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The Effectiveness of PERMA No. 1 of 2016 in Surabaya Religious Court Mediation, 2023–2025: A Legal-System Analysis

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Abstrak

Penelitian ini mengkaji efektivitas Peraturan Mahkamah Agung (PERMA) Nomor 1 Tahun 2016 tentang Prosedur Mediasi di Pengadilan melalui fluktuasi keberhasilan mediasi seluruh jenis perkara di Pengadilan Agama Surabaya tahun 2023–2025. Rumusan masalahnya adalah bagaimana fluktuasi keberhasilan mediasi tersebut dan bagaimana efektivitas PERMA Nomor 1 Tahun 2016 dibaca melalui teori sistem hukum Lawrence M. Friedman. Penelitian ini merupakan penelitian hukum normatif dengan pendekatan perundang-undangan dan konseptual, menggunakan Laporan Pelaksanaan Kegiatan Pengadilan Agama Surabaya sebagai bahan hukum sekunder yang dianalisis secara kualitatif-preskriptif. Hasilnya menunjukkan tingkat keberhasilan mediasi bergerak dari 45,10% (2023) ke 93,16% (2024), lalu turun menjadi 71,55% (2025), sementara cakupan mediasi hanya 8,70–9,45% dari perkara yang diputus. Dari sisi substansi, PERMA belum menetapkan definisi operasional dan indikator keberhasilan yang baku. Dari sisi struktur, terdapat kekurangan hakim, keterbatasan anggaran mediator, dan pelaporan yang tidak seragam. Dari sisi budaya hukum, orientasi pada capaian angka dan penghargaan berpotensi menggeser makna perdamaian substantif. Penelitian ini merekomendasikan standardisasi indikator keberhasilan mediasi yang memisahkan perdamaian penuh, kesepakatan sebagian, dan pencabutan perkara.

Kata Kunci: Efektivitas Hukum; Mediasi; Pengadilan Agama Surabaya; PERMA Nomor 1 Tahun 2016; Sistem Hukum Friedman.

Abstract

This study examines the effectiveness of Supreme Court Regulation (PERMA) No. 1 of 2016 on Court Mediation Procedures through the fluctuating mediation success rates across all case types at the Surabaya Religious Court from 2023 to 2025. It asks how mediation success fluctuated during this period and how the regulation's effectiveness can be read through Lawrence M. Friedman's legal system theory. This normative legal research employs statutory and conceptual approaches, treating the court's annual activity reports as secondary legal materials analysed qualitatively and prescriptively. The findings show that the success rate moved from 45.10% (2023) to 93.16% (2024) before falling to 71.55% (2025), while mediation reached only 8.70–9.45% of the cases decided each year. In terms of legal substance, PERMA No. 1 of 2016 provides no standard operational definition or indicator of mediation success. In terms of legal structure, the court faces a shortage of judges, limited funding for external

mediators, and inconsistent reporting. In terms of legal culture, an orientation toward numerical targets and performance awards risks displacing the meaning of substantive peace. The study recommends standardised success indicators that distinguish full settlement, partial agreement, and case withdrawal, so that mediation statistics can serve as a reliable measure of the regulation's effectiveness.

Keywords: *Court Mediation; Friedman's Legal System; Legal Effectiveness; Supreme Court Regulation No. 1 of 2016; Surabaya Religious Court.*

INTRODUCTION

Mediation occupies a distinctive place in the procedural law of Indonesia's religious courts. It is not merely an administrative step before the examination of the merits. It institutionalises the value of deliberation (*musyawarah*) that lives in Indonesian society and accords with the Islamic teaching of *iṣlāḥ* (reconciliation). Through Supreme Court Regulation (*Peraturan Mahkamah Agung*, PERMA) No. 1 of 2016 on Court Mediation Procedures, the Supreme Court requires that every civil dispute brought before a court first be submitted to mediation.[1] This obligation carries legal consequences. A trial judge who fails to order the parties to mediate is deemed to have violated the law, and an appellate court or the Supreme Court may, by interlocutory decision, order the first-instance court to conduct mediation.[2] Court mediation is therefore designed not only to accelerate case resolution but also to restore the parties' relationship, maintain harmony, and deliver justice that emerges from agreement.[3]

In the religious courts, mediation carries additional layers of meaning because most cases concern family matters. A failed mediation in a divorce case means more than one more case proceeding to trial. It also affects the fate of children, post-divorce maintenance, and the division of marital property. Conversely, successful mediation can reduce case backlogs, save time and costs, lower conflict, and help former spouses maintain a good relationship after divorce.[4] At the Panyabungan Religious Court, about three-quarters of couples reported less conflict after mediation, and around 60% were still able to cooperate three years after divorce.[5] These findings show that the value of mediation cannot always be reduced to a single category of "success" or "failure".

Nationally, mediation outcomes in the religious courts show an improving trend. Citing the Supreme Court's 2023 Annual Report, Khairuddin notes that of

[1] Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2016 tentang Prosedur Mediasi di Pengadilan (2016).

[2] Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2016 tentang Prosedur Mediasi di Pengadilan.

[3] Indriati Amarini et al., "Court-Connected Mediation: Resolution of Civil Disputes Based on the Principle of Deliberation," *Jurnal Hukum Dan Peradilan* 15, no. 2 (2026): 347–64, https://doi.org/10.25216/jhp.15.2.2026.347-364.

[4] Nur Mohamad Kasim and Fibriyanti Karim, "The Impact of Mediation on the Settlement of Divorce Cases in Religious Courts," *Jurnal Ius Constituendum* 10, no. 1 (2025): 28–41, https://doi.org/10.26623/jic.v10i1.10912.

[5] Muhamad Hasan Sebyar et al., "Divorce Mediation at Panyabungan Religious Court: Transforming the Desire for Divorce into Reconciliation through Cultural Values in Contemporary Islamic Jurisprudence," *Al-Manahij: Jurnal Kajian Hukum Islam* 19, no. 1 (2025): 81–100, https://doi.org/10.24090/mnh.v19i1.12255.

63,312 cases mediated in the religious courts, 25,230 cases, or 39.85%, reached settlement, an increase of 40.66% compared with 2022.[6] This aggregate figure, however, conceals sharp disparities between courts. At the Depok Religious Court, only about 2% of mediations ended with a deed of settlement, 8% ended with the withdrawal of the case, and 23% reached peace but the parties still chose to divorce.[7] At the Palangka Raya Religious Court, the success rate was only about 6% in 2020 and 13% in 2021–2022.[8] At the Metro Religious Court, only 34 of 505 divorce cases mediated in 2024 reached an agreement.[9] At the Sangatta Religious Court, of 2,351 divorce cases mediated in 2022–2024, only 212 cases, or 9.02%, ended in reconciliation.[10] In the jurisdiction of the Banten Religious High Court, the 2023 success rate was about 20.07%, with a very wide range between 61.73% at the Rangkasbitung Religious Court and only 7.04% at the Tangerang Religious Court.[11]

Studies of mediation in the religious courts over the past five years fall into three strands. The first strand is empirical and evaluative. It concludes that mediation has been conducted according to procedure but has not yet been substantively effective. Such conclusions have been reached for the Gorontalo and Limboto Religious Courts,[12] the Gedong Tataan and Pringsewu Religious Courts,[13] studies of non-judge mediators,[14] and joint property disputes at the Makassar Religious Court, where 83.33% of cases went through mediation but only 25% reached agreement.[15] At the Surabaya Religious Court itself, mediation in wife-

[6] Khairuddin, "Efektivitas Mediasi Berbasis Wasathiyah Dalam Penyelesaian Sengketa Keluarga Islam: Studi Empiris Di Pengadilan Agama," *Cendekia: Jurnal Studi Keislaman* 11, no. 2 (2025): 391–409, https://doi.org/10.37348/cendekia.v11i2.742.

[7] Rara Genta Munggarani Basri et al., "Effectiveness of the Mediation Process in Resolving Divorce Cases at the Depok Religious Court," *Mizan: Journal of Islamic Law* 12, no. 1 (2024): 1–11, https://doi.org/10.32832/mizan.v12i1.20376.

[8] Syaikhu et al., "Judicial Mediation: Is Reconciliation Impossible in Divorce Cases?," *Al-Manhaj: Journal of Indonesian Islamic Family Law* 5, no. 2 (2023): 120–47, https://doi.org/10.19105/al-manhaj.v5i2.11887.

[9] Meisa Hidayah et al., "Menilik Efektivitas Mediasi Dan Tantangan Mewujudkan Keadilan Substantif Di Pengadilan Agama Metro," *Al-Mizan* 22, no. 1 (2026): 25–44, https://doi.org/10.30603/am.v22i1.7192.

