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## Peace Efforts in the Divorce Cases: An Analysis on Verstek's Decision at the Religious Courts

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### Abstract

*Indonesian national legal regulations require judges to seek reconciliation between the parties in each trial effectively and optimally to prevent divorce from occurring. However, in practice, these efforts have not been carried out optimally so that divorce cases continue to increase, especially verstek decisions. This study aims to determine the implementation of peace efforts in divorce cases at the Parepare Religious Court and the causes of not achieving peace so that it was decided verstek. The method in this research is empirical juridical. The results of the study show that the implementation of peace efforts at the Parepare Religious Court has not been effective and optimal in preventing divorce, especially in verstek cases. This is because the judge's performance has not been maximized in seeking peace in every trial. In addition, the absence of one of the parties with the intention of facilitating the divorce process and the desire of the parties to divorce has made peace more difficult to achieve, so that in the end the judge made a verstek divorce decision.*

**Keywords:** Peace Efforts, Divorce Cases, Verstek Decision.

## Upaya Perdamaian dalam Perkara Perceraian: Analisis Terhadap Putusan Verstek di Pengadilan Agama

### Abstrak

*Peraturan hukum nasional Indonesia mewajibkan hakim mengupayakan perdamaian kepada para pihak pada setiap persidangan secara efektif dan optimal untuk mencegah terjadinya perceraian. Namun pada praktiknya, upaya tersebut masih belum dilakukan secara maksimal sehingga perkara perceraian terus menerus meningkat terutama putusan verstek. Penelitian ini bertujuan untuk mengetahui pelaksanaan dari upaya perdamaian dalam perkara perceraian di Pengadilan Agama Parepare serta penyebab tidak tercapainya perdamaian sehingga diputus secara verstek. Metode dalam penelitian ini adalah yuridis empiris. Hasil penelitian menunjukkan bahwa pelaksanaan upaya perdamaian di Pengadilan Agama Parepare belum efektif dan optimal untuk mencegah terjadinya perceraian terutama dalam perkara verstek. Hal ini disebabkan kinerja hakim belum maksimal dalam mengupayakan perdamaian pada setiap persidangan. Selain itu, ketidakhadiran salah satu pihak dengan maksud untuk mempermudah proses perceraian serta telah adanya keinginan dari para pihak untuk bercerai menjadi penyebab perdamaian semakin sulit dicapai, sehingga pada akhirnya hakim menjatuhkan putusan perceraian secara verstek.*

**Keywords:** Upaya Perdamaian, Perkara Perceraian, Putusan Verstek

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## A. Introduction

The legal provisions contained in Article 1 of Law Number 1 of 1974 concerning Marriage (hereinafter referred to as Law No. 1 of 1974), defines marriage as a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a family (household).<sup>1</sup> Who are happy and eternal based on the belief in the One and Only God.<sup>2</sup> Marriage results in the emergence of a bond between two people of different sexes who are bound and want to create a happy and eternal household. The rights and obligations that husbands and wives have to carry out in order a balanced manner of household life and association in society so that the goals of marriage that have been aspired to can be achieved.<sup>3</sup> However, in reality, the goals of marriage are not easily realized by the emergence of various conflicts and disputes between husband and wife which often end in divorce, especially in the current era of technological and information advances, various things are suspected to be triggers for conflict in the household.<sup>4</sup>

Dissolution of the marriage bond due to divorce at the will of the husband or wife or the will of both, which can originate from the non-fulfillment of rights and obligations as they should according to applicable marriage law. Divorce was chosen as the final solution by the parties in solving household problems. This is because the consequences are very large, especially if the parties already have children. The divorce will affect the child's psychology and mentality and can damage the brotherhood between each family. Therefore, an action or effort is needed to prevent or reduce the number of divorces, one of which is to make peace efforts by judges after the mediation process is not successful.<sup>5</sup>

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<sup>1</sup> Hasan Juhani and Muh Tahmid, "Public Perception of Early Marriage in Enrekang Regency Based on a Review of Islamic Law in Baraka District" 1, no. August (2022): 42–51.

