

Mediation as an Alternative for resolving family conflicts in the View of Progressiven Law and Islamic Law

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**"Mediation as an Alternative for Resolving Family Conflicts in the View of
Progressive Law and Islamic Law"**

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ABSTRACT

Islamic law is law that originates from Islamic teachings with the main principle being mercy and spreading peace throughout the universe. This principle then makes Islamic law always capable of being a mediator and solution to all legal problems. Progressive law is legal theory that starts from the assumption that law is for humans, not the other way around, so that progressive law does not accept the concept of law as an absolute and final institution but is determined by its ability to serve humans. Law is defined as an institution that aims to lead humans to a just, prosperous life and make humans happy. In the family environment, family law is defined as the law that regulates legal relationships arising from familial relationships, namely: marriage and relationships in the field of property law between husband and wife, relationships between parents and children, guardianship and curators. This research is library research, namely research in which the object is discovered by exploring library information, especially in the form of texts, such as books, encyclopedias, scientific journals, newspapers, magazines and other documents related to "mediation". From this research it can be concluded that, mediation in the Islamic view is an effort to bring about peace which has become known as "Ishlah" between disputing parties by appointing a mediator, both in the realm of family law and others. while progressive law is legal thinking that prioritizes win-win solutions in resolving various problems, including resolving family conflicts and so on. Therefore, both Islamic law and progressive law view that mediation is a very strategic and positive step in creating polarization so that problems can be resolved quickly and without involving litigation, thus the law will be more humane.

Keywords: Mediation, Progressive Law, Islamic Law

I. Introduction

Material law in our country, whether contained in the form of legislation or unwritten, is a guideline or guidance or guidance for all citizens in all their behavior in social life, whether individuals, society or in the state, whatever it is. what he can do and what he can't do. For example, these provisions include, "we are not allowed to steal other people's things, we are not allowed to interfere with other people's rights, or we cannot act arbitrarily in exercising our rights without considering other people's rights, and so on."¹

Therefore, according to current legal science, civil law is divided into four parts, namely:

1. Laws regarding one's self
2. Family law
3. Wealth law
4. Inheritance law²

According to LJ Van Apeldorn, as quoted by Ahmad Tholabi Kharlie, the law aims to regulate peaceful social interactions. The existence of law as a tool for reconciliation is because every individual always has personal interests, so if these interests are ignored it will actually cause disputes and conflicts. In terms of regulating interests, the law reconciles the interests of each person, so that there is a balance between the protected interests, in which each person gets as much as possible from his share.³

In the family environment, family law is defined as the ⁵ law that regulates legal relationships arising from familial relationships, namely: marriage and relationships in the field of property law between husband and wife, relationships between parents and children, guardianship and curate. ⁴ Thus, if a problem arises within this scope, there are alternative conflict resolutions that can be chosen outside of court in accordance with procedures agreed by the parties, namely, consultation, negotiation, mediation, consolidation or others.

¹. M. Nur Rasaid, " *Civil Procedure Law* " , (Jakarta: Sinar Graphics, 1999), p. 1

². Prof. Subekti, "*Basics of Civil Law*", (Jakarta: PT. Intermasa, 1995), p. 16

³. Ahmad Tholabi Kharlie, "*Indonesian Family Law*", (Jakarta: Sinagrafia, 2013), p. 59

⁴. *Ibid*

From the explanation above, among the mechanisms for resolving conflicts or legal disputes we know "mediation" which of course is related to a theory called "Progressive Legal Theory" which contains a law that is liberating with a legal order that is balanced and constructive. humanist law.

⁴ Progressive law does not accept law as an absolute and final institution, but rather is determined by its ability to serve humans. In the context of this thinking, law is always in the process of continuing to become . Therefore, continued Satjipto Rahardjo, progressive law is a concept regarding how to judge. There is not just one way to judge; but there are various kinds so that progressive law has its own place. For example, a positive legalistic method of law is based solely on the law or spelling out the law.⁵ Therefore, this article will discuss " *Mediation, an Alternative for Resolving Family Conflicts from a Progressive Legal View* ."

