

**ASPEK HUKUM PUTUSNYA PERKAWINAN MELALUI PERCERAIAN  
DAN UPAYA PERDAMAIAN DITINJAU DARI PERAN LEMBAGA  
KEAGAMAAN DALAM PROSESNYA SESUAI DENGAN PRINSIP  
MEMPERSUKAR TERJADINYA PERCERAIAN BERDASARKAN  
UNDANG UNDANG PERKAWINAN DI INDONESIA**

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**Abstrak**

Ketentuan mengenai perkawinan telah diatur dalam Undang-Undang Perkawinan, yakni berdasarkan ketentuan Undang-Undang Nomor 1 Tahun 1974 tentang perkawinan. Undang-Undang ini, selain mengatur ketentuan mengenai ketetapan perkawinan, juga mengatur bagaimana pihak yang telah melaksanakan prosesi pernikahan dapat melaksanakan pemutusan hubungan perkawinan. Namun, meskipun aturan pemutusan hubungan perkawinan pun telah ditetapkan dalam rangkaian Undang-Undang yang sama, Undang-Undang ini juga memegang salah satu prinsip dimana Hakim dituntut secara legal untuk mematuhi prinsip mempersukar perceraian, dimana pengadilan melalui hakim atau melalui proses mediasi, dapat mengupayakan perdamaian bagi pihak yang bersengketa. Namun, meskipun asas mempersukar perceraian telah ditetapkan, tetap saja selama 2017-2018 angka perceraian yang diangkat melalui Pengadilan Agama tetap meningkat. Oleh karenanya, penerapan prinsip mempersukar perceraian serta mediasi melalui Pengadilan Negeri dan Agama perlu ditinjau kembali.

Untuk meninjau permasalahan ini, maka jenis penelitian yang dilakukan dalam penelitian ini adalah penelitian hukum yuridis normatif karena sarana penelitian ini adalah hukum. Sifat penelitian yang digunakan yaitu deskriptif analitis. Penulis menggunakan pendekatan perundang-undangan dan pendekatan konseptual. Teknik pengumpulan data yang akan penulis gunakan adalah studi literature.

Hasil penelitian ini akan menunjukkan bahwa prinsip mempersukar perceraian terbatas pada kemauan pihak yang bersengketa dan pengadilan tidak mampu mengintervensi keinginan pihak yang menggugat untuk membatalkan perceraian. Pihak ketiga pun tidak mampu membawa para pihak yang bersengketa pada posisi saling berdamai. Inilah yang menyebabkan mengapa perceraian melalui Pengadilan Agama maupun Negeri terus mengalami peningkatan tiap tahunnya.

Kata kunci: Perceraian, Prinsip Mempersukar Terjadinya Perceraian, Pihak Ketiga, Mediasi

# **LEGAL ASPECTS OF MARRIAGE BREAK THROUGH THE DIVORCE PROCESS AND PEACE EFFORT REVIEW BASED ON RELIGION YURIDIC JURISDICTION ROLE OF PROCESS CORRESPOND WITH PRINCIPLE OF DIVORCE DIFFICULT ON INDONESIAN MARRIAGE LAW**

## **Abstract**

Provisions about marriage have been regulated in the Marriage Law, which is based on the provisions of Law Number 1 of 1974 concerning marriage. This Law also, in addition to regulating the provisions regarding marital provisions, also regulates how parties who have carried out the marriage procession can carry out termination of marriage. However, even though the rules on terminating marriages have also been set out in the same set of laws, this law also holds one of the principles in which judges are legally required to comply with the principle of divorce difficult, whereby the court through the judge or through the mediation process, can seek peace for the disputing parties. However, even though the principle of divorce difficult has been established, still during 2017-2018 the number of divorces raised through the Religious Courts has continued to increase. Therefore, the application of the principle of divorce difficult and mediation through the District and Religious Courts needs to be reviewed. In this mechanism, the Religious Courts & District Courts are court facilities that can be used (for those who claim divorce) to carry out claims for divorce. Here is the fact, that the divorce rate that proposed at the religious and state courts has increased from year to year. Therefore, based on Law Number 1 of 1974 and PERMA Number 1 of 2016, judges are required to carry out peace efforts as well as presenting a third party to mediate disputes that occur on both sides. Thus, the principle of divorce difficult as well as a third party as a mediator in the divorce proceedings needs to be reexamined, both legally and in its implementation.