[10] Nabilah Khoirunnisa et al., "Efektivitas Mediasi Dalam Penyelesaian Perkara Perceraian Di Pengadilan Agama Sangatta Berdasarkan Perma No 1 Tahun 2016 Tentang Mediasi," *Cendekia: Jurnal Ilmu Sosial, Bahasa Dan Pendidikan* 6, no. 3 (2026): 353–65, https://doi.org/10.55606/cendekia.v6i3.9902.

[11] Saiful Majid et al., "Effectiveness of Dispute Resolution in Religious Courts through Mediation by Non-Judge Mediators within Banten," *Jurnal Hukum Dan Peradilan* 13, no. 2 (2024): 251–74, https://doi.org/10.25216/jhp.13.2.2024.251-274.

[12] Nirwan Junus et al., "Integration of Mediation in Divorce Cases Reviewed from Supreme Court Regulation Number 1 of 2016," *Jambura Law Review* 6, no. 2 (2024): 183–205.

[13] Mutholib et al., "Analisis Hukum Islam Terhadap Pelaksanaan Mediasi Perkara Perceraian Di Pengadilan Agama Gedong Tataan Dan Pengadilan Agama Pringsewu Lampung," *Al-Manhaj: Jurnal Hukum Dan Pranata Sosial Islam* 4, no. 1 (2022): 83–92, https://doi.org/10.37680/almanhaj.v4i1.1544.

[14] Mardalena Hanifah and Meidana Pascadinianti, "Function of Non-Judge Mediators in Divorce Settlement through Religious Courts," *Unnes Law Journal* 9, no. 2 (2023): 377–418, https://doi.org/10.15294/ulj.v9i2.37200.

[15] Dewi Sartika, "Effectiveness of Court-Annexed Mediation in Joint Property Disputes: Evidence from the Makassar Religious Court," *MADDIKA: Journal of Islamic Family Law* 7, no. 1 (2026): 36–52, https://doi.org/10.24256/maddika.v7i1.11423.

initiated divorce cases in 2020–2023 was judged far from satisfactory,[16] and many inheritance mediations likewise failed to produce a deed of settlement.[17] The second strand is normative and reconstructive. Studies in this group highlight the weak enforceability of mediated agreements, inadequate standards for mediator qualification, and the need for a more flexible, transparent, and enforceable mediation framework.[18] Others propose screening mechanisms to exempt victims of domestic violence from compulsory mediation,[19] and call for *maqāṣid al-sharī'ah* and customary wisdom to be formally recognised in mediation regulation.[20] The third strand uses Lawrence M. Friedman's legal system theory to assess the effectiveness of a regulation. The theory has been applied to the new Criminal Code,[21] small claims procedure,[22] Islamic economic dispute resolution in the religious courts,[23] the criminalisation of unregistered marriage,[24] and mediation at the Batam Religious Court.[25]

This map shows that almost all studies start from the same assumption. The success rates reported by the courts are accepted as settled measures, and research then looks for the factors that make them high or low. This assumption is rarely questioned. Yet studies of judicial governance show that the Supreme Court's vision and performance indicators cannot yet be fully measured in concrete terms,[26] and that Indonesia's judicial statistics remain inconsistent across sections and are

[16] Eliza Qotrunnada and Abdullah Fikri, "Efektivitas Mediasi Dalam Perkara Perceraian Gugat Di Pengadilan Agama Surabaya," *Hukum Dan Masyarakat Madani* 15, no. 1 (2025): 98–108, https://doi.org/10.26623/humani.v15i1.10013.

[17] Baharudin Setiawan and Waluyo, "Implementation of PERMA Number 1 of 2016 Concerning Mediation in Settlement of Inheritance Cases in Surabaya Religious Court," *JARES (Journal of Academic Research and Sciences)* 9, no. 1 (2024): 56–63, https://doi.org/10.35457/jares.v9i1.2915.

[18] Putra Pandu Dinata Nurdiansyah et al., "Reconstructing Mediation Regulation in Contemporary Islamic Family Disputes: Reform Urgency in Indonesian Religious Courts," *Legitima: Jurnal Hukum Keluarga Islam* 7, no. 2 (2025): 217–36, https://doi.org/10.33367/2kf5f656.

[19] Balawyn Jones and Amira Aftab, "Inside Indonesia's Religious Courts: An Argument for Domestic and Family Violence Screening and Exemption from Compulsory Mediation," *Oxford Journal of Law and Religion* 12, no. 2 (2023): 217–31, https://doi.org/10.1093/ojlr/rwad015.

[20] Fikri et al., "Transformation of Maqāṣid Shari'āh in Divorce Mediation in Religious Courts: Revitalization of the Bugis-Mandar Customs, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (2023): 431–54, https://doi.org/10.22373/sjhk.v7i1.9141.

[21] Henny Saida Flora et al., "The Orientation and Implications of New Criminal Code: An Analysis of Lawrence Friedman's Legal System," *Jurnal IUS Kajian Hukum Dan Keadilan* 11, no. 1 (2023): 113–25.

[22] Fitri Aliva Rachmarani et al., "Small Claims Court Procedure in the Framework of Indonesian Law Reform: An Analysis of Community Legal Needs and Lawrence M. Friedman's Three Legal Sub-Systems Theory," *Jurnal Poros Hukum Padjadjaran* 6, no. 1 (2024): 48–66, https://doi.org/10.23920/jphp.v6i1.1930.

[23] Hasanudin et al., "The Contestation of Legal Foundations in the Resolution of Islamic Economic Disputes in Religious Courts," *Al-Manahij: Jurnal Kajian Hukum Islam* 18, no. 2 (2024): 271–88, https://doi.org/10.24090/mnh.v18i2.11934.

[24] Imron Rosyadi et al., "Criminalization of Unregistered Marriage in Indonesia: A Legal System Analysis Based on Friedman's Theory," *Al-'Adalah* 22, no. 1 (2025): 147–80, https://doi.org/10.24042/adalah.v22i1.22779.

[25] Sonia Nahda et al., "Pelaksanaan Mediasi Berdasarkan Peraturan Mahkamah Agung Nomor 1 Tahun 2016 Tentang Prosedur Mediasi," *Jurnal USM Law Review* 8, no. 3 (2025): 1377–91.

[26] Agus Digdo Nugroho and Nikko Banta Meliala, "Urgency of Performance Tiering for Indonesia's Supreme Court: A Constitutional Law Perspective," *Jurnal Hukum Dan Peradilan* 13, no. 3 (2024): 663–98, https://doi.org/10.25216/jhp.13.3.2024.663-698.

therefore difficult to use for analysis.[27] Court performance is a multidimensional concept that covers the quality of judicial activity, access to justice, and public trust, so it cannot be reduced to a single number.[28] Comparative work also finds that success rates of court-annexed mediation in Indonesia are relatively low compared with out-of-court mediation.[29] No study has yet examined whether the success rate itself rests on a standard definition and indicator under PERMA No. 1 of 2016.

The Surabaya Religious Court is an appropriate site for examining this question. As a Class IA court that decides more than nine thousand cases each year, it was ranked first among courts with a caseload above 5,000 for mediation performance in 2024, and it was again ranked first for mediation in the 2025 Supreme Court Awards.[30] Behind these achievements, its annual reports show very sharp movements in the success rate within three years. This fluctuation is the entry point of this study. The study makes two contributions. First, it treats the mediation success rate not as neutral data but as a product of norms, institutional structure, and reporting culture that must be examined legally. Second, it covers mediation across all case types rather than divorce alone, so that PERMA No. 1 of 2016 can be assessed as a general instrument of civil dispute resolution in the religious courts.

Accordingly, this study addresses two research questions. First, how did mediation success at the Surabaya Religious Court fluctuate in 2023–2025 according to the court's annual reports? Second, how effective is PERMA No. 1 of 2016 in light of that fluctuation, when assessed through the elements of legal substance, legal structure, and legal culture in Lawrence M. Friedman's legal system theory?

RESEARCH METHOD

The unit of analysis is the annual administrative report, not an individual litigant. The 2023, 2024 and 2025 Surabaya Religious Court activity reports supply documentary totals, which are reproduced as reported and recalculated consistently. Because a person-level case file, mediator interview dataset and complete outcome logs were not available, the study cannot identify the motives of mediators, determine why individual cases were withdrawn, or infer systemic manipulation. Documentary indicators are: count of mediated matters, reported successful and unsuccessful outcomes, unclassified outcomes, and the different case denominators.