II. Methodology

Research methods are an element that must be fulfilled in scientific research. Without certainty about the methods used, research results will be difficult to achieve and even if they are achieved, these results will not be recognized as research results that are considered to have scientific quality. In simple terms, the author conveys that the type of research used in this writing is library research , namely ⁶research in which the object is discovered by exploring library information, especially in the form of texts, such as books, encyclopedias, scientific journals, newspapers, magazines and other documents.⁷

III. Results and Discussion

A. Mediation

Interaction between humans in society requires the existence of norms and regulations that are able to bind its members and will be implemented together so that the relationship can

⁵ . Kamaruddin , " *MEDIATION FROM A PROGRESSIVE LEGAL VIEW, An Alternative for Resolving Family Conflicts* ", (Jurnal 'Adl; Vol 11, No. 2 July 2018), p. 15

⁶ . Library research (*library research*), namely: research in which the discovery of objects is carried out by exploring library information, especially in the form of texts, such as books, encyclopedias, scientific journals, newspapers, magazines and other documents. (see Mestika Zed, *Library Research Methods*, (Jakarta: Indonesian Obor Foundation, 2018), p. 3

⁷ . Mestika Zed, *Library Research Methods*, (Jakarta: Indonesian Obor Foundation, 2018), p.3

¹⁰. Joseph Schacht, "*The Origin of Muhammadan Jurisprudence*" (Indonesian edition translated by Wael B. Hallaq), (Yogyakarta: PT Bintang Pustaka Abadi, 2010), p. 3

¹¹. Ministry of Religion of the Republic of Indonesia, "*Cordova al-Qur'an and Translation*", (Jakarta: Syamil Qur'an, 2012), p. 407.

On August 17, 1945, the Indonesian people were proclaimed as an independent nation and free from colonialism by anyone in the world. As an independent nation, in order to implement its independence, it requires a forum for national organization in the state, so on August 18 1945 a flexible and elastic Constitution came into force to show the world that an independent, united and sovereign Indonesia is one united state. Since then, the results of the nation's struggle for independence began to be implemented with a state structure guided by the Constitution, which became known as the 1945 Constitution.¹²

Philosophically, the responsibility of a state is to create *a sense of safety and welfare for society* . Security for society is *a fundamental right* for every individual human being that must be given by the state to its people. These basic rights, called *human rights*, have been declared in the United Nations Charter, and have also been recognized by the nations of the world as stated in their respective constitutions.

Civil relations are not directly related to human rights, but rather involve relationships beyond the personal nature that occur between individuals. The nature, form and process by which civil relations take place are all left to each individual to carry them out , while the government does not intervene in them, except when each of them wishes.¹³

To create a humanist legal discourse, one of the efforts to humanize the law is to introduce the concept of "Mediation" in resolving disputes or conflicts outside of court. As quoted by Yoyok Uruk Suyono from Gatot Soemartono in his book "Penal Mediation" he said that, Medias i is very difficult to understand. The dimensions are very plural and infinite. Many parties recognize that mediation is a process for resolving disputes with the help of a third party. The role of the third party is to involve themselves to help the parties identify the disputed issues and develop a proposal. It is hoped that the proposal can be used as a reference for resolving the dispute.¹⁴

Mediation comes from Latin , namely “ *mediare* ” which means being in the middle. This meaning refers to the role played by a third party as a mediator in carrying out its duties to

¹². R. Abdoel Djarnali, "Introduction to Indonesian Law", (Jakarta: PT. Raja Grafindo Persada, 1993), p. 58

¹³. Abd. Talib, "Arbitration and Business Law", (Pekanbaru: UIR Press, 2005), p. 1

¹⁴. Yoyok Uruk Suyono & Dadang Fidiyanto, "Alternative Penal Mediation for Dispute Resolution in Criminal Cases", (Yogyakarta: LaksBang Justitia, 2011), p. 57

mediate and resolve disputes between the parties. Being in the middle also means that the mediator must be in a neutral and impartial position in resolving the dispute. He must be able to safeguard the interests of the disputing parties fairly and equally so as to foster trust among the disputing parties .¹⁵

Mediation is a vocabulary or term that comes from the English vocabulary, namely *mediation*. Indonesian writers and scholars then prefer to Indonesianize it into "mediation" like other terms, namely *negotiation* becomes "negotiation", *arbitration* becomes "arbitration", and *litigation* becomes "litigation" .¹⁶

