



## Analysis of Mediation as an Alternative Resolution of Medical Disputes Based on Supreme Court Regulation Number 1 of 2016

Puji Yati

Law Study Program, Faculty of Law, Universitas Cokroaminoto Yogyakarta, Yogyakarta, Special Region of Yogyakarta, Indonesia

\*Corresponding Author: [puiyati1509@gmail.com](mailto:puiyati1509@gmail.com)

**Abstract.** The increase in medical disputes in Indonesia occurs along with the development of health services and increasing public legal awareness. Dispute resolution through litigation is often considered ineffective because it takes a long time, is expensive, and creates a confrontational relationship between medical personnel and patients. Therefore, mediation is present as an alternative dispute resolution that prioritizes deliberation, communication, and mutual agreement. This study aims to analyze the regulation, implementation, and effectiveness of mediation as an alternative resolution of medical disputes based on Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court. The research method used is normative legal research with a statutory, conceptual, and case approach. Data were obtained through literature and document studies, then analyzed descriptively qualitatively. The results of the study indicate that mediation has a strong legal basis and provides various advantages, such as a faster resolution process, lower costs, maintaining confidentiality, and being able to maintain good relationships between medical personnel and patients. However, the implementation of mediation still faces obstacles such as low public understanding, limited mediators who have competence in the health sector, and a legal culture that still tends to be litigative. Therefore, optimization is needed through improving mediator competence, strengthening public legal awareness, and maximizing mediation implementation to achieve fair, effective, and humane dispute resolution.

**Keywords:** Health Law; Mediation; Medical Disputes; Supreme Court Regulation Number 1 of 2016; Ternative Dispute Resolution.

### 1. INTRODUCTION

The development of healthcare services in Indonesia has shown significant progress, both in terms of healthcare facilities, medical technology, and the quality of healthcare professionals. Nevertheless, such progress has also been accompanied by the increasing emergence of legal issues in the healthcare sector, particularly medical disputes between healthcare providers and patients. Medical disputes generally arise due to patients' dissatisfaction with the healthcare services they receive, whether caused by alleged malpractice, misdiagnosis, lack of medical information, or medical actions perceived as harmful to patients. Fundamentally, the legal relationship between doctors and patients is a fiduciary relationship based on trust; therefore, when there is a discrepancy between patients' expectations and the outcomes of medical services, the potential for disputes becomes increasingly significant (Putri, 2021).

The increasing public legal awareness regarding their rights in obtaining healthcare services has also contributed to the growing number of medical disputes in Indonesia. Patients are now more aware of their rights to information, their rights to obtain safe healthcare services, and their rights to legal protection if they suffer losses resulting from healthcare services (Ummah, Wiryani, & Najih, 2022). Furthermore, the advancement of information technology

and social media has accelerated the dissemination of information concerning medical cases occurring within society, thereby influencing public perceptions of healthcare professionals (Akhyar, 2020). These conditions have caused healthcare professionals to face increasingly complex challenges in carrying out their profession, particularly when confronted with legal claims from patients or their families (Putri, 2021).

In practice, the settlement of medical disputes is still predominantly carried out through litigation in court. However, court proceedings are often considered less effective because they require a lengthy process, high costs, and are confrontational in nature, which may worsen the relationship between healthcare providers and patients (Akhyar, 2020). Litigation also tends to position the parties as adversaries, making it difficult to achieve a resolution that satisfies both sides (Ummah et al., 2022). Therefore, there is a need for alternative dispute resolution mechanisms that are more effective, efficient, and capable of maintaining harmonious relationships between the parties.

One alternative dispute resolution mechanism that has developed within the Indonesian legal system is mediation. Mediation is a dispute resolution process conducted through negotiations assisted by a neutral third party or mediator with the aim of reaching a mutual agreement (Supreme Court Regulation No. 1 of 2016). Resolution through mediation emphasizes deliberation, communication, and the search for mutually beneficial solutions (win-win solutions) (Akhyar, 2020). The role of mediation within the Indonesian judicial system has been strengthened through the issuance of the Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2016 concerning Court-Annexed Mediation Procedures, which requires every civil dispute to first undergo mediation before proceeding to further court hearings (Putri, 2021).