<sup>2</sup> Republik Indonesia, "Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan (Pasal 39 Ayat (1) Dan (2))" (Jakarta, 1974).

<sup>3</sup> Evi Djuniarti, "Hukum Harta Bersama Ditinjau Dari Perspektif Undang-Undang Perkawinan Dan KUH Perdata," *Jurnal Penelitian Hukum De Jure* 17, no. 4 (2017): 445, <https://doi.org/10.30641/dejure.2017.v17.445-461>.

<sup>4</sup> Ahmad Faisal, Iain Sultan, and Amai Gorontalo, "Reproduction of Unregistered Polygamous: Unregistered Marriage Services and Marriage Simplification," *Al-Ulum* 20, no. 2 (December 12, 2020): 542–60, <https://doi.org/10.30603/AU.V20I2.3459>.

<sup>5</sup> Zulkifli Achmad, Supardin, and Asni, "The Effort of Judges in Finding The Solution of Divorce Case With Reconciliation Verdict Refers to Maqasid Al-Sharia Perspective (Case Study at The Religious Court

Conciliation efforts must be carried out by the judge as much as possible in order to minimize or reduce the divorce rate. But the fact is that peace efforts are often not reached between the parties, so the judge still decides on divorce. As a result, divorce decisions continue to increase every year. The verdict that is often handed down by judges because peace cannot be reached is the *verstek* decision<sup>6</sup>. A *verstek* decision is a decision handed down by a judge due to the absence of the defendant even though he has been legally and properly summoned. Based on the revised results of Book II of the 2021 Guidelines for Administrative and Technical Tasks of the Religious Courts issued by the Supreme Court, it is stated that a lawsuit can be granted with *verstek* if: The Defendant is absent for the second time; on the appointed second trial day, the defendant or the defendants did not send their legal representatives to appear before the defendant or the defendants had been duly summoned under the law.<sup>7</sup>

The absence of the defendant, whether husband or wife, causes a special event to be enacted as regulated in Article 125 Paragraph (1) HIR/Article 149 Paragraph (1) RBg, namely if on the appointed day the defendant is not present nor does he order another person to attend as representative, the judge can make a decision without her/his presence.<sup>8</sup> The defendant in divorce cases often does not attend court so the judge makes a decision in a *verstek* manner. As a result, the *verstek* decision dominates the number of divorce decisions in the Religious Courts ([www. badilag.net](http://www.badilag.net)), this condition also occurs in the Parepare Religious Court. Based on data obtained from the Case Register Book of the Parepare Religious Court, divorce decisions are dominated by *verstek* decisions which continue to increase every year. The high *verstek* verdict at the Parepare Religious Court can be seen in the following table:

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of Polewali Class 1 B),” *International Journal of Islamic Studies E-ISSN: 2*, no. 1 (2022): 179–90, <http://journal.uin-alauddin.ac.id/index.php/ijis%0ATHE>.

<sup>6</sup> Bernadheta Aurelia Oktavira, “Cara Mendapatkan Akta Cerai Jika Tidak Hadir Saat Sidang,” *Hukumonline.com*, 2022, <https://www.hukumonline.com/klinik/a/cara-mendapatkan-akta-cerai-jika-tidak-hadir-saat-sidang-lt5f61d56b4a024/>.

<sup>7</sup> Direktorat Jederal Badan Peradilan Agama Mahkamah Agung RI, *Pedoman Pelaksanaan Tugas Dan Administrasi Peradilan Agama*, 2021.

<sup>8</sup> Retnowulan Sutantio and Iskandar Oeripkartawinata, *Hukum Acara Perdata Dalam Teori Dan Praktek* (Bandung: Bandung Mandar Maju, 2019).