In the Big Indonesian Dictionary, the word mediation is defined as the process of involving a third party in resolving a dispute as a counselor .¹⁷ Mediation is a method or choice from a number of alternatives in solving problems. In Supreme Court Regulation Number 1 of 2016 Article 1, it is explained that mediation is a method of resolving disputes through a negotiation process to obtain agreement between the parties with the assistance of a mediator .¹⁸

The mediation process is increasingly important to avoid lengthy judicial bureaucratic processes. For conflicting parties, solving problems by taking them to court is not always effective. By agreeing to resolve the conflict through mediation, the parties involved have reduced the mounting burden of judicial cases so that the court can take care of more important matters. Several advantages are offered by mediation compared to the litigation process. The mediation process is faster, while the costs are much cheaper. Therefore, the first court to process a case is obliged to reconcile the two parties to the dispute through "mediation" .¹⁹

This mediation is an effort by the Panel of Judges to advise the litigants in the first trial, then offer the parties or their representatives to resolve the dispute peacefully. This process of advising and offering peace is what, in the view of the Supreme Court, is an effort that has not been seriously implemented by the Panel of First Instance Court Judges, and therefore the

¹⁵. Syahrizal Abbas, " *Mediation in the Perspective of Sharia Law, Customary Law and National Law* " . (Jakarta: Kencana Prenada Media Group, 2009), p. 2

¹⁶ . Takdir Rahmadi, *Dispute Resolution Mediation Using a Consensus Approach* , Jakarta: PT. Raja Grafindo Perdana, 2010), p. 8

¹⁷ . Dictionary Compilation Team for the Center for Language Development and Development, Big Indonesian Dictionary, (Jakarta: Depdikbud, 1988) p. 569

¹⁸ . Republic of Indonesia Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Religious Courts .

¹⁹ . Roger Dawson , *Secrets of Powers Negotiating*, Jakarta: PT Gramedia Pustaka Utama, 2002), p. 24

Regulation Number 2 of 2003 was born, "mediation is the resolution of disputes through a negotiation process between the parties with the assistance of by the mediator".

From the definition of mediation as above, it means that the parties are expected to be able to reach an agreement that is beneficial to both parties through negotiation with the assistance of a mediator. With the agreement that has been assisted by both parties, it is hoped that they can minimize the waste of time and costs that will be incurred by them in resolving disputes.²⁰

Apart from the above, as a Muslim , "mediation" should be the practice of religious teachings and rules that Allah SWT has stipulated in the Qur'an, including Allah Almighty says:

وَإِذَا جَاءَ أَحَدَهُمُ الْمُرُورُ بِعَدُوِّهِمْ فَصَلُّوا عَلَيْهِمْ حَتَّىٰ يَمُوتُوا فِي كُرْسِيِّهِمْ ۚ وَمَنْ يَفْعَلْ ذَلِكَ فَأُولَٰئِكَ سَيَرْحَمُهُ اللَّهُ إِنَّ اللَّهَ عَظِيمٌ الْعَاقِلِينَ

"And if there are two groups of those who believe at war, let you make peace between them! But if one person violates an agreement with another , you must fight against the one who violates the agreement until he returns to Allah's command. When he has receded, make peace between the two according to justice, and act justly; Indeed, Allah loves those who act justly."²¹ (Qs. Al-Hujurat: 9)

يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ حَقَّ تَقَاتِهِ لَعَلَّكُمْ تُرْحَمُونَ

"Believers are truly brothers. Therefore, reconcile (improve relations) between your two brothers and fear Allah, so that you may receive mercy." (Qs. Al-Hujurat : 10)

As for the scope of family life, Allah SWT says:

وَإِذَا حُجِرَ الْمُتَزَوِّجَاتُ عَلَىٰ مَا رَزَقْنَهُنَّ مِنْ بَنِي أَهْلِيهِنَّ فَارْتَأَيْنَهُنَّ إِذَا كُنَّ يَتَذَكَّرْنَ فِي مَا لَقِيْنَ ۚ وَلَا جُنَاحَ عَلَيْكُمْ إِذَا حَضَرَهُنَّ مِنْكُمْ رُجُوعٌ بَيْنَ يَدَيْهِمَا إِذَا اتَّفَقْتُمُ عَلَىٰ مَعْرَضٍ مِّنْهُنَّ بِمَالِكِكُمْ ۚ وَلَا تَجُنُّوا عَلَيْهِنَّ فِي مَا رَزَقْتُمُوهُنَّ عَلَىٰ طَرِيقِ الْبُرْءِ بَيْنَ يَدَيْهِمَا ۚ إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا

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"And if you are worried that there will be a dispute between the two, then send a peacemaker from the man's family and a peacemaker from the woman's family. "If both of them (the

peacemakers) intend to make improvements, Allah will surely give taufik to the husband and wife" (Qs. An-Nisa': 35)

وَأُولَٰئِكَ
نُفَعِلُهُمْ
رِزْقَهُمْ
مِمَّا كَسَبُوا
وَإِلَّا
لَآتَيْنَهُمْ
رِزْقًا
مِّنْ غَيْرِنَا
وَلَهُمْ
عَذَابٌ
عَظِيمٌ

²⁰. Sophar Maru Hutagalung, "Civil Justice Practice and Alternative Dispute Resolution", (Jakarta: Sinar Grafa, 2014), p. 322-333

²¹. Ministry of Religion of the Republic of Indonesia, *Op., cit*, p. 516

" And if a woman is worried about her husband's nusyuz or indifferent attitude, then there is nothing wrong with the two of them making true peace, and peace is better (for them) even though the man is stingy by nature. And if you get along with your wife well and guard yourself (from nusyuz and indifference), then indeed Allah is All-Knowing of what you do " (Qs. An Nisa ' :128)

B. Principles of Mediation Institutions

a. Mediation is Voluntary

In principle, the initiative to resolve disputes through mediation is subject to agreement between the parties. This can be seen from the nature of the binding force of the mediation agreement based on the strength of the agreement based on Article 1338 of the Civil Code. Thus, in principle, the choice of mediation is subject to the will or free choice of the parties to the dispute. Mediation cannot be carried out if only one party wants it.²²

b. Scope of Civil Disputes

If we look at the various statutory regulations governing mediation in Indonesia, it can be concluded that in principle the disputes that can be resolved through mediation are civil disputes. Article 85 paragraph (2) Law no. 23 of 1997 concerning Environmental Management states that dispute resolution outside of court does not apply to environmental crimes.²³

c. Simple Process

The voluntary nature of mediation gives parties the freedom to determine for themselves the mediation dispute resolution mechanism they want. In this way, the parties to the dispute are not trapped by the formalities of the event as in the litigation process. The parties can determine a simpler method compared to the formal process in court. Dispute resolution through litigation can take years, if the case continues to appeal, cassation, while the option of dispute resolution through mediation is shorter, because there are no appeals or other forms. The decision is *final and binding* , which means that the decision is *inkracht or* has permanent legal force. The term "*final*" means that the decision does not require further legal action. The meaning of "*binding* " is to impose a burden of legal obligation and demand obedience from legal subjects.

²² . *Ibid* , p. 325.

²³ . *Ibid* , p. 326.

In civil procedural law, the theory of *res adjudicate pro veritate habetur is known*, which means that if a decision is no longer possible to apply for legal action, then the decision itself has permanent legal force (*inkracht van gewijsde*) and therefore the decision is binding on the parties to the dispute. . As a consequence of this simpler method, mediation is often considered cheaper, and does not take much time compared to the litigation process or going to court.²⁴

d. The Mediation Process Maintains the Confidentiality of the Parties' Disputes

Mediation is carried out behind closed doors, so not everyone can avoid mediation negotiation sessions. This is different from judicial bodies where trials are generally open to the public.²⁵

C. The importance of mediation as an alternative for resolving family disputes (*conflicts*).

It cannot be denied that efforts to resolve a case are difficult, complicated and convoluted, that is what some people think, so there is talk that efforts have been made to resolve disputes wherever possible without going through the litigation process. For example, when dealing with a dispute, the parties involved in a lawsuit, especially the plaintiff as the party who took the initiative in the case, should end the dispute as far as possible through peace. Because no matter what, resolving cases through peace will always bring benefits to both parties.

Likewise with the benefits in terms of costs, of course the costs that will be incurred will be cheaper, because it will not cost too much and more importantly, peace will be able to restore good relations between the litigants. This is especially true if the parties involved in the lawsuit are *fellow* business partners, which requires an atmosphere of collegiality. You can imagine, if a problem arose between them, it was then resolved through a trial process which ultimately resulted in the two sides winning and losing. This will of course result in the breakdown of the collegial relationship between them. Likewise, good relationships between families will become strained or even broken, when they resolve a dispute, for example a fight between husband and

²⁴. *Ibid* , p.327.