Several previous studies have demonstrated that mediation possesses considerable potential in resolving disputes effectively. Research conducted by Suci Novelendri Indah Putri indicates that mediation based on Supreme Court Regulation Number 1 of 2016 can serve as a more efficient means of dispute resolution compared to litigation, although its implementation still faces various obstacles, such as limited public understanding of mediation and the shortage of competent mediators (Putri, 2021). Another study conducted by Akhyar regarding the effectiveness of mediation in divorce disputes states that the success of mediation is influenced by the good faith of the parties and the mediator's ability to establish effective communication (Akhyar, 2020). Furthermore, research by Nurul Ummah, Fifik Wiryani, and Mokhammad Najih concerning mediation in medical disputes concluded that mediation is capable of

providing more peaceful settlements and maintaining relationships between healthcare providers and patients compared to court-based resolutions (Ummah et al., 2022).

Nevertheless, the implementation of mediation in resolving medical disputes in Indonesia still faces various challenges. The low level of public trust in the mediation process, a legal culture that remains litigation-oriented, and the limited number of mediators who understand both legal and healthcare aspects constitute major obstacles to the implementation of mediation (Putri, 2021). In addition, medical disputes possess unique characteristics because they involve complex medical, psychological, and emotional aspects, thereby requiring a more cautious and professional approach to dispute resolution (Ummah et al., 2022). Therefore, a more comprehensive study regarding the effectiveness of mediation as an alternative mechanism for resolving medical disputes based on Supreme Court Regulation Number 1 of 2016 is necessary in order to determine the extent to which mediation can provide fair, effective, and humane resolutions for the parties involved.

## **2. METHOD**

This study employs a normative legal research method, which focuses on examining legal norms, statutory regulations, and legal concepts related to mediation as an alternative mechanism for resolving medical disputes based on the Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2016 concerning Mediation Procedures in Court. Normative legal research was chosen because this study aims to analyze legal regulations, the effectiveness of mediation implementation, and the obstacles arising in the resolution of medical disputes through mediation (Soekanto & Mamudji, 2015).

The research approaches applied in this study include the statutory approach, conceptual approach, and case approach. The statutory approach was conducted by examining various legal provisions related to mediation and medical disputes, such as Supreme Court Regulation Number 1 of 2016, Law Number 17 of 2023 concerning Health, and other relevant regulations. The conceptual approach was used to understand the concepts of mediation, dispute resolution, and legal protection in medical disputes through the perspectives of legal scholars and scientific literature. Meanwhile, the case approach was carried out by analyzing several medical dispute cases resolved through mediation in order to determine the effectiveness of mediation implementation in practice (Marzuki, 2017).

The data sources in this study consist of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include statutory regulations and court decisions related to mediation and medical disputes. Secondary legal materials were

obtained from books, scientific journals, previous research findings, legal articles, and other scholarly works relevant to this study. Meanwhile, tertiary legal materials were obtained from legal dictionaries, encyclopedias, and other supporting sources that assist in explaining legal terminology used in the research (Ibrahim, 2018).

Data collection techniques were carried out through library research and document studies. Library research was conducted by reviewing various legal references related to mediation and the resolution of medical disputes, while document studies were conducted on legal documents, regulations, and other supporting literature. The data obtained were then analyzed using a descriptive qualitative method by describing, correlating, and interpreting the data based on relevant theories and applicable legal provisions in order to draw conclusions regarding the effectiveness of mediation as an alternative mechanism for resolving medical disputes based on Supreme Court Regulation Number 1 of 2016 (Sugiyono, 2019).

### **3. RESULT AND DISCUSSION**

**Analysis of the Effectiveness of Mediation in Resolving Medical Disputes.** Based on the results of normative legal research conducted through the study of statutory regulations, legal documents, and scientific literature, mediation demonstrates significant effectiveness in resolving medical disputes in Indonesia. This effectiveness can be seen from the ability of mediation to provide dispute resolution that is faster, less costly, and more capable of maintaining harmonious relationships between healthcare professionals and patients compared to litigation processes in court (Putri, 2021).

In practice, medical disputes are often not only triggered by allegations of medical errors, but are also influenced by ineffective communication between healthcare providers and patients. Many patients feel that they do not receive adequate explanations regarding medical procedures, treatment risks, or their health conditions. Such circumstances create distrust, which subsequently develops into legal disputes (Ummah et al., 2022). According to Guwandi (2016), most medical disputes actually originate from a lack of therapeutic communication between doctors and patients rather than solely from medical malpractice.

The Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2016 concerning Mediation Procedures in Court places mediation as a mandatory stage in the settlement of civil disputes in court, including medical disputes. This provision demonstrates the state's concern regarding the importance of peaceful dispute resolution through deliberation and mutual agreement (Supreme Court Regulation No. 1 of 2016). Mediation is not only intended to reduce case accumulation in courts, but also aims to create resolutions that are more

just and humane. This is consistent with the opinion of Takdir Rahmadi (2017), who states that mediation is a form of dispute resolution that prioritizes the interests of the parties over unilateral victory. The results of this study indicate several factors supporting the effectiveness of mediation in medical disputes, namely:

### **Direct Communication Between the Parties**

Mediation allows patients and healthcare professionals to express opinions, complaints, and clarifications directly without the pressure of formal court proceedings. This helps reduce misunderstandings that often become the root cause of conflicts. Open communication during mediation enables patients to obtain direct explanations regarding the medical procedures performed, while healthcare professionals are able to explain medical procedures based on applicable professional standards (Akhyar, 2020).

According to Syahrizal Abbas (2019), effective communication constitutes the core of the mediation process because the success of dispute resolution is highly influenced by the parties' ability to understand each other's interests. In the context of medical disputes, good communication can minimize emotional conflicts that frequently arise from patients' disappointment with healthcare services.

### **Faster Resolution Process**

Compared to litigation, which may continue for years, mediation has a shorter time limit as regulated in Supreme Court Regulation Number 1 of 2016, namely 30 days with a possible extension of another 30 days if necessary. The shorter resolution period provides faster legal certainty for the parties involved (Supreme Court Regulation No. 1 of 2016). According to Putri (2021), time efficiency in mediation is one of the primary reasons why mediation is preferred over litigation. In medical disputes, rapid resolution is highly important because prolonged conflict may affect both the psychological condition of patients and the professionalism of healthcare providers.

### **Lower Settlement Costs**

The mediation process does not require substantial expenses as commonly found in lengthy court proceedings. The parties are not required to bear large administrative costs, expensive expert witness fees, or appeal and cassation costs as in litigation. This provides advantages for the parties, particularly patients who are often in weaker economic positions (Akhyar, 2020).

Rahmadi (2017) explains that mediation is an economical form of dispute resolution because the process is simple and does not require complex formal procedures. Therefore, mediation may become a more affordable solution for society in resolving medical disputes.

### **Greater Confidentiality for the Parties**

Medical disputes are often related to the reputations of hospitals and healthcare professionals. Mediation is conducted privately, thereby protecting the confidentiality of the parties' identities and the substance of disputes. Unlike court hearings, which are open to the public, mediation provides greater protection for the parties' privacy (Supreme Court Regulation No. 1 of 2016). According to Guwandi (2016), confidentiality in medical disputes is highly important because it concerns patients' medical records and the reputations of healthcare professionals. Therefore, mediation becomes a more appropriate mechanism than litigation in preserving the dignity and trust of the parties.

### **Maintaining Harmonious Relationships**

In medical disputes, the relationship between doctors and patients possesses a strong humanitarian dimension. Mediation provides opportunities for both parties to repair relationships and avoid prolonged conflicts. Resolution through deliberation creates greater opportunities for reconciliation compared to court judgments, which determine winners and losers (Ummah et al., 2022). According to Syahrizal Abbas (2019), mediation functions not only as a means of resolving disputes but also as a mechanism for restoring social relationships between the parties. In the context of healthcare services, good relationships between doctors and patients are essential in maintaining public trust in healthcare professionals. Factors Inhibiting the Effectiveness of Mediation in Medical Disputes. In addition to supporting factors, this study also identified several factors inhibiting the effectiveness of mediation in medical disputes, including:

#### **Low Public Understanding of Mediation**

Some members of society still perceive court proceedings as the only effective means of dispute resolution. This paradigm causes mediation to often be viewed merely as a procedural formality before entering litigation stages (Putri, 2021). The lack of public awareness regarding the benefits of mediation results in limited understanding that mediation can provide faster and more peaceful resolutions.

#### **Litigation-Oriented Legal Culture**

The legal culture of Indonesian society still tends to position judges as the primary determinant of justice. Consequently, parties often participate in mediation without genuine intentions to reconcile. This situation causes mediation to function less effectively because the parties focus more on winning the case than on finding mutually beneficial solutions (Rahmadi, 2017).

### **Limited Number of Mediators with Healthcare Knowledge**

Mediators in medical disputes should ideally possess not only legal expertise but also basic knowledge regarding healthcare practices. In reality, the number of mediators with such competencies remains highly limited. As a result, mediators frequently encounter difficulties in understanding medical terminology and healthcare procedures that constitute the core of disputes (Ummah et al., 2022).