**Table 1. Verstek Decision Data on Divorce Cases at the Parepare Religious Court Year 2019-2022**

No.	Year	Number of Devorce Decisions	Verstek Decisions	Non- Verstek Decisions
1	2019	446	321	125
2	2020	380	323	57
3	2021	368	189	179
4	2022	406	254	152

*Source: Kepaniteraan Pengadilan Agama Parepare, 2022*

Based on data obtained from the Register Book of the Parepare Religious Court, it is known that the average divorce verdict from 2019 to 2022 verstek decisions dominate divorce decisions with a higher number of digits compared to non-verstek decisions. The high number of decisions indicates an indication of the inability of judges to seek peace between the parties. Regulations related to peaceful efforts in divorce cases have been regulated in many Indonesian legal literature, including those regulated in Article 39 Paragraph (1) of Law no. 1 of 1974<sup>9</sup> jo. Article 31 Government Regulation Number 9 of 1975 concerning Implementation of Law Number 1 of 1974 (hereinafter referred to as PP No. 9 of 1975)<sup>10</sup> jo. Article 65 and Article 82 of Law Number 7 of 1989 concerning Religious Courts (hereinafter referred to as Law No.7 of 1989) jo. Article 115 Presidential Instruction Number 1 of 1991 concerning Compilation of Islamic Law (hereinafter referred to as KHI). Article 39 Paragraph (1) Law No. 1 of 1974 jo. Article 65 Law no. 7 of 1989 jo. Article 115 KHI states that "a divorce can only be carried out before a court hearing after the court concerned has tried and failed to reconcile the two parties".

Furthermore Article 31 PP No. 9 of 1975 jo. Article 82 Law no. 7 of 1989 states that "the judge who examines the divorce suit tries to reconcile the two parties and as long as the case has not been decided, efforts to reconcile can be made at each trial session". Based on these articles, the judge has the obligation to

<sup>9</sup> Undang-Undang RI. Nomor 1 Tahun 1974 Tentang Perkawinan.

reconcile the parties to the dispute before making a decision.<sup>11</sup> Efforts to reconcile can be made at each trial session. The judge in seeking peace between the litigants will continue at every trial, including at the last trial with the agenda for imposing a decision. At the final trial, the panel of judges will still try to reconcile the parties once again. If the parties still insist that they do not want to reconcile, then the judge will issue a divorce decision.<sup>12</sup> For this reason, the limits of conciliation efforts cannot be determined only in the number of trials, but are still carried out until before the judge's decision is rendered. If these efforts have been attempted optimally but are not successful, then only then can the judge issue a divorce decision.<sup>13</sup>

The purpose of conciliation efforts in divorce cases is to influence the parties who originally wanted a divorce to think again and decide to withdraw the lawsuit that has been submitted to the court so that no divorce occurs. Then, peace efforts were also made in order to realize the ideal goal of marriage based on Law No. 1 of 1974, namely to form a happy and eternal family based on Belief in One Almighty God<sup>14</sup>. In addition, as a manifestation of the creation of the principle of complicating divorce as contained in the general elucidation of number 4 letter e of Law no. 1 of 1974, namely: "Because the purpose of marriage is to form a happy, eternal and prosperous family, this law adheres to the principle of making it difficult for divorce to occur.<sup>15</sup> In order for a divorce to be possible, there must be certain reasons and it must be done before the court"<sup>16</sup>. This article aims to find out and explain the peaceful efforts in divorce cases that have been implemented by the Parepare Religious Court, as well as to reveal the causes of not achieving

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<sup>11</sup> Zulkifli Yus, "Mediasi Dalam Penyelesaian Sengketa Perkawinan Pada Mahkamah Syar'iyah Di Aceh," *El-Usrah: Jurnal Hukum Keluarga* 5, no. 2 (May 12, 2023): 1–28, <https://jurnal.ar-raniry.ac.id/index.php/usrah/article/view/17893>.

<sup>12</sup> Lisfer Berutu et al., "E-Court System In Realizing Simple, Fast And Low-Cost Civil Justice: Learning From Indonesian Experience," *Journal of Positive School Psychology* 6, no. 7 (2022): 2805–19, <http://journalppw.com>.

<sup>13</sup> Sudirman L., *Perdamaian Perkara Perceraian Perspektif Undang-Undang Dan Maqashid Al-Syari'ah*, 1st ed. (Parepare: Nusantara Press, 2020), 27–28.

<sup>14</sup> Hasdiana Juwita Bintang, "A Legal Protection Of Children To Adults As Victims Parental Divorce According To The Marriage Law Number 16 Of 2019 Concerning Marriage" 10, no. 5 (2022): 509–16.