²⁵. *Ibid* .

wife due to neglecting their obligations towards their partner or children, etc. To prevent family relationships from falling apart just because of negligence in carrying out obligations which could possibly be warned and corrected through deliberation as mentioned in the example above, a peaceful resolution is much more beneficial than the opposite.

The importance of mediation in this context is interpreted not only as an effort to minimize cases entering the Court, both at the first level Court and at the appellate level, so that the Judicial body avoids a backlog of cases, but more than that, mediation is understood and translated into the process. comprehensive dispute resolution with full sincerity to end an ongoing dispute.²⁶

If it is not the peace that is both hoped for by the disputing parties in the family then it will certainly trigger wider conflicts, such as between groups, relationships between families will be broken, moral and material losses will be incurred. For this reason, as a preventive measure, in every effort to resolve problems, it must be prioritized, preventing the causes of conflict means preventing harm. In the rules of fiqh, it is known as:

"ان ضرور يُكَلَّم
لما

" *Harm must be eliminated*"²⁷

This concept provides the understanding that humans must distance themselves from injustice (being hurt), and they should not cause danger (hurt) other people, especially fellow family members. Because of this, of course, if we realize that the family is the forerunner of relationships formed through marital bonds. Therefore , according to Abd. Thalib , in a family there are at least ties that contain three values, namely:

1. Religious Values, such as the words: "*based on the belief in the Almighty God*"
2. Sacred Values, like the words: "*bonds physically and spiritually*"
3. Magical Value, as found in the words : "*forming a happy and eternal family*".²⁸

²⁶. Sophar Maru Hutagalung, *Op., cit*, pp. 330-331

²⁷. Nashr Farid M Washil & Abdul Aziz M azam, "*Qawaid Fiqhiyyah*" (Jakarta: Pustaka Azam, 2013), p. 5

²⁸. Abd. Talib, "*Family Law and Engagement*", (Pekanbaru: Pustaka Maju, 2008), p. 25

D. Progressive Legal Theory

According to Satjipto Rahardjo⁴, progressive law does not accept law as an absolute and final institution, but rather is determined by its ability to serve humans. In the context of this thinking, law is always in the process of continuing to become.²⁹ Therefore, continued Satjipto Rahardjo, progressive law is a concept regarding how to judge. There is not just one way to judge; but there are various kinds so that progressive law has its own place. For example, a positive legalistic method of law is based solely on the law or spelling out the law.³⁰ And freeing legal science from the influence of legal positivism is the idealism of Satjipto's intellectual conscience.³¹

The term Progressive is an adjective which means liberal, advanced, radical, reformist, revolutionary and tolerant as opposed to the word conservative. If it is related to the law, then as stated by Satjipto Rhardjo and further quoted by Widodo Dwi Putro, it means that the law is expected to be able to keep up with the times, be able to respond to changes in the times with all the basics in them, and be able to serve the community by relying on the moral aspects of the enforcement human resources. the law itself.

Progressive law starts from the assumption that law is for humans, not the other way around, so that progressive law does not accept the concept of law as an absolute and final institution but is determined by its ability to serve humans. Law is defined as an institution that aims to lead humans to a just, prosperous life and make humans happy.

The birth of this progressive legal concept was motivated by a feeling of dissatisfaction with the developing theory and practice of traditional law, as well as awareness among legal practitioners of the extraordinary gap between law in theory (*law in book*) and law in reality (*law*

²⁹Satjipto Rahardjo, " *Progressive Law A Synthesis of Indonesian Law* ", (Yogyakarta: Genta Publishing, 2009), p . 5-6 .

³⁰. Satjipto Rahardjo , " *Progressive Law Action Not Text in his book Understanding Law from Construction to Implementation* , " (Jakarta: Rajawali Press, 2009) , p . 3

³¹. Faizal, " *The Meaning of Progressive Law* , " (Yogyakarta: Thafa Media, 2015, p. 3

¹ *in action*). . Another factor that supports the birth of this legal concept is the reality of the law's failure to respond to problems that occur in society.