### **Imbalance of Position Between Patients and Healthcare Professionals**

Healthcare professionals possess greater technical knowledge compared to patients. This imbalance may influence the mediation process if mediators are unable to maintain balanced communication between the parties. Patients often feel that they occupy weaker positions, making it difficult for them to openly express their interests (Guwandi, 2016).

### **Lack of Good Faith Among the Parties**

The success of mediation is highly dependent on the willingness of the parties to resolve disputes peacefully. If one party behaves defensively or uncooperatively, mediation will encounter difficulties in achieving agreement (Akhyar, 2020). Therefore, good faith constitutes an essential element in successful mediation as regulated under Supreme Court Regulation Number 1 of 2016.

Comparative Analysis Between Litigation and Mediation in Medical Disputes. Based on the results of this study, mediation possesses several advantages compared to litigation. Litigation tends to be formal, rigid, and adversarial in nature, while mediation emphasizes dialogue and deliberation (Rahmadi, 2017).

**Table 1.** Comparison Between Litigation and Mediation in Medical Disputes.

<b>Aspect</b>	<b>Litigation</b>	<b>Mediation</b>
Resolution Time	Lengthy	Relatively Fast
Cost	Expensive	Lower Cost
Nature of Resolution	Confrontational	Deliberative
Confidentiality	Open to Public	Confidential
Relationship Between Parties	Tends to Deteriorate	Can Be Maintained
Final Outcome	Judge's Decision	Mutual Agreement

Source: Processed from Supreme Court Regulation Number 1 of 2016 and various research literature. Based on the table above, it can be understood that mediation is more suitable for medical disputes because such disputes involve not only legal aspects but also psychological, ethical, and social relationship dimensions between healthcare professionals and patients. Resolution through mediation provides greater opportunities for achieving mutually beneficial solutions (win-win solutions) compared to litigation, which tends to produce winning and losing parties (Syahrizal Abbas, 2019). Efforts to Optimize Mediation in

Medical Disputes. In order for mediation to function more effectively in resolving medical disputes, several strategic measures are required, namely:

### **Improving Mediator Competence**

The Supreme Court and related institutions need to improve specialized training for mediators in healthcare disputes so that mediators are capable of understanding medical terminology and healthcare professional ethics. Mediator competence greatly determines the success of the mediation process (Putri, 2021).

### **Public Awareness and Education**

The government and judicial institutions need to educate society regarding the benefits of mediation as a fast, affordable, and fair alternative dispute resolution mechanism. Increased public understanding will encourage the optimization of mediation in resolving medical disputes (Rahmadi, 2017).

### **Strengthening the Implementation of Supreme Court Regulation Number 1 of 2016**

The implementation of mediation in courts must genuinely be carried out optimally and not merely become an administrative formality before litigation proceedings. Judge-mediators should play more active roles in establishing effective communication so that the parties demonstrate genuine willingness to reconcile (Akhyar, 2020).

### **Development of Non-Litigation Mediation**

In addition to court-annexed mediation, mediation mechanisms outside the court system should also be developed through hospitals, medical professional organizations, and healthcare dispute resolution institutions. Out-of-court dispute resolution may provide faster and more flexible solutions (Guwandi, 2016).

### **Humanistic Approach in Dispute Resolution**

In medical disputes, a humanitarian approach is highly necessary because disputes are often associated with the emotional conditions of patients and their families. Therefore, mediators must be capable of creating conducive, empathetic, and impartial environments in order to achieve fair resolutions for both parties (Ummah et al., 2022).

**Research Findings.** Based on the findings of this study, mediation possesses significant potential as an alternative mechanism for resolving medical disputes in Indonesia. Mediation is capable of providing more effective dispute resolution than litigation because it prioritizes communication, deliberation, and mutual agreement. In addition to providing faster legal certainty, mediation is also capable of maintaining harmonious relationships between healthcare professionals and patients, making it more suitable for medical disputes that possess strong humanitarian dimensions (Putri, 2021).

Nevertheless, the effectiveness of mediation still requires support from various parties, including the government, judicial institutions, healthcare professionals, mediators, and society. Without improvements in mediator quality, public legal awareness, and optimal implementation of regulations, mediation will face difficulties in achieving its objective as a fair and humane dispute resolution mechanism (Rahmadi, 2017).

#### **4. CONCLUSION**

Based on the results of the research and discussion, it can be concluded that mediation is an effective alternative mechanism for resolving medical disputes and has a strong legal foundation based on the Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2016 concerning Mediation Procedures in Court. Mediation is capable of providing dispute resolution that is faster, simpler, and less costly compared to settlement through litigation. In addition, mediation is also able to maintain good relationships between healthcare professionals and patients because the resolution process is carried out through deliberation, communication, and mutual agreement (win-win solution) (Putri, 2021).