<sup>15</sup> Asep Saepullah, Ahmad Rofi, and Putri Berlian Sari, "Fenomena Childfree Pada Pasangan Muda Ditinjau Berdasarkan Hukum Keluarga Islam (Study Kasus Di Kota Cirebon)," *Mahkamah: Jurnal Kajian Hukum Islam* 8, no. 1 (2023).

<sup>16</sup> Republik Indonesia, "Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan (Pasal 39 Ayat (1) Dan (2))."

peace in divorce cases that were tried so that the judge passed a verstek decision. This study can provide scientific contributions to the field of civil procedural law, particularly related to the implementation of amicable measures in divorce cases, as well as being a new reference in efforts to reduce the ever-increasing number of divorces, especially divorce cases that are decided by verstek. At this point it makes the writing of this article important, as a value of scientific novelty in the field of civil law.

## **B. Literature Review**

Settlement is an agreement agreed upon by both parties with the aim of ending a case that is in process, or to prevent a case from arising. According to Subekti, peace is a formal agreement, because it is held according to a certain formality, otherwise peace is not binding and invalid.<sup>17</sup> Peace can be sought by third parties, both inside and outside the courtroom. In the event that the case has been submitted to the Court, the judge will act as a third party seeking peace by providing advice, advice, explanations and assistance to the parties at each trial.<sup>18</sup>

Peace efforts are prioritized in solving a case, especially in divorce cases.<sup>19</sup> This is because by achieving peace, besides being able to save the integrity of the household, child care can also be carried out as it should. Therefore, conciliation efforts in divorce cases must be pursued effectively, so that the judges try to find the reasons behind the dispute as far as possible. As in divorce cases due to disputes and quarrels, the judge must look for the causal factors of these disputes and quarrels. And if the problem is known, the judges can easily invite and direct the disputing parties to make peace.<sup>20</sup>

Judges are required not only to comply with the formal provisions of the proceedings, namely simply to find facts, the quantity and quality of disputes and disputes. Rather, the judge, in carrying out the function of conciliation, also looks

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<sup>17</sup> Subekti, *Aneka Perjanjian*, 10th ed. (Bandung: PT. Citra Aditya Bakti, 1995).

<sup>18</sup> Made Rai Diascitta Hardi Sentana, I Wayan Wesna Astara, and I Nyoman Gede Sugiarta, "Peranan Hakim Untuk Mendamaikan Para Pihak Yang Bersengketa Dalam Perkara Perdata Di Pengadilan Negeri Denpasar," *Jurnal Analogi Hukum* 2, no. 2 (2020): 203–8, <https://doi.org/10.22225/ah.2.2.1933.203-208>.

<sup>19</sup> Amarulloh Amarulloh, Mukhidin Mukhidin, and Nuridin Nuridin, "Prosecution of Livelihood by Judge Against Petitioner in Verstek's Decision" 3 (2022), <https://doi.org/10.4108/eai.28-5-2022.2320540>.

<sup>20</sup> H. Abdul Manan, *Penerapan Hukum Acara Perdata Di Lingkungan Peradilan Agama* (Jakarta: Yayasan al Hikmah, 2000).

for and finds the factors behind disputes and quarrels. Because it is impossible for a judge to be able to effectively invite and persuade the parties to make peace if the judge himself does not know the causes of disputes and fights. In addition, if the judges only seek peace in the shortest possible time, of course such peace efforts will not bring beneficial results to both parties to the dispute.<sup>21</sup>

Settlement in civil procedural law known as "*dading*" is an agreement or agreement approved by both parties to the dispute to end the dispute over a case that is being resolved by the court.<sup>22</sup> Article 1851 Book of Laws-The Civil Code (KUHPerdata) states peace is an agreement whereby both parties, by handing over or holding an item, end a case that is hanging or prevent a case from arising.<sup>23</sup> In Islamic law, Peace is known as "*islah*" which means repairing, reconciling, or eliminating disputes. *Islah* is trying to create peace, bring harmony, encourage people to make peace in resolving disputes between them by producing decisions that are not detrimental to both.<sup>24</sup>

