customary Law,” *Contemp. Issues Interfaith Law Soc.*, vol. 3, no. 2, pp. 263–82, 2024, <https://doi.org/10.15294/ciils.v3i2.31406>.
- [12] S. Syahlan, “Effective and Efficient Synchronization in Harmonization of Regulations Indonesia,” *J. Hum. Rights, Cult. Leg. Syst.*, vol. 1, no. 1, pp. 2807–2812, 2021, <https://doi.org/10.53955/jhcls.v1i1.7>.
- [13] M. D. A. Umah, R. K. K., Fadhilah, N., & Mu'allifin, “Islamic Family Mediation In Southeast Asia : An Analysis Of Cultural Legitimacy, Legal Structure, And Contemporary Dynamics In Indonesia,” *al-Mawarid J. Syariah dan Huk.*, vol. 7, 2025, <https://doi.org/10.20885/mawarid.vol7.iss2.art5>.
- [14] B. D. Kusmayanti, H., & Nugroho, “The settlement of disputes regarding division of joint property after a divorce in the Central Aceh Regency,” *J. Ilm. Islam Futur.*, vol. 21, no. 2, pp. 170–182, 2021, <https://doi.org/10.22373/jiif.v21i2.6599>.
- [15] M. A. M. Islami, M. Z., KN, S. H. H., Mahfuz, A. L. M., & Masuwd, “Legal Construction Of Child Custody In The Lahat Religious Court : An Analysis Of Custody Awards To Fathers After Divorce,” *al-Mawarid J. Syariah dan Huk.*, vol. 7, pp. 243–260, 2025, <https://doi.org/10.20885/mawarid.vol7.iss2.art3>.
- [16] A. H. Ghozali, *Ihya Ulumuddin*, 2nd ed. 2005.
- [17] A. Amara, Y., Bencharfa, Z., Belbachir, S., & Ouanass, “Impact of Divorce on the Development of Psychiatric Pathology in,” *SAS J. Med.*, vol. 10, no. 9, pp. 954–956, 2024, <https://doi.org/10.36347/sasjm.2024.v10i09.027>.
- [18] G. L. Falah, M. B., Ikhwan, M., & Yurievna, “Judging the Application of Progressive Legal Theory in Child Custody Disputes: A Case Analysis of Decision No. 0334/Pdt. G/2019/PA. Gdt.,” *Alauddin Law Dev. J.*, vol. 6, no. 1, pp. 30–43, 2024, <https://doi.org/10.24252/aldev.v6i1.44216>.
- [19] H. Daoui, “The Islamic Jurisprudential Principles for the Protection of the Muslim Family (Measures and Solutions),” vol. 8, no. 8, pp. 453–463, 2025, <https://doi.org/10.56352/sei/8.8.41>.
- [20] J. M. Lexy, *Metodologi Penelitian Kualitatif. In Metodologi Penelitian Kualitatif*, no. Maret. Moleong, M.A: PT Remaja Rosdakarya, 2022. [Online]. Available: <https://scholar.google.com/citations?user=O-B3eJYAAAAJ&hl=en>
- [21] A. Hamzah, *Metode Penelitian Kualitatif*, 1st ed. Malang, 2019.
- [22] J. Efendi and J. Ibrahim, *Metode Penelitian Hukum: Normatif dan Empiri*. Prenada Media, 2018. Accessed: Apr. 03, 2024. [https://books.google.co.id/books?hl=en&lr=&id=5OZeDwAAQBAJ&oi=fnd&pg=PR5&dq=Metode+penelitian+hukum+empiris&ots=6924c1uZrR&sig=ooTLUJf-au6aAxxZUHtaCuIc4Cg&redir_esc=y#v=onepage&q=Metode penelitian hukum empiris&f=false](https://books.google.co.id/books?hl=en&lr=&id=5OZeDwAAQBAJ&oi=fnd&pg=PR5&dq=Metode+penelitian+hukum+empiris&ots=6924c1uZrR&sig=ooTLUJf-au6aAxxZUHtaCuIc4Cg&redir_esc=y#v=onepage&q=Metode%20penelitian%20hukum%20empiris&f=false)
- [23] Sugiyono, *Metode Penelitian Kuantitatif, Kualitatif dan R&D*. Bandung: CV. Alfabeta, 2018.
- [24] P. T. Astuti, “Hutang Piutang Dalam Transaksi Tawarruq Ditinjau Dari Perspektif Al-Qur'an Surat Al-Baqarah Ayat 282.,” *urnal Al-Amar Ekon. Syariah, Perbank. Syariah, Agama Islam*.
-

- Manaj. Dan Pendidik.*, vol. 3, no. 2, pp. 180–189, 2022.
- [25] R. Hidayat, I., Budiono, A. R., Santoso, B., & Sulistyarini, “Preparatory Examination in Civil Procedure Law : Strategies for Swift and Efficient Justice,” *Indones. Law Reform J.*, vol. 4, no. 2, pp. 171–198, 2024.