In the theoretical realm, progressive law is considered to have a "special closeness" to Nonet and Selznick's type of responsive law which rejects the emphasis on dogmatic analyzes but links law to social goals. Still in the theoretical realm, progressive law as put forward by Romli Atmasasmita ¹ is also based on Roscou Pound 's *sociological jurisprudence legal theory* and Eugen Ehrlic 's *pragmatic legal realism* and is also strengthened by the *critical legal studies school* which tends to be a priori towards all situations and is *anti- -foundationalism* so that this theory does not believe in the success of the *analytical jurisprudence school* pioneered by Austin.

Starting from the theoretical facts above, it ¹ is quite reasonable that progressive law is often contrasted with the flow of legal positivism which sees law as something final and at the level of application it punishes in "black and white". According to Sabian Uthman, this reality is reflected in the legal system in Indonesia. In this case, Sabian said that in providing law for Indonesia, because it still holds the view that law is law (without paying attention to social turmoil) so there is no commitment and morality to build ideal law that is fair in addition to professional certainty, not transactional as a suggestion to enrich oneself or group.

Other criticisms directed at positivism, as expressed by Widodo, include theoretical and practical criticism. On a theoretical level, the weakness of legal positivism, which began to be realized when its weaknesses were exploited by fascist regimes, was first expressed by the founder of the legal history *school* , Friedrich Carl Von Savigny, who was then continued by his student, Puchta. ¹⁰ According to this school, it also acts as an opposition to legal positivism, which in essence says that law is not only issued by the authorities in the form of laws, but law is the soul of the nation (*volkgeist*) and its substance is the rules regarding people's living habits.

Meanwhile, in practical criticism, the legal positivism paradigm which places the law as complete law in turn places a judge as the mouthpiece of the law, in the sense that the judge's job is only to apply ⁹ the law mechanically and linearly to solve society's problems in accordance with ⁹ the sound of the law. invite. However, in reality, the legal paradigm that places judges as

prisoners of laws does not provide the opportunity for courts to become institutions that encourage the development of society.

If concluded, then progressive law can be identified through the following characteristics:

- a. Law rejects the *analytical tradition of jurisprudence* and various understandings of *legal realism*, *sociological jurisprudence* and *critical legal studies*.
- b. The law rejects the opinion that order *only* works through state institutions.
- c. Progressive law is aimed at protecting people towards legal ideals.
- d. Law rejects *the status quo* and does not want to make law a mindless technology but a moral institution.
- e. Law is an institution that aims to lead humans to a just, prosperous life and make humans happy.
- f. Progressive law is law that is pro-people and justice.
- g. The basic assumption of progressive law is that law is for humans, not vice versa.
- h. Law is not an absolute and final institution, but it really depends on how humans apply it.
- i. Law is always in the process of becoming (*law as process, law in the making*).³²

IV. Conclusions and recommendations

A. Conclusion

Islam is a religion that prioritizes peace and benefit for human life, both in terms of regulating the relationship between servants and their God and in terms of regulating human relations with humans. In the life of a nation, the law is an important thing to enforce to create peace and comfort in life. The law will be a mediator and reference in adjudicating a problem. In this case, for example, it cannot be denied that efforts to resolve a case are difficult, complicated and convoluted, according to some people's opinions, so there is a discourse that efforts have been made to resolve the dispute as far as possible without going through the litigation process. For example, when dealing with a dispute, the parties involved in a lawsuit, especially the plaintiff as the party who took the initiative in the case, should end the dispute as far as possible

³². H Fadil SJ & Nor Salam, "*Family Law Reform in Indonesia*", (Malang: UIN Maliki Press, 2013), pp.10-14.

through peace. Because no matter what, resolving cases through peace will always bring benefits to both parties.

7
Mediation is a process to reconcile the disputing parties. Mediation is an alternative and method of resolving a dispute in which the disputing parties submit the resolution to a mediator with the aim of obtaining a fair result that is acceptable to the disputing parties.

Mediation in a progressive legal view is about prioritizing win win solution in resolving various problems including resolving family conflicts and so on. Therefore, progressive law views that mediation is a very strategic and positive step in creating polarization so that problems can be resolved quickly and without involving litigation, so that the law will be more humane. This kind of thinking is in line with the principles upheld by Islam, namely peace and humanitarian principles.

B. Suggestion

The author advises readers or any party who is in a lawsuit, especially within the family sphere, to prioritize "mediation" as an alternative in resolving their conflict with various benefits that can be obtained.

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