For any year y, the mediated-case success rate is S_y/M_y, failure rate F_y/M_y, unclassified rate U_y/M_y and coverage rate M_y/D_y, where M denotes cases reported as mediated, S successful outcomes, F unsuccessful outcomes, U=M−S−F, and D decided cases. A separate comparison uses M/C, where C represents contentious cases decided. The denominators are not interchangeable: many

[27] Sally Sophia et al., "Comparative Analysis of Judicial Statistics Reform: Insights from the US, Canada, and the UK," *Jurnal Hukum Dan Peradilan* 14, no. 3 (2025): 495–530.

[28] Dinesh Kumar and Ram Manohar Singh, "Exploring Court Performance and Developing Its Scale," *International Journal for Court Administration* 13, no. 1 (2022): 3, https://doi.org/10.36745/ijca.399.

[29] Alexandra Gerungan et al., "Mediation Ecosystem in Indonesia," *Revista Brasileira de Alternative Dispute Resolution* 5, no. 9 (2023): 73–92, https://doi.org/10.52028/rbadr.v5i9.ART04.

[30]Pengadilan Agama Surabaya, *Laporan Pelaksanaan Kegiatan Pengadilan Agama Surabaya Tahun 2024* (Pengadilan Agama Surabaya, 2024); Pengadilan Agama Surabaya, *Laporan Pelaksanaan Kegiatan Pengadilan Agama Surabaya Tahun 2025* (Pengadilan Agama Surabaya, 2025).

decided cases are outside the practical reach of mediation. The figures are administrative classifications, not a causal estimate of the effect of PERMA.

This is normative (doctrinal) legal research that is descriptive-analytical and prescriptive. It focuses on the mediation norms of PERMA No. 1 of 2016 and related regulations, particularly PERMA No. 3 of 2022 on Electronic Court Mediation, Law No. 48 of 2009 on Judicial Power, and Law No. 7 of 1989 on the Religious Courts as last amended by Law No. 50 of 2009. The study uses two approaches. The statutory approach is used to examine the definition, scope, outcome categories, and reporting obligations of mediation. The conceptual approach is used to construct the concepts of "mediation success" and "legal effectiveness", drawing on Lawrence M. Friedman's legal system theory.[31]

The primary legal materials are the regulations listed above. The main secondary legal materials are the Annual Activity Reports of the Surabaya Religious Court for 2023, 2024, and 2025, particularly the sections on "Civil Cases Successfully Mediated", caseloads, human resources, budgets, and awards.[32] The annual reports are treated as official institutional documents that show how mediation norms are translated into reporting practice, not as field data collected by the researcher. Earlier studies have likewise used official reports and data from the Case Tracking Information System (SIPP) to analyse mediation.[33] Other secondary materials are relevant journal articles, predominantly published in 2022–2026. A bibliometric study of Indonesian family law confirms the growing academic attention to the rights of women and children during this period.[34]

Legal materials were collected through library and document research. The analysis proceeded in three stages. The first stage recapitulated and recalculated the mediation data using a uniform denominator, namely the number of cases mediated. The second stage read these data against the norms of PERMA No. 1 of 2016. The third stage was a prescriptive analysis that mapped the findings onto Friedman's three elements of the legal system in order to formulate recommendations. Because the study does not use interviews, the analysis of legal culture is limited mainly to the internal legal culture of court officials as reflected in institutional policies, programmes, and reports. This limitation is acknowledged openly. Conclusions about the causes of the fluctuation are therefore framed as legal possibilities opened by the norms, not as empirical facts verified in the field.

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[31] Lawrence M. Friedman, *The Legal System: A Social Science Perspective* (Russell Sage Foundation, 1975).

[32]Pengadilan Agama Surabaya, *Laporan Pelaksanaan Kegiatan Pengadilan Agama Surabaya Tahun 2023* (Pengadilan Agama Surabaya, 2023); Pengadilan Agama Surabaya, *Laporan Pelaksanaan Kegiatan Pengadilan Agama Surabaya Tahun 2024*; Pengadilan Agama Surabaya, *Laporan Pelaksanaan Kegiatan Pengadilan Agama Surabaya Tahun 2025*.

[33]Mutholib et al., "Analisis Hukum Islam Terhadap Pelaksanaan Mediasi Perkara Perceraian Di Pengadilan Agama Gedong Tataan Dan Pengadilan Agama Pringsewu Lampung."

[34]Maimun et al., "The Dynamics of Family Law in Indonesia: Bibliometric Analysis of Past and Future Trends," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 1 (2024): 518–37, https://doi.org/10.22373/sjhk.v8i1.21890.

RESULTS AND DISCUSSION

Fluctuating Mediation Success at the Surabaya Religious Court, 2023–2025

The Surabaya Religious Court reports its mediation outcomes each year in subsection B.4 of its annual activity report, titled "Number of Civil Cases Successfully Mediated". The 2023 report states that of 9,501 cases heard, 898 cases were mediated; 405 cases were successfully resolved through mediation and 476 were not.[35] The 2024 report states that of 9,744 cases heard, 848 were mediated; 790 succeeded and 57 did not.[36] The 2025 report states that of 10,819 cases heard, 970 were mediated and 694 of these succeeded, while the report's chart records 276 unsuccessful mediations.[37] These data are recapitulated and recalculated with a common denominator in Table 1.

Table 1. Mediation at the Surabaya Religious Court, 2023–2025

Item	2023	2024	2025
Cases decided (reported baseline)	9,501	9,744	10,819
Contentious cases decided	5,786	5,927	6,162
Cases mediated	898	848	970
Successful mediations	405	790	694
Unsuccessful mediations	476	57	276
Unclassified reported outcomes	17	1	0
Success rate (of cases mediated)	45.10%	93.16%	71.55%
Mediation coverage (of cases decided)	9.45%	8.70%	8.97%
Mediation coverage (of contentious cases decided)	15.52%	14.31%	15.74%
Success rate as stated in the report	4%	8.10%	71.5%

Source: Compiled from the Annual Activity Reports of the Surabaya Religious Court for 2023, 2024, and 2025.

Reconciliation of outcomes: in 2023, 405 recorded successes plus 476 failures account for 881 of 898 mediated cases, leaving 17 without a classified outcome; in 2024, 790 successes plus 57 failures account for 847 of 848, leaving one unclassified; in 2025, the 694 and 276 recorded outcomes account for all 970. All reported mediated cases remain in the denominator, so unclassified files are not silently added to successes or failures. Pending and unreported case states should be audited against SIPP or annual-report notes before interpreting a change in performance.

[35]Pengadilan Agama Surabaya, *Laporan Pelaksanaan Kegiatan Pengadilan Agama Surabaya Tahun 2023*.

[36]Pengadilan Agama Surabaya, *Laporan Pelaksanaan Kegiatan Pengadilan Agama Surabaya Tahun 2024*.

[37]Pengadilan Agama Surabaya, *Laporan Pelaksanaan Kegiatan Pengadilan Agama Surabaya Tahun 2025*.

The data support an apparent change in reported success proportions, but competing explanations remain untested: changes in the mix of cases eligible for mediation, reporting-taxonomy differences, carryover files, settlement practice, staff capacity, or actual improvements in mediation. The available annual reports do not establish which explanation dominates. Withdrawn e-court cases cannot be counted as mediated outcomes without a matching mediation record. Nor should an award or institutional performance target be treated as evidence of intentional manipulation by a named mediator.

Table 1 shows a non-linear pattern. The success rate rose by 48.06 percentage points, from 45.10% in 2023 to 93.16% in 2024, and then fell by 21.61 points to 71.55% in 2025. Cumulatively, of 2,716 cases mediated over the three years, 1,889 cases, or 69.55%, were reported as successful. This figure is far above the national religious court average of 39.85% for 2023,[38] and far above the outcomes reported in studies of Depok, Palangka Raya, Metro, and Sangatta. The 2024 result means that almost every case entering mediation ended in agreement, with only 57 cases declared unsuccessful.

Such sharp movement within three years raises a reasonable legal question. The number of cases mediated remained relatively stable at 898, 848, and 970. The ratio of mediated cases to contentious cases decided was also almost constant at 15.52%, 14.31%, and 15.74%. Meanwhile, the number of judges did not increase significantly, and funding for external mediators actually shrank in 2025. In other words, the large change occurred in mediation outcomes, not in the volume of inputs or in documented institutional capacity. The annual reports do not explain what changed in mediation practice in 2024. Nor do they state whether the way mediation outcomes were classified changed. Under these conditions, the fluctuation cannot simply be read as improved performance. The possibility that part of the increase stems from a change in recording practice must first be tested against the norms governing mediation outcome categories.