- [26] O. A. Shumenko, *Civil law*. 2022.
- [27] S. Bebhuk, L. A., & Hirst, “Index funds and the future of corporate governance: Theory, evidence, and policy (No. w26543),” *Natl. Bur. Econ. Res.*, 2019, <https://doi.org/10.3386/w26543>.
- [28] O. A. Chuasanga, A., & Victoria, “Legal Principles Under Criminal Law in Indonesia and Thailand,” *J. Daulat Huk.*, vol. 2, no. 1, pp. 131–138, 2019, <https://doi.org/10.30659/jdh.v2i1.4218>.
- [29] C. A. Gavrilă, “Role of mediation for justice reforms and an increased access to justice,” *Rev. des Sci. Polit.*, no. 74, pp. 19–29, 2022.
- [30] M. H. Purkon, A., Buang, A. H., & Jamaludin, “The Strengthening of Islamic Law Compilation as Material Law in Indonesian Religious Court,” *Al-Afkar, J. Islam. Stud.*, pp. 144-156., 2022.
- [31] M. R. Hoque, “Role of Traditional Family Shalish for Muslim Matrimonial Dispute Resolution in Bangladesh: From the Perspective of Hakam.” *QURANICA-International J. Quranic Res.*, vol. 14, no. 2, pp. 18-32., 2022, <https://doi.org/10.22452/quranica.vol14no2.2>.
- [32] M. Malek, A., Hoque, M. R., & Uddin, “The Dynamism of the Structure and Mechanism of The Alternative Dispute Resolution (ADR) System in Bangladesh for Dispute Resolution Outside the Formal Courts,” *Int. J. Law Polit. Stud.*, pp. 8–18, 2025, <https://doi.org/10.32996/ijlps>.
- [33] H. Stefanou, C., & Xanthaki, “Modern trends in drafting and negotiating bills,” *Cradle Laws*, pp. 17–32, 2020, <https://doi.org/10.5771/9783748905899-17>.
- [34] T. Zumbach, J., Brubacher, S. P., Davis, F., De Ruiter, C., Ireland, J. L., McNamara, K., ... & Laajasalo, “International perspective on guidelines and policies for child custody and child maltreatment risk evaluations : A preliminary comparative analysis across selected countries in Europe and North America,” *Front. Psychol.*, no. September, 2022, <https://doi.org/10.3389/fpsyg.2022.900058>.
- [35] D. Hidayat, “Realizing the principle of simple, fast, and low cost in the examination of civil disputes with the e-court application model,” *J. Soc. Sci.*, vol. 2, no. 12, pp. 1097–1106, 2023, <https://doi.org/10.57185/joss.v2i12.230>.
- [36] M. F. Talib, S. A. Hussain, O. M. Watto, and M. Islam, “Harmonizing Conflict : Exploring Global Applications of Alternative Dispute Resolution Methods,” *Pakistan J. Crim. Justice*, vol. 4, no. 1, pp. 1–14, 2024, <https://doi.org/10.62585/pjcr.v4i1.52>.
- [37] A. Abiola, S., & Adisa, “Legal and Institutional Frameworks for Effective Application of ADR in Marital Disputes,” *Fountain Univ. Law J.*, vol. 2, no. 4, pp. 69–88, 2025.
- [38] W. Setiadi, “Institutional restructuring to sustain regulatory reform in Indonesia.” *Hasanuddin Law Rev.*, vol. 5, no. 1, pp. 120–131, 2025, <https://doi.org/10.20956/halrev.v5i1.1699>.
- [39] L. Zeller, B., & Trakman, “Mediation and arbitration: the process of enforcement.” *Unif. Law Rev.*, 2019, <https://doi.org/10.2139/ssrn.3407699>.
- [40] L. M. Tutty, H. L. Radtke, and K. L. Nixon, “‘It Just Rips My Heart Out’: Child Custody Dispositions After Women Leave Abusive Partners,” *Violence Against Women*, vol. 32, no. 5, pp. 1126–1149, 2025, <https://doi.org/10.1177/10778012251329259>.
- [41] S. Lapierre, P. Ladouceur, N. Abrahams, A. Vincent, and M. Frenette, “Abused Women as ‘Alienating’ Mothers and Violent Men as ‘Good’ Fathers: Double Standards in Child Protection and Child Custody Proceedings,” *Child Fam. Soc. Work*, vol. 31, no. 1, pp. 129–140, 2026, <https://doi.org/10.1111/cfs.13260>.
- [42] D. Al Fikry, A. H., Afandi, M. R., & Latifiani, “National Law Development through Civil Procedure Law Reform as a Manifestation of State Goals during the Covid-19 Pandemic,” *Lex Sci. Law Rev.*, vol. 9677, pp. 41–64, 2021, <https://doi.org/10.15294/lesrev.v5i2.50483>.
-