Peace efforts are efforts taken to resolve disputes between parties with the help of third parties. These efforts can be made both inside and outside the court.<sup>25</sup> In the event that reconciliation is made out of court, the third party may come from the family, such as in a household dispute between husband and wife. Peace is sought by third parties or hakam who come from the families of each party, both husband and wife. As in the Qur'an Surah An-Nisa' verse 35, that if there is a dispute between husband and wife then send a judge from the husband's family and the wife's family.<sup>26</sup> This is because a third party This person will know more deeply about the condition of the husband and wife's family and get closer to the

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<sup>21</sup> M. Yahya Harahap, *Kedudukan Kewenangan Dan Acara Peradilan Agama* (Jakarta: Sinar Grafika, 2003), 66.

<sup>22</sup> L., *Perdamaian Perkara Perceraian Perspektif Undang-Undang Dan Maqashid Al-Syari'ah*.

<sup>23</sup> Manan, *Penerapan Hukum Acara Perdata Di Lingkungan Peradilan Agama*.

<sup>24</sup> L., *Perdamaian Perkara Perceraian Perspektif Undang-Undang Dan Maqashid Al-Syari'ah*.

<sup>25</sup> Ummul Khaira and Azhari Yahya, "Pelaksanaan Upaya Perdamaian Dalam Perkara Perceraian (Suatu Kajian Terhadap Putusan Verstek Pada Mahkamah Syar'iyah Bireuen) (Reconciliation Efforts in a Divorce Lawsuit (A Review to the In-Absentia Decision at the Shariah Court of Bireuen))," *Jurnal Penelitian Hukum De Jure* 18, no. 10 (2018): 319–34.

<sup>26</sup> Kementerian Agama RI, *Al-Qur'an Dan Terjemahnya* (Jakarta: Yayasan Penerjemah/Penafsir al-Qur'an, 2007), 84.

truth.<sup>27</sup> Among the Bugis community in Parepare Regency, usually those who act as judges (third parties) are the men's family members (husbands) and/or the women's family members (wife) who are the most heard, respected, respected and elder in the family.

Peace that has been attempted by the family or the judge is not always successful, so that one of the parties, either husband or wife, then submits a lawsuit to court.<sup>28</sup> In such circumstances, peace will be sought again by a third party, namely the judge. This reconciliation will be attempted by the judge at each trial by providing advice, advice, explanations, and assistance as long as requested by both parties. This is because the final result of peace comes from the agreement desired by the parties.<sup>29</sup>

Based on Article 131 Paragraph 1 Het Herziene Indonesisch Regulation (HIR), efforts to reconcile are imperative. That the judge is obliged to try to reconcile the parties to the dispute, and if this is not carried out, the consequence will be null and void,<sup>30</sup> which is effective and optimal in every trial, especially in divorce cases by reason of disputes and quarrels.

The judge as far as possible finds the things that lie behind the dispute and the causal factors of the problems between the parties. If in the examination of divorce cases for reasons of disputes and quarrels the judge does not make optimal efforts, then the examination and decision may be null and void or can be canceled because the rules of procedure are not fulfilled. However, the obligation to reconcile will be different if the divorce case is for other reasons, such as adultery, physical or mental disability which results in the inability to carry out the obligation. Efforts to reconcile cannot be prosecuted optimally because these efforts are carried out by judges only as a moral obligation, not a legal obligation.<sup>31</sup>

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<sup>27</sup> Syahrizal Abbas, *Mediasi: Dalam Perspektif Hukum Syariah, Hukum Adat, Dan Hukum Nasional* (Jakarta: Kencana Prenada Group, 2009), 185–186.

<sup>28</sup> Ahmad Baihaki, "Upaya Pemenuhan Hak-Hak Keperdataan Anak Yang Lahir Di Luar Perkawinan" 9, no. 1 (2023): 187–209.

<sup>29</sup> Harahap, *Kedudukan Kewenangan Dan Acara Peradilan Agama*.

<sup>30</sup> M. Yahya Harahap, *Hukum Acara Perdata* (Jakarta: Sinar Grafika, 2006), 239.