A careful reading of the reports reveals at least four reporting problems. The first problem is a shifting denominator. The 2023 report states that mediation success was 4% and failure was 5%. These figures turn out to be calculated from all cases heard, not from cases mediated.[39] The 2024 report uses the same method, producing figures of 8.10% and 0.60%. The 2025 report switches to calculating from cases mediated, producing 71.5%. A reader who compares the reports' figures at face value would see success apparently jumping from 8.10% to 71.5%, although the two figures are calculated on different bases. The second problem is incomplete data. In 2023, 17 mediated cases were recorded as neither successful nor unsuccessful, and in 2024 one such case appears. These cases were most likely still in mediation at year-end, but the reports do not say so.

The third problem is the absence of disaggregated outcome categories. All three reports use only two categories, "successful" and "unsuccessful". PERMA No. 1 of 2016, however, distinguishes full settlement agreements, partial settlement agreements, unsuccessful mediation, and mediation that cannot be conducted. The

[38]Khairuddin, "Efektivitas Mediasi Berbasis Wasathiyah Dalam Penyelesaian Sengketa Keluarga Islam: Studi Empiris Di Pengadilan Agama."

[39]Pengadilan Agama Surabaya, *Laporan Pelaksanaan Kegiatan Pengadilan Agama Surabaya Tahun 2023*.

fourth problem is inconsistency in baseline data. One section of the 2024 report states that 9,274 cases were received in 2024, while the caseload table states 9,712.[40] Recalculation shows that the figures of 9,501, 9,744, and 10,819 described as "cases heard" are in fact the numbers of cases decided in the respective years. They equal pending cases from the previous year plus new cases, minus cases pending at year-end. The terms "heard" and "decided" are used interchangeably without definition.

These four problems are consistent with other findings on Indonesian judicial statistics, which note that the judiciary's yearbook mixes data with evaluative commentary and is inconsistent across sections.[41] In the context of mediation, inconsistent reporting is not merely a technical administrative issue. It determines whether mediation success can be verified, and therefore whether the effectiveness of PERMA No. 1 of 2016 can be assessed honestly.

The data on mediation coverage also need careful reading. Each year only about 9% of all cases decided by the Surabaya Religious Court went through mediation. Even among contentious cases, coverage was only about 15%. Low coverage does not by itself indicate non-compliance with PERMA. Most non-contentious applications (*voluntair*) involve no dispute. In addition, PERMA No. 1 of 2016 exempts several types of disputes relevant to the religious courts from compulsory mediation. Article 4(2) provides:

"Disputes exempted from the obligation of settlement through Mediation as referred to in paragraph (1) include: ... b. disputes examined in the absence of the plaintiff or defendant who has been duly summoned; c. counterclaims (reconvention) and the entry of a third party into a case (intervention); d. disputes concerning the prevention, refusal, annulment, and validation of marriage; ..."[42]

The exemption for cases examined in the absence of a party (*verstek*) is decisive in urban religious courts. In divorce cases, defendants often fail to appear despite being duly summoned. The absence of one party is also a recurring obstacle in studies of mediation in Gorontalo and Limboto.[43] As a result, mediation is reached by only a small fraction of cases, namely contentious cases in which both parties appear. The consequence is important: the 93.16% success rate in 2024 describes only about 8.70% of all cases decided. Claims about mediation effectiveness built on that figure cannot be generalised into claims about the court's capacity to reconcile justice seekers in general.

The question of outcome categories also deserves attention because it is the most fundamental. The Depok study shows that the same population of cases can produce very different success rates depending on what is counted. The rate is only 2% if only deeds of settlement are counted, 10% if case withdrawals are included, and more than 30% if parties who "reconciled but still divorced" are also included.[44] A study of electronic mediation at the Sungguminasa Religious Court found that of

[40]Pengadilan Agama Surabaya, *Laporan Pelaksanaan Kegiatan Pengadilan Agama Surabaya Tahun 2024*.

[41]Sophia et al., "Comparative Analysis of Judicial Statistics Reform: Insights from the US, Canada, and the UK."

[42]Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2016 tentang Prosedur Mediasi di Pengadilan.

[43]Junus et al., "Integration of Mediation in Divorce Cases Reviewed from Supreme Court Regulation Number 1 of 2016."

37 divorce cases mediated electronically in 2023–2025, none ended in reconciliation. Twenty-nine failed, and eight reached only partial agreements on ancillary claims.[45] If such partial agreements were recorded as "successful", the success rate would rise sharply without a single marriage being restored. Partial agreements remain valuable, especially for child protection, as shown in a study of custody based on a partial settlement agreement.[46] Their value, however, differs from that of full settlement and should be reported separately.

The Surabaya Religious Court's own data show that this possibility is not speculative. The 2025 report records that of 9,020 e-court cases handled that year, 1,085 were withdrawn.[47] The report does not explain how many of these withdrawals occurred after or because of mediation. Nor does it explain whether withdrawals after mediation are counted as successful mediations. This lack of explanation is what makes the movement from 45.10% to 93.16% to 71.55% impossible to interpret with certainty. The fluctuation may reflect genuine performance improvement, a change in case composition, a change in recording practice, or a combination of the three. From a normative legal perspective, what can be established is that the existing norms are insufficient to distinguish between these possibilities. This is the starting point for the analysis of effectiveness in the next section.

The Effectiveness of PERMA No. 1 of 2016 in Light of Fluctuating Mediation Success from the Perspective of Lawrence M. Friedman's Legal System Theory

Under Articles 3–4 of Supreme Court Regulation No. 1 of 2016, the mediation obligation applies subject to expressly regulated exemptions and the circumstances of parties' attendance; it does not cover all civil filings without distinction. Success should distinguish a complete settlement, a partial agreement concerning children or property, and a withdrawal whose grounds have not been documented. Articles 27 and 30 address the legal form and consequences of peace agreements; those rules should not be equated automatically with a particular administrative reporting code. Reporting reform would require a Supreme Court-level classification standard and corresponding guidance for SIPP entry, not merely a change in a local court narrative.

Friedman views law as a system composed of three interdependent elements. The first is legal structure, namely the institutional framework and its personnel. The second is legal substance, namely the norms, rules, and actual patterns of behaviour produced by the system. The third is legal culture, namely the values, attitudes, and expectations of society and officials toward the law, which determine

[44]Basri et al., "Effectiveness of the Mediation Process in Resolving Divorce Cases at the Depok Religious Court."

[45]Rezki Amalia, "Assessing the Substantive Effectiveness of Electronic Mediation in Divorce Cases: An Empirical Study at the Sungguminasa Religious Court," *MADDIKA: Journal of Islamic Family Law* 7, no. 1 (2026): 53–69, https://doi.org/10.24256/maddika.v7i1.11424.

[46]Shavira Ayundara Wiraningrat et al., "Analysis of the Kotabumi Religious Court Decision No. 767/Pdt.G/2024/PA.Ktbm Regarding Child Custody Based on the Terms of a Partial Settlement Agreement in Relation to the Principle of the Best Interests of the Child," *Custodia: Journal of Legal, Political, and Humanistic Inquiry* 1, no. 4 (2026): 122–33, https://doi.org/10.65310/a4tfkt68.

[47]Pengadilan Agama Surabaya, *Laporan Pelaksanaan Kegiatan Pengadilan Agama Surabaya Tahun 2025.*

when, why, and how law is used or avoided.[48] The effectiveness of a regulation is determined not by one element alone but by the alignment of all three. Applications of the theory show that failure in one element tends to spread to the others.[49] Other work shows that Friedman's approach is most meaningful when combined with philosophical analysis of justice and legal certainty, rather than used merely as a checklist.[50] In this study, the fluctuation in mediation success is treated as a symptom, and the three elements of the legal system are used to trace its sources.

Legal substance: mediation success without an operational definition.

PERMA No. 1 of 2016 defines mediation as "a method of dispute resolution through a negotiation process to reach agreement between the Parties with the assistance of a Mediator".[51] This definition makes agreement the goal of mediation, but the regulation never formulates "mediation success" as a measurable concept. What it regulates are the forms of mediation outcomes. Article 27(1) provides that if mediation succeeds in reaching agreement, the parties, assisted by the mediator, must set it out in writing in a settlement agreement.[52] Article 30(1) then regulates partial settlement agreements:

"Where the Parties reach agreement on part of the entire object of the case or legal claims, the Mediator shall submit the Partial Settlement Agreement, having regard to Article 27(2), to the Trial Judge as an attachment to the Mediator's report."