The implementation of mediation in medical disputes provides various benefits, including maintaining the confidentiality of the parties, reducing prolonged conflicts, and providing opportunities for patients and healthcare professionals to openly express their respective interests. The success of mediation is highly influenced by the mediator's ability to establish effective communication and create a conducive atmosphere throughout the dispute resolution process (Akhyar, 2020). Therefore, mediators in medical disputes should possess competence not only in the field of law, but also an understanding of healthcare aspects and medical professional ethics.

Nevertheless, the implementation of mediation in resolving medical disputes in Indonesia still faces several obstacles, such as the low level of public understanding regarding mediation, a legal culture that remains litigation-oriented, and the limited number of mediators who possess competence in the healthcare field (Ummah et al., 2022). Therefore, it is necessary to increase public awareness regarding the benefits of mediation, strengthen mediator competence, and optimize the implementation of Supreme Court Regulation Number 1 of 2016 so that mediation can operate more effectively and become a fair, humane, and legally certain solution for resolving medical disputes for all parties involved.

## REFERENCES

- Abbas, S. (2019). *Mediasi dalam perspektif hukum syariah, hukum adat, dan hukum nasional*. Kencana.
- Akhyar. (2020). Efektivitas mediasi dalam penyelesaian sengketa perceraian berdasarkan PERMA Nomor 1 Tahun 2016. *Jurnal Hukum dan Peradilan*, 9(2), 115–128. <https://doi.org/10.33474/hukum.v9i1.7492>
- Amriani, N. (2012). *Mediasi alternatif penyelesaian sengketa perdata di pengadilan*. Rajawali Pers.
- Fuady, M. (2018). *Alternatif penyelesaian sengketa di luar pengadilan (ADR)*. Citra Aditya Bakti.
- Hadjon, P. M. (2017). *Pengantar hukum administrasi Indonesia*. Gadjah Mada University Press.
- Harahap, M. Y. (2017). *Hukum acara perdata tentang gugatan, persidangan, penyitaan, pembuktian, dan putusan pengadilan*. Sinar Grafika.
- Ibrahim, J. (2018). *Teori dan metodologi penelitian hukum normatif*. Bayumedia Publishing.
- Isfandyarie, A. (2018). *Tanggung jawab hukum dan sanksi bagi dokter*. Prestasi Pustaka.
- Komalawati, V. (2016). *Hukum dan etika dalam praktik kedokteran*. Pustaka Sinar Harapan.
- Machmud, S. (2020). *Penegakan hukum dan perlindungan hukum bagi tenaga kesehatan*. Mandar Maju.
- Marzuki, P. M. (2017). *Penelitian hukum* (Edisi revisi). Kencana.
- Mertokusumo, S. (2019). *Hukum acara perdata Indonesia*. Cahaya Atma Pustaka.
- Notoatmodjo, S. (2018). *Etika dan hukum kesehatan*. Rineka Cipta.
- Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2016 tentang Prosedur Mediasi di Pengadilan.
- Putri, S. N. I. (2021). Efektivitas mediasi berdasarkan Peraturan Mahkamah Agung Nomor 1 Tahun 2016 tentang prosedur mediasi di pengadilan. *Jurnal Legalitas*, 13(1), 45–57.
- Rahmadi, T. (2017). *Mediasi penyelesaian sengketa melalui pendekatan mufakat*. Rajawali Pers.
- Rato, D. (2019). *Pengantar hukum kesehatan Indonesia*. LaksBang Mediatama.
- Soekanto, S., & Mamudji, S. (2015). *Penelitian hukum normatif: Suatu tinjauan singkat*. Rajawali Pers.
- Sugiyono. (2019). *Metode penelitian kuantitatif, kualitatif, dan R&D*. Alfabeta.
- Syahrani, R. (2016). *Rangkuman inti sari ilmu hukum*. Citra Aditya Bakti.
- Ummah, N., Wiryani, F., & Najih, M. (2022). Mediasi sebagai alternatif penyelesaian sengketa medik di Indonesia. *Jurnal Yuridis*, 9(1), 77–89.
- Undang-Undang Republik Indonesia Nomor 17 Tahun 2023 tentang Kesehatan.
- Widjaja, G. (2011). *Alternatif penyelesaian sengketa*. RajaGrafindo Persada.
- Wila Chandrawila, S. (2017). *Hukum kedokteran*. Mandar Maju.