To review this problem, the type of research conducted in this study is normative juridical legal research because the research tool is law. The nature of the research used is analytical descriptive. The author uses the statutory approach and conceptual approach. The data collection technique that I will use is literature study.

The results of this study will show that the principle of divorce difficult is limited to the willingness of the parties dispute and the court is unable to intervene the wishes of the plaintiff to cancel the divorce proposal. Third parties are also unable to bring the disputing parties into a position of mutual peace. This is why divorce through the Religious and State Courts continues to increase each year.

**Keyword:** Divorce, Principle of Divorce Difficult, Third Parties, Mediation

## DAFTAR ISI

<b>Pernyataan Keaslian .....</b>	<b>i</b>
<b>Pengesahan Pembimbing.....</b>	<b>ii</b>
<b>Persetujuan Revisi Tugas Akhir .....</b>	<b>iii</b>
<b>Persetujuan Panitia Sidang .....</b>	<b>ivv</b>
<b>Abstrak.....</b>	<b>v</b>
<b>Abstract.....</b>	<b>vi</b>
<b>Kata Pengantar.....</b>	<b>vii</b>
<b>Daftar Isi .....</b>	<b>x</b>
<b>BAB I PENDAHULUAN.....</b>	<b>1</b>
A. Latar Belakang .....	1
B. Identifikasi Masalah.....	18
C. Tujuan Penelitian .....	18
D. Kegunaan Penelitian.....	18
E. Kerangka Pemikiran.....	20
F. Metode Penelitian.....	29
G. Sistematika Penulisan.....	33
<b>BAB II KEDUDUKAN PENGADILAN SEBAGAI LEMBAGA YANG BERWENANG MEMUTUSKAN PERKAWINAN .....</b>	<b>36</b>
A. Tinjauan Mengenai Perkawinan di Indonesia .....	36
B. Tinjauan Mengenai Perceraian di Indonesia .....	46
<b>BAB III KEDUDUKAN PIHAK KETIGA DALAM UPAYA PERDAMAIAN SEBAGAI BAGIAN ESENSIAL DARI PROSES PERCERAIAN DI INDONESIA .....</b>	<b>59</b>
A. Proses Perceraian di Indonesia.....	59

B. Pengertian Mediasi dalam Pengadilan .....	62
C. Proses Mediasi di Pengadilan.....	64
D. Mediator .....	70
E. Peran Lembaga Agama dalam Mediasi Perceraian.....	74
F. Proses Mediasi di Singapura .....	78
<b>BAB IV ANALISA TERHADAP UPAYA PERDAMAIAN DAN KEDUDUKAN PIHAK KETIGA DALAM PROSES PERCERAIAN DI INDONESIA .....</b>	<b>89</b>
A. Upaya Perdamaian Melalui Pengadilan Yang Memenuhi Prinsip Undang-Undang Perkawinan Yang Mempersukar Terjadinya Perceraian .....	89
B. Kedudukan Pihak Ketiga Dalam Upaya Perdamaian Sebagai Bagian Esensial Dari Proses Perceraian Di Indonesia .....	102
<b>BAB V PENUTUP .....</b>	<b>114</b>
A. Kesimpulan .....	114
B. Saran.....	115
<b>DAFTAR PUSTAKA .....</b>	<b>117</b>
<b>LAMPIRAN.....</b>	<b>.....</b>
<b>CURRICULLUM VITAE .....</b>	<b>.....</b>