Specifically for the religious courts, Article 31(1) provides that in divorce cases combined with other claims, "if the Parties do not reach agreement to live together in harmony again, Mediation shall continue with the other claims". Article 32 distinguishes two forms of failure. Paragraph (1) requires the mediator to declare that mediation "did not succeed in reaching agreement" if the time limit has passed or if the parties are declared to have acted in bad faith in certain respects. Paragraph (2) requires the mediator to declare that mediation "cannot be conducted", among other things where the dispute involves other parties who are absent, or where the parties are declared to have acted in bad faith through non-attendance.[53]

Normatively, therefore, PERMA recognises at least four outcome categories: full settlement agreement, partial settlement agreement, unsuccessful mediation, and mediation that cannot be conducted. PERMA does not, however, specify which categories count as "successful" in performance reporting. Nor does it regulate the status of a claim withdrawn after mediation or prescribe the denominator to be used. In divorce cases, it does not state whether an agreement on child maintenance or custody, while the divorce itself proceeds, should be recorded as success. This

[48] Friedman, *The Legal System: A Social Science Perspective*.

[49] Rachmarani et al., "Small Claims Court Procedure in the Framework of Indonesian Law Reform: An Analysis of Community Legal Needs and Lawrence M. Friedman's Three Legal Sub-Systems Theory."

[50] Ridwan Arifin et al., "A Discourse of Justice and Legal Certainty in Stolen Assets Recovery in Indonesia: Analysis of Radbruch's Formula and Friedman's Theory," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 6, no. 2 (2023): 159–81, https://doi.org/10.24090/volksgeist.v6i2.9596.

[51]Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2016 tentang Prosedur Mediasi di Pengadilan.

[52]Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2016 tentang Prosedur Mediasi di Pengadilan.

[53] Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2016 tentang Prosedur Mediasi di Pengadilan.

gap is what allowed the Surabaya Religious Court to use all cases heard as the denominator in 2023–2024 and then switch to cases mediated in 2025 without violating any norm. The same gap opens the possibility that part of the 2024 increase came from including partial agreements or withdrawals in the "successful" category.

This definitional gap becomes more problematic given the diversity of cases in the religious courts. Joint property cases require proportional consideration of economic contributions, domestic work, failure to provide maintenance, and childcare responsibilities.[54] Mediation of joint property therefore requires an integrated approach involving psychological, economic, and philosophical dimensions.[55] In inheritance cases, the fairness of an agreement rests on voluntariness, consent, equality of rights, and public benefit, provided it does not violate heirs' absolute rights.[56] The spirit of *maqāṣid al-sharī'ah* in the Supreme Court's mediation regulation is considered strong, but it has not been applied effectively in resolving inheritance conflicts in the religious courts.[57] In Islamic economic disputes, the *ṣulḥ* approach is considered more effective because it is oriented toward reconciliation and the welfare of the parties.[58] Yet the absence of a compilation of Islamic economic procedural law continues to weaken the substance and culture of its resolution.[59] Given such diversity, a single aggregate success rate for all case types is difficult to interpret without disaggregation by case type and outcome category.

The problem of substance also concerns the binding force of mediation outcomes. Normative studies show that mediated agreements have weak enforceability and that standards for mediator qualification remain inadequate.[60] In civil cases generally, non-compliance with execution orders has even been argued to warrant criminalisation for the sake of legal certainty.[61] The implementation of post-judgment custody agreements is also weakened by gaps in the rules on

[54]Darmawan et al., "Istiḥsān and Judicial Recalibration of Marital Property Rights in Indonesia's Religious Courts," *Ahkam: Jurnal Ilmu Syariah* 26, no. 1 (2026): 131–48, https://doi.org/10.15408/ajis.v26i1.50333.

[55]Muhammad Alvin Saputra et al., "Urgensi Mediasi Terhadap Sengketa Pembagian Harta Bersama," *Jurnal USM Law Review* 7, no. 2 (2024): 788–803, https://doi.org/10.26623/julr.v7i2.9012.

[56] Panji Nugraha Ruhiat et al., "Justice and Agreement in Islamic Inheritance Distribution: An Analysis of Religious Court Decisions in Indonesia," *Mawaddah: Jurnal Hukum Keluarga Islam* 3, no. 2 (2025): 508–45, https://doi.org/10.52496/mjhki.v3i2.57.

[57] Mohamad Athoillah and Tajul Arifin, "Maqashid Al-Syari'ah Dalam Regulasi Mediasi Mahkamah Agung: Studi Kasus Penyelesaian Konflik Waris Di PA Sumedang," *Asy-Syari'ah* 26, no. 1 (2024): 1–20, https://doi.org/10.15575/as.v26i1.33985.

[58]Shofa Robbani et al., "Rekonsiliasi Sengketa Ekonomi Syariah Dan Relevansinya Terhadap Pengembangan Teori Sistem Ekonomi Syariah," *Yustisi* 13, no. 3 (2026): 247–61, https://doi.org/10.32832/yustisi.v13i3.23700.

[59]Hasanudin et al., "The Contestation of Legal Foundations in the Resolution of Islamic Economic Disputes in Religious Courts."

[60]Nurdiansyah et al., "Reconstructing Mediation Regulation in Contemporary Islamic Family Disputes: Reform Urgency in Indonesian Religious Courts."

[61]Nuryanto Ahmad Daim et al., "Criminalizing Non-Compliance with Civil Execution Orders: A Strategy for Enhancing Legal Certainty and Business Efficiency," *Jurnal Hukum Dan Peradilan* 13, no. 2 (2024): 337–64, https://doi.org/10.25216/jhp.13.2.2024.337-364.

supervision and execution.[62] Indonesia has no dedicated institution for enforcing post-divorce rights comparable to Malaysia's Family Support Division (*Bahagian Sokongan Keluarga*).[63] Indonesian judges do tend to enforce women's post-divorce rights more actively than practice in southern Thailand, which relies on voluntary compliance.[64] But this activism is not yet connected to how mediation success is recorded. As a result, an agreement may be counted as "successful" when it is signed, even if it is never carried out.

PERMA's substance also leaves the problem of vulnerable groups unanswered. PERMA No. 1 of 2016 provides no mechanism for screening domestic violence before mediation. Victims may therefore be required to mediate with perpetrators, even though community-level mediation has usually already been attempted.[65] A comparative Indonesia–Malaysia study likewise finds that neither country has a clear screening system.[66] Yet domestic violence is a ground for divorce at the most essential level of need (*ḍarūriyyāt*) because it threatens the wife's life and safety.[67] From the perspective of effectiveness, the absence of screening creates a paradox. A very high success rate does not automatically signal successful protection, because an agreement reached in an unequal power relationship may be recorded as "successful" while harming the weaker party. Mediators in West Sumatra tend to place peace above justice and regard justice as the judge's responsibility, so the protection of women's rights depends heavily on individual mediators' skill.[68] By contrast, gender-sensitive rulings by women judges have been shown to enforce post-divorce rights even in wife-initiated divorces.[69] This shows that measures of mediation success should also include dimensions of quality and protection, not merely the number of agreements.

From the perspective of Islamic jurisprudence, studies of *ṣulḥ* show that court mediation does not fully replicate the *taḥkīm* or *ḥakam* mechanism of classical

[62]Wiraningrat et al., "Analysis of the Kotabumi Religious Court Decision No. 767/Pdt.G/2024/PA.Ktbm Regarding Child Custody Based on the Terms of a Partial Settlement Agreement in Relation to the Principle of the Best Interests of the Child."

[63] Abd Rahman Dahlan et al., "Women's Post-Divorce Rights in Malaysian and Indonesian's Court Decisions," *Ahkam: Jurnal Ilmu Syariah* 23, no. 1 (2023): 191–212.

[64]Jaenal Arifin et al., "Judicial Interpretations and Societal Realities: Muslim Women's Divorce Rights in Indonesia and Thailand," *Al-Mazaahib: Jurnal Perbandingan Hukum* 14, no. 1 (2026): 147–78, https://doi.org/10.14421/al-mazaahib.v14i1.4713.

[65]Jones and Aftab, "Inside Indonesia's Religious Courts: An Argument for Domestic and Family Violence Screening and Exemption from Compulsory Mediation."

[66]Rahma Khofifah Khoirun Umah et al., "Islamic Family Mediation in Southeast Asia: An Analysis of Cultural Legitimacy, Legal Structure, and Contemporary Dynamics in Indonesia and Malaysia," *Al-Mawarid: Jurnal Syari'ah Dan Hukum* 7, no. 2 (2025): 281–300, https://doi.org/10.20885/mawarid.vol7.iss2.art5.

[67]Patimah Halim et al., "Reasons Underlying a Wife's Divorce Suit at the Sungguminasa Religious Court, South Sulawesi: An Islamic Law Philosophy Perspective," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 9, no. 3 (2025): 1974–92, https://doi.org/10.22373/sjhk.v9.i3.26900.