<sup>31</sup> Kamaruddin et al., "Justice, Mediation, and Kalosara Custom of the Tolaki Community in Southeast Sulawesi from the Perspective of Islamic Law" 7, no. 2 (2023): 1077–96, <https://doi.org/10.22373/sjhc.v7i2.13183>.



### C. Research Methods

This research uses empirical law research methods, namely; positive legal research regarding the behavior of community members in social life<sup>32</sup>. This method is used to provide an overview of the facts found in the field related to law enforcement, and is used to analyze the attitude of judges as law enforcers in implementing written legal provisions, especially in terms of implementing reconciliation efforts in divorce cases that were decided *verstek*, and then linked to laws and legal theories systematically.

The approach in research uses a sociological juridical approach, because law is a symptom in society, as well as a social institution in the system of people's lives. The sociological juridical approach is a research approach that seeks to reveal the implementation of positive law and its impact on people's lives, as well as the influence of non-legal factors on the formation of positive law.<sup>33</sup>

The Parepare Religious Court was used as a research location with the consideration that the percentage of divorced people living in Parepare City is the highest in South Sulawesi Province in 2021.<sup>34</sup> And the Parepare Religious Court is relatively high in passing *verstek* divorce decisions compared to non-*verstek* decisions every year.<sup>35</sup>

Primary data sources were obtained from field research directly with parties related to the implementation of conciliation efforts in divorce cases, such as *verstek* decisions at the Parepare Religious Court. Meanwhile, secondary data sources were obtained from library research in the form of books, laws and regulations, legal journals, legal articles, relevant researches.

Data collection techniques were carried out through direct interviews with informants, namely Parepare Religious Court Judges, Plaintiffs and Defendants, Substitute bailiffs, Substitute Registrars or Registrars, Chairperson of the Parepare

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<sup>32</sup> Asri Wijayanti and Lilik Sofyan A, *Strategi Penulisan Hukum* (Bandung: Lubuk Agung, 2011), 97.

<sup>33</sup> Ediwarman, *Monograf Metodologi Penelitian Hukum: Panduan Penulisan Skripsi, Tesis, Dan Disertasi* (Medan: Sopi Media, 2015), 50.

<sup>34</sup> Viva Budy Kusnandar, "Penduduk Cerai Hidup Di Kota Parepare Tertinggi Se-Sulawesi Selatan Pada 2021," Databoks, 2022, <https://databoks.katadata.co.id/datapublish/2022/06/21/penduduk-cerai-hidup-di-kota-parepare-tertinggi-se-sulawesi-selatan-pada-2021>.

<sup>35</sup> Harmina Arifin, "Panitera Pengganti Pengadilan Agama Parepare" *Interviewed on February, 8* in PA Parepare Office (Parepare, 2023).

Religious Court, Advocates and Academics. As well as a documentation study conducted to obtain data related to verstek and non-verstek decisions. The data that has been obtained is then analyzed qualitatively and described descriptively with a focus on answering the research problems that have been formulated.

## **D. Results and Discussion**

### **Implementation of Peace Efforts in the Divorce Cases**

Peaceful efforts in divorce cases at the Parepare Religious Court have been made both inside and outside the courtroom. Efforts to reconcile in the trial are carried out by the panel of judges by trying to reconcile the parties, this step refers to the provisions of Article 39 Paragraph (1) of Law No. 1 of 1974 jo. Article 31 PP No. 9 of 1975 jo. Article 65 and Article 82 of Law no. 7 of 1989 jo. Article 115 KHI. Meanwhile, peace efforts outside the trial are carried out by mediators, both non-judge mediators and judge mediators. This effort is often known as mediation and the procedure is regulated in Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts.