[68]Mhd. Yazid, "Between Peace and Gender Justice: Islamic Court Mediators' Perspectives in Divorce Mediation in West Sumatra," *Journal of Islamic Law* 7, no. 1 (2026): 168–92, https://doi.org/10.24260/jil.v7i1.2644.

[69]Asni and Muhammad Iqbal, "Women Judging Women: Gender Sensitivity in the Decisions of Divorce Cases of Indonesian Religious Courts," *Al-Ihkam: Jurnal Hukum & Pranata Sosial* 20, no. 2 (2025): 588–615, https://doi.org/10.19105/al-lhkam.v20i2.18999.

Islamic law, although both involve a third party.[70] In al-Rāzī's exegesis, the *ḥakam* is a just and impartial figure, usually chosen from the families involved. Scholars differ on whether the *ḥakam* has authority to decide or acts merely as an intermediary.[71] Divorce mediation is also understood as a means of protecting lineage (*ḥifẓ al-nasl*).[72] If the aim of mediation in Islamic law is restorative *iṣlāḥ*, success cannot be measured solely by the signing of an agreement. The measure must also include whether the agreement protects the welfare of the parties and their children. From the perspective of substance, therefore, the effectiveness of PERMA No. 1 of 2016 is hindered not by the absence of a mediation obligation but by the absence of a standard, layered, and quality-oriented measure of success.

Legal structure: institutional capacity, mediators, and the reporting system.

Institutional recommendations must be assigned to competent actors. Court leadership may organise accessible mediation scheduling and internal quality review within existing powers; the Supreme Court is the appropriate authority for uniform national reporting rules and system-wide SIPP data definitions; mediators document the outcome legally required in each case; and any procedural change that affects rights or mandatory exceptions must respect PERMA No. 1 of 2016. For cases involving safety concerns, including reported domestic violence, screening for coercion and separate participation arrangements are safeguards to examine under current procedures, not proof that the sampled court breached its duties.

The element of structure concerns the institutions and personnel that implement the norms. The Surabaya Religious Court's reports show resource constraints that are disproportionate to its caseload. In 2023, the court required 24 judges as a Class IA court, but only 17 judges, including the deputy chief, were serving, a shortage of seven.[73] In 2024, there were 18 judges, including the chief and deputy chief, against a requirement of 21.[74] At the same time, the caseload rose to 11,710 cases in 2025, comprising 438 pending cases and 11,272 new cases.[75] Excessive judicial workloads have been shown to cause exhaustion, reduce time for deliberation, and affect the integrity and quality of decisions.[76] This is relevant because judges in the religious courts often also serve as mediators.

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[70] Bani Syarif Maula, "The Concept of Ṣulḥ and Mediation in Marriage Conflict Resolution in Religious Courts: A Comparative Study between Contemporary Indonesian Family Law and Classical Islamic Law," *El-Aqwal: Journal of Sharia and Comparative Law* 2, no. 1 (2023): 73–86, https://doi.org/10.24090/el-aqwal.v2i1.7777.

[71] Sufriadi Ishak et al., "The Legal Status and Juridical Authority of the Hakam in the Islamic Law: An Analysis of Syiqaq Cases in the Exegesis of Fakhruddin al-Razi," *El-Usrah: Jurnal Hukum Keluarga* 8, no. 1 (2025): 262–82, https://doi.org/10.22373/9dvdmw79.

[72] Mutholib et al., "Analisis Hukum Islam Terhadap Pelaksanaan Mediasi Perkara Perceraian Di Pengadilan Agama Gedong Tataan Dan Pengadilan Agama Pringsewu Lampung."

[73] Pengadilan Agama Surabaya, *Laporan Pelaksanaan Kegiatan Pengadilan Agama Surabaya Tahun 2023*.

[74] Pengadilan Agama Surabaya, *Laporan Pelaksanaan Kegiatan Pengadilan Agama Surabaya Tahun 2024*.

[75] Pengadilan Agama Surabaya, *Laporan Pelaksanaan Kegiatan Pengadilan Agama Surabaya Tahun 2025*.

[76] Muliani Samiri et al., "Optimalisasi Pengelolaan Beban Kerja Hakim Dan Implikasinya Terhadap Integritas Dan Kualitas Peradilan," *Jurnal Pembangunan Hukum Indonesia* 7, no. 2 (2025): 288–306.

Mediator capacity is the most decisive structural variable. A study in the jurisdiction of the Banten Religious High Court found that courts relying on judge mediators tended to achieve higher success rates than courts dominated by non-judge mediators. The causes included weak certification training, inadequate legal education, and low motivation among non-judge mediators.[77] PERMA No. 1 of 2016 requires every mediator to hold a certificate obtained through training organised or accredited by the Supreme Court.[78] Judges may nevertheless serve as mediators where no certified mediator is available in the court's jurisdiction.[79] In many religious courts, certified mediators remain scarce. In Palangka Raya only three of seven mediators were certified,[80] and in Sangatta only two of eight judge mediators were certified.[81] Indonesia's model, which emphasises certification and standardisation, strengthens legal certainty but limits accessibility where certified mediators are scarce.[82] A shortage of certified mediators and weak interpersonal skills have also been found in mediation and *ṣulḥ* practice in Indonesia and Malaysia. From the perspective of the sociology of Islamic law, these conditions reflect weaknesses in legal structure and legal culture.[83]

At the Surabaya Religious Court, efforts to strengthen capacity can be seen in the participation of nine judges in a technical training programme on mediator competence titled "Beyond the Words: Psychological Strategies for Conflict Resolution" in October 2025.[84] The court also monitors and evaluates non-judge mediators as external stakeholders.[85] Financial support, however, has shrunk. In 2025, the court was allocated IDR 175,500,000 for external mediator services in fee-waived (*prodeo*) cases. The allocation was then revised by the Surabaya Religious High Court to IDR 3,000,000, of which only IDR 1,800,000, or 60%, was spent, covering six cases.[86] The report explains that the low absorption was due to the limited number of *prodeo* cases using external mediators and to the policy requiring parties to attend in person. This requirement accords with Article 6(1) of PERMA No. 1 of 2016, which provides that "the Parties must attend Mediation meetings in

[77]Majid et al., "Effectiveness of Dispute Resolution in Religious Courts through Mediation by Non-Judge Mediators within Banten."

[78]Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2016 tentang Prosedur Mediasi di Pengadilan.

[79]Syeh Sarip Hadaiyatullah et al., "A Certified Mediator Who Works as a Civil Servant in the Judiciary Institution," *KnE Social Sciences* 9, no. 2 (2024): 608–20, https://doi.org/10.18502/kss.v9i2.15018.

[80]Syaikhu et al., "Judicial Mediation: Is Reconciliation Impossible in Divorce Cases?"

[81]Khoirunnisa et al., "Efektivitas Mediasi Dalam Penyelesaian Perkara Perceraian Di Pengadilan Agama Sangatta Berdasarkan Perma No 1 Tahun 2016 Tentang Mediasi."

[82]Abdulloh Tsani Harahap and Zainuddin, "Comparative Roles of Mediators in Non-Litigation Dispute Resolution: Indonesia and Thailand," *Jurnal USM Law Review* 9, no. 1 (2026): 608–24, https://doi.org/10.26623/julr.v9i1.13819.

[83] Any Ismayawati et al., "Family Conflict Resolution through Mediation in Indonesia and Malaysia: A Sociological Study of Islamic Law," *Jurnal Hukum Islam* 22, no. 2 (2024): 467–98, https://doi.org/10.28918/jhi.v22i2.8.

[84]Pengadilan Agama Surabaya, *Laporan Pelaksanaan Kegiatan Pengadilan Agama Surabaya Tahun 2025*.

[85]Pengadilan Agama Surabaya, *Laporan Pelaksanaan Kegiatan Pengadilan Agama Surabaya Tahun 2023*.

[86]Pengadilan Agama Surabaya, *Laporan Pelaksanaan Kegiatan Pengadilan Agama Surabaya Tahun 2025*.

person, with or without legal counsel".[87] These data show that mediation for justice seekers who cannot afford fees depends almost entirely on judge mediators.

Comparison with Malaysia clarifies the importance of institutional support. In Melaka, state programmes train religious mediators and link their work to the Syariah Courts. In Rembang, mediation by religious leaders remains informal, without standard training, funding, or documentation, so its outcomes are inconsistent and invisible.[88] Malaysia's Majlis Sulh, run by trained officers under standard Practice Directions, is considered to provide greater procedural clarity than the Indonesian model, in which judges act as mediators and are vulnerable to conflicts of interest.[89] *Sulh* in Malaysia has also been credited with speeding up resolution and reducing family case backlogs, although public confidence in it remains lower than in litigation.[90] The structural lesson is clear: reliable mediation outcomes require trained practitioners, adequate funding, and standard documentation.

A further structural aspect is digital infrastructure and the reporting system. PERMA No. 3 of 2022 opened the way for electronic mediation and is seen as expanding access to justice, particularly in Islamic economic disputes.[91] Digitalisation also addresses geographical barriers to litigation.[92] However, e-court implementation in the religious courts still faces problems of infrastructure, human resources, systems, and regulation.[93] Studies in Ternate and Malang show that e-court and e-litigation simplify and accelerate proceedings, but their effectiveness is limited by digital literacy, infrastructure, and community legal culture.[94] An ideal model of electronic case management also requires system interoperability and sustained investment in staff capacity.[95] European experience shows that court

[87]Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2016 tentang Prosedur Mediasi di Pengadilan.

[88] Musleh Harry et al., "From Moral Authority to Policy Integration: The Role of Religious Leaders in Marital Mediation in Indonesia and Malaysia," *De Jure: Jurnal Hukum Dan Syar'iah* 18, no. 1 (2026): 33–53, https://doi.org/10.18860/j-fsh.v18i1.35639.

[89]Umah et al., "Islamic Family Mediation in Southeast Asia: An Analysis of Cultural Legitimacy, Legal Structure, and Contemporary Dynamics in Indonesia and Malaysia."

[90]Norfatin Najwa binti Che Adnan, "Sulh (Resolution) of Family Dispute and Its Application in the Shariah Courts of Malaysia," *Al-Manhaj: Jurnal Hukum Dan Pranata Sosial Islam* 6, no. 2 (2024): 455–68, https://doi.org/10.37680/almanhaj.v6i2.6087.

[91] Moh. Hamzah et al., "The Transformation of Electronic Mediation: A Legal Innovation in the Sharia Economic Dispute Resolution," *Juris (Jurnal Ilmiah Syariah)* 25, no. 1 (2026): 15–27, https://doi.org/10.31958/juris.v25i1.15856.

[92]Lisnawati et al., "Modernizing Divorce in Courts: How to Realize Justice in Diverse Geographical Conditions?," *Juris (Jurnal Ilmiah Syariah)* 23, no. 2 (2024): 367–81, https://doi.org/10.31958/juris.v23i2.11836.

[93] Azhar Alam et al., "Identifying Problems and Solutions of the E-Court System of Religious Courts in Indonesia: An Analytic Network Process Study," *UUM Journal of Legal Studies* 15, no. 2 (2024): 645–74, https://doi.org/10.32890/uumjls2024.15.2.10.

[94] Yahya Yunus et al., "Effectiveness of E-Court in Handling Civil Cases in Class IA Religious Court of Ternate," *Law and Justice* 9, no. 1 (2024): 130–50, https://doi.org/10.23917/laj.v9i1.3903.

[95] Dian Latifiani et al., "Designing the Ideal E-Court E-Litigation: A Global Comparative Framework for Indonesia's Electronic Civil Case Management System," *Journal of Law and Legal Reform* 7, no. 2 (2026): 675–716, https://doi.org/10.15294/jllr.v7i2.41981.

automation becomes meaningful only when accompanied by a comprehensive change in the governance of judicial information.[96]

The relevance for this study lies in data quality. The Surabaya Religious Court already operates SIPP, e-court, and various service applications. Yet its annual reports still present mediation data in a single narrative paragraph with two outcome categories and a shifting denominator. Research on civil justice reform in Indonesia has warned of the tension between the rationality of digital systems and procedural justice centred on human participation.[97] In the context of mediation, digital systems should enable automatic disaggregation of mediation outcomes by PERMA category, case type, mediator type, and the implementation status of agreements. Such a system could also ensure a uniform denominator every year. Two decades of research on the Swiss justice system show that meaningful evaluation of court performance is possible only with data that are consistent and comparable over time.[98] Without reporting standards, superior digital infrastructure does not by itself produce verifiable mediation data.

At the macro level, the problem is rooted in the design of judicial performance measurement. The Supreme Court's key performance indicators mainly reflect registry functions. Performance tiering based on a logical framework and critical success factors aligned across units has therefore been proposed.[99] The professionalism of officials also cannot be separated from the institutional pressures that surround them.[100] When mediation success becomes one of the measures used to assess and reward courts while its definition remains unstandardised, the measurement structure itself encourages each court to interpret "success" in the most favourable way. From the perspective of structure, the fluctuation at the Surabaya Religious Court thus reflects an unstandardised measurement system, not merely the performance of one court.

Legal culture: between substantive peace and target orientation.

In this study, legal culture is read at two levels. The first level is the legal culture of the parties, and the second is the internal legal culture of court officials. At the level of the parties, studies across religious courts show a similar pattern. Parties often arrive determined to divorce, regard mediation as a formality, and are influenced by third parties, especially family members.[101] In North Sulawesi, mediation success was more often driven by family pressure than by the mediation process itself, and local wisdom that could strengthen mediation was often

[96] Marco Fabri, "From Court Automation to E-Justice and Beyond in Europe," *International Journal for Court Administration* 15, no. 3 (2024), https://doi.org/10.36745/ijca.640.

[97] Umar Mubdi, "Reforming Civil Court in Indonesia: The Dialectics of Procedural Justice and Digital Justice," *Jurnal Mimbar Hukum* 38, no. 1 (2026): 27–54.

[98] Andreas Lienhard and Daniel Kettiger, "Twenty Years of Research into the Swiss Justice System," *International Journal for Court Administration* 15, no. 3 (2024), https://doi.org/10.36745/ijca.643.

[99] Nugroho and Meliala, "Urgency of Performance Tiering for Indonesia's Supreme Court: A Constitutional Law Perspective."

[100] Suud Sarim Karimullah, "The Role of Law Enforcement Officials: The Dilemma between Professionalism and Political Interests," *Jurnal Hukum Dan Peradilan* 13, no. 2 (2024): 365–92, https://doi.org/10.25216/jhp.13.2.2024.365-392.

[101] Hidayah et al., "Menilik Efektivitas Mediasi Dan Tantangan Mewujudkan Keadilan Substantif Di Pengadilan Agama Metro."

overlooked.[102] Conversely, revitalising cultural values has been shown to strengthen mediation. Examples include Bugis-Mandar customary values[103] and cultural values in mediation at Panyabungan.[104] Internalising *wasaṭiyyah* values such as *tawassuṭ* (moderation), *tawāzun* (balance), and *iṣlāḥ* (reconciliation) also helps mediators de-escalate conflict and balance power relations.[105] Mediation before a case is filed tends to be more effective than mediation during litigation. The reason is that once a claim is filed, the parties have usually formed negative views of each other.[106]

The Surabaya Religious Court operates in a metropolitan city whose social character differs from regions with strong customary ties. A study of wife-initiated divorce mediation at this court notes the influence of urban culture and women's growing awareness of their rights.[107] A study of inheritance mediation at the same court shows that obstacles also come from legal counsel and from the parties' good faith.[108] PERMA No. 1 of 2016 anticipates this problem of good faith. Article 7(1) requires the parties and their counsel to mediate in good faith, and Article 22(1) provides that a plaintiff declared to have acted in bad faith will have the claim declared inadmissible.[109] The annual reports, however, do not record how many cases ended because of bad faith. As a result, the effectiveness of this sanction cannot be assessed. At the level of the parties, Surabaya's legal culture cannot explain the 2024 surge. Nothing in the reports suggests that the attitudes of Surabaya's residents toward reconciliation changed dramatically in one year and then reversed in the next.

At the internal level, the Surabaya Religious Court's official documents reveal a strong orientation toward achievement. The 2025 report lists "optimising mediation success" as a priority programme, alongside e-court and e-litigation.[110] The 2024 and 2025 reports feature mediation awards as major achievements, including third place for mediation success performance within the Surabaya Religious High Court in the first half of 2025.[111] Such an orientation is legitimate and can drive improvement. From Friedman's perspective, however, internal legal

[102]Nurlaila Harun et al., "Integration of Islamic Law Principles in Overcoming Failure: Mediate Family Cases in the North Sulawesi Religious Court," *El-Usrah: Jurnal Hukum Keluarga* 9, no. 1 (2026): 215–35, https://doi.org/10.22373/ujhk.v9i1.34080.

[103]Fikri et al., "Transformation of Maqāṣid Shari'āh in Divorce Mediation in Religious Courts: Revitalization of the Bugis-Mandar Customs, Indonesia."

[104]Sebyar et al., "Divorce Mediation at Panyabungan Religious Court: Transforming the Desire for Divorce into Reconciliation through Cultural Values in Contemporary Islamic Jurisprudence."

[105]Khairuddin, "Efektivitas Mediasi Berbasis Wasathiyah Dalam Penyelesaian Sengketa Keluarga Islam: Studi Empiris Di Pengadilan Agama."

[106]Aynul Yaqqin et al., "Efektivitas Mediasi Dalam Penyelesaian Konflik Perceraian Non-Litigasi Dan Litigasi Di Pengadilan Agama Bogor Perspektif Hukum Keluarga Islam," *Ijtihad* 19, no. 1 (2025), https://doi.org/10.21111/ijtihad.v19i1.13241.

[107]Qotrunnada and Fikri, "Efektivitas Mediasi Dalam Perkara Perceraian Gugat Di Pengadilan Agama Surabaya."

[108]Setiawan and Waluyo, "Implementation of PERMA Number 1 of 2016 Concerning Mediation in Settlement of Inheritance Cases in Surabaya Religious Court."

[109]Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2016 tentang Prosedur Mediasi di Pengadilan.

[110]Pengadilan Agama Surabaya, *Laporan Pelaksanaan Kegiatan Pengadilan Agama Surabaya Tahun 2025*.

[111]Pengadilan Agama Surabaya, *Laporan Pelaksanaan Kegiatan Pengadilan Agama Surabaya Tahun 2025*.

culture determines how officials interpret norms. When mediation success becomes a rewarded performance target while legal substance provides no standard definition, the success rate may move in line with targets rather than with the actual quality of reconciliation. Studies of judicial governance warn that performance measurement biased toward particular functions can produce an incomplete picture.[112] Genuine court performance also includes public trust and access to justice.[113] This study does not conclude that the Surabaya Religious Court's success rates are inaccurate. Its conclusion is narrower but more fundamental: without a standard definition, the figures cannot be verified, and the awards built upon them lack a firm normative foundation.

The internal cultural level is also visible in how officials understand mediation. Studies of court mediation grounded in deliberation emphasise that its goals extend beyond agreement to include harmony and justice.[114] In South Sulawesi, mediators have begun to act as advocates who explain legal norms and create more equitable negotiation spaces for women. This role, however, is weakened by fragmented institutional authority and weak post-judgment enforcement.[115] In custody disputes, mediation that involves the child and uses a psychologist as co-mediator produces more comprehensive agreements that better serve the child's best interests.[116] These findings show that an internal legal culture oriented toward the quality of reconciliation is already emerging in some places. That culture, however, is not yet reflected in how mediation success is measured and reported.

The three elements interlock. The definitional gap at the level of substance creates room for interpretation. Unstandardised performance measurement and reporting at the level of structure turn that room into figures that are not comparable from year to year. A culture of targets and awards at the level of internal legal culture pushes those figures to move. The fluctuation from 45.10% to 93.16% to 71.55% is the product of their interaction. Accordingly, PERMA No. 1 of 2016 can be judged procedurally effective at the Surabaya Religious Court. Mediation is required, conducted, and reported, and its success rate is far above the national average. Its substantive effectiveness, however, cannot yet be established because the instruments for measuring it are inadequate. This conclusion is consistent with the Batam study, which, using Friedman's framework, found an imbalance between weak structure, substance treated as a formality, and a legal culture not yet committed to reconciliation.[117]

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[112] Nugroho and Meliala, "Urgency of Performance Tiering for Indonesia's Supreme Court: A Constitutional Law Perspective."

[113]Kumar and Singh, "Exploring Court Performance and Developing Its Scale."

[114]Amarini et al., "Court-Connected Mediation: Resolution of Civil Disputes Based on the Principle of Deliberation."

[115]Saidah et al., "From Mediation to Advocacy: Post-Divorce Women's Empowerment through Religious Court Practices in South Sulawesi, Indonesia," *Jurnal Al-Dustur* 9, no. 1 (2026): 212–27, https://doi.org/10.30863/aldustur.v9i1.11184.

[116]Nurmalia Tara et al., "Non-Litigation Mediation in the Resolution of Child Custody Disputes after Divorce: An Analysis of Islamic Law and Indonesian Positive Law," *El-Ahli: Jurnal Hukum Keluarga Islam* 7, no. 1 (2026): 13–37, https://doi.org/10.56874/el-ahli.v7i1.3170.

[117]Nahda et al., "Pelaksanaan Mediasi Berdasarkan Peraturan Mahkamah Agung Nomor 1 Tahun 2016 Tentang Prosedur Mediasi."

Based on this analysis, strengthening the effectiveness of PERMA No. 1 of 2016 can be directed at three areas. With respect to substance, the Supreme Court should establish an operational definition of mediation success and an obligation to report disaggregated data. Reports should at least separate full settlement, partial settlement agreements, case withdrawals after mediation, unsuccessful mediation, and mediation that cannot be conducted. They should also use a uniform denominator, namely the number of cases mediated, and include data on mediation coverage of contentious cases. These provisions could be included in an amendment to PERMA or in technical guidelines issued by the Directorate General of the Religious Courts. At the same time, a mechanism for screening domestic violence before mediation should be regulated.[118] The enforceability of settlement agreements should also be strengthened.[119] Adjustments to the mediation framework will also be relevant if Indonesia intends to ratify the Singapore Convention on Mediation.[120]

With respect to structure, the court needs additional judges in line with its staffing requirements, more certified mediators, and the restoration of funding for external mediators in *prodeo* cases. The involvement of other professionals, such as psychologists, should also be opened in cases involving children.[121] Mediation data should be integrated into SIPP with standard categories and published on an accessible platform, as proposed in studies of judicial statistics reform.[122] With respect to legal culture, the assessment and rewarding of mediation performance should not rely solely on success percentages. It should also include quality indicators such as the rate at which agreements are implemented, the protection of women's and children's rights, and party satisfaction. Strengthening pre-litigation mediation through communities and religious leaders could also provide a more suitable channel for reconciliation.[123] With these steps, mediation success rates can again serve as a measure of the effectiveness of PERMA No. 1 of 2016 rather than merely as administrative achievements.

CONCLUSION

This study reaches two conclusions. First, mediation success at the Surabaya Religious Court fluctuated sharply in 2023–2025. The success rate rose from 45.10% in 2023 to 93.16% in 2024 and then fell to 71.55% in 2025, even though the number of cases mediated and institutional capacity remained relatively stable. Mediation reached only 8.70–9.45% of cases decided, mainly because many cases are non-contentious applications or are examined in the absence of a party (*verstek*). The annual reports use a shifting denominator, do not disaggregate outcome categories as PERMA provides, and contain inconsistencies in baseline data. As a

[118]Jones and Aftab, "Inside Indonesia's Religious Courts: An Argument for Domestic and Family Violence Screening and Exemption from Compulsory Mediation."

[119]Nurdiansyah et al., "Reconstructing Mediation Regulation in Contemporary Islamic Family Disputes: Reform Urgency in Indonesian Religious Courts."

[120]Gerungan et al., "Mediation Ecosystem in Indonesia."

[121]Tara et al., "Non-Litigation Mediation in the Resolution of Child Custody Disputes after Divorce: An Analysis of Islamic Law and Indonesian Positive Law."

[122]Sophia et al., "Comparative Analysis of Judicial Statistics Reform: Insights from the US, Canada, and the UK."

[123]Harry et al., "From Moral Authority to Policy Integration: The Role of Religious Leaders in Marital Mediation in Indonesia and Malaysia."

result, the fluctuation cannot be confirmed as reflecting genuine changes in performance.

Second, assessed through Lawrence M. Friedman's legal system theory, the effectiveness of PERMA No. 1 of 2016 at the Surabaya Religious Court has been achieved only at the procedural level. With respect to substance, PERMA recognises four categories of mediation outcomes but sets no operational definition of success, no standard denominator, no rule on the status of claims withdrawn after mediation, and no mechanism for domestic violence screening. With respect to structure, the shortage of judges, the limited number of certified mediators, shrinking funding for external mediators, and an unstandardised reporting system weaken the reliability of mediation outcomes. With respect to legal culture, an orientation toward numerical targets and awards risks shifting the meaning of success from substantive reconciliation to administrative achievement.

In practical terms, this study recommends that the Supreme Court and the Directorate General of the Religious Courts establish disaggregated and uniform indicators of mediation success, integrate them into SIPP, and balance quantitative assessment with indicators of the quality of reconciliation. The study is limited by its reliance on documents as the sole data source and by its focus on a single court. Future research should combine document analysis with interviews of mediators and parties, examine mediation files to determine how outcomes are classified, and compare religious courts in urban and rural areas.

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