In principle, the implementation of peace efforts in divorce cases is determined by the presence of the parties to court. If the parties attend the trial, peace efforts, both inside and outside the trial (mediation) can be carried out. However, if only one party is present, then the efforts that can be made are peace efforts in court by the judge who hears the case. In a divorce case attended by the parties, the panel of judges will directly advise and reconcile them. Whereas in a case where only one of the parties, namely the plaintiff, is present, and without the presence of the defendant, it is referred to as verstek, the panel of judges only gives advice or suggestions to the plaintiff to discourage divorce.<sup>36</sup>

The stages of peace efforts attended by both parties can take place in several hearings before the verdict is read. Conciliation efforts began at the first trial, after the chairman of the panel opened the trial; the panel of judges would ask the parties about their desire to make peace. Then the panel of judges will

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<sup>36</sup> Muh. Gazali Yusuf, "Hakim Pengadilan Agama Parepare" Interviewed on January, 17 (Parepare, 2023).

advise and suggest the parties to reconcile and reconcile. If it is not successful, the parties will follow the mediation process. If the mediation fails in the sense that the parties have not agreed to make peace, then at subsequent sessions the panel of judges will continue to try to make peace. If the divorce case that is being processed in court is only attended by one of the plaintiffs, then the reconciliation process carried out by the panel of judges will only take place in 2 (two) sessions. This is because in a divorce case without the presence of one of the parties, namely the defendant, usually the trial will only take place 2 (two) times. Generally, at the trial the two judges will immediately pass a *verstek* divorce decision.<sup>37</sup>

The process of conciliation efforts in a *verstek* divorce case began at the first trial, with the panel of judges advising the plaintiff because the defendant was not present at the trial. If at the first trial, the plaintiff has been advised, but to no avail, where the plaintiff still wishes to continue the case, the trial will be adjourned and another summons will be made to the defendant. In addition, the panel of judges will also order the plaintiff to meet an elderly or respected person in his family to seek peace again with the defendant. However, if at the next session the defendant is also not present, the panel of judges will try to advise the plaintiff again, and if that is not successful, the case will be continued with the examination process. And the plaintiff is asked to prove the arguments of his lawsuit, if proven without further delay the panel of judges will issue a *verstek* decision.<sup>38</sup>

"Before registering their divorce case with the Religious Court, efforts to reconcile are usually carried out by the family, local village officials, religious or community leaders, as well as the Marriage Preservation Advisory Board (BP4) located at the local Religious Affairs Office (KUA). However, peace was not achieved so that the parties ultimately filed a lawsuit or application for divorce to the Religious Courts.<sup>39</sup>

When the parties submit a lawsuit or application for divorce to the Religious Courts, the parties must meet the requirements for registering a case. In

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<sup>37</sup> Iskandar, "Hakim Pengadilan Agama Parepare" Interviewed on January, 17 (Parepare, 2023).

<sup>38</sup> Nazar Fuadi Nur, Azhari Yahya, and Efendi Idris, "Maqashid Shariah Study on The Recording of Unregistered Marriage in The Family Card," *Jurnal Penelitian Hukum De Jure* 22, no. 3 (2022): 411, <https://doi.org/10.30641/dejure.2022.v22.411-422>.

<sup>39</sup>Hj. Irmawati, Ketua Pengadilan Agama Parepare, Interviewed on January, 17 2023.

this case, one of the requirements that must be attached is a statement from the lurah stating that the lurah has tried to help resolve the case between the parties by reconciling them, but to no avail. For this reason, the village head submits the settlement of cases to the court, in this case the panel of judges.<sup>40</sup> After the case has been registered with the Parepare Religious Court, the peace process will continue to be carried out by the panel of judges at each trial. However, efforts to reconcile are not limited and only occur in the room of the Religious Courts. In this case said Hj. The prize is that the panel of judges gives an opportunity to the parties if they want to make peace outside of the trial. For this reason, usually at each trial the panel of judges will ask about the development of peace, and if peace has been reached then the case will be withdrawn.<sup>41</sup>

Attempts to reconcile, the panel of judges at the Parepare Religious Court have basically been carried out, both in divorce cases which were decided in the usual way and those which were decided in a verstek manner. This is based on research data in the field which states that:

*"The panel of judges at each trial always asks about the plaintiff's desire to settle the case peacefully, then advises the plaintiff to think again and want to withdraw the lawsuit. However, the plaintiff does not want to make peace, and remains in his desire to part with the defendant."<sup>42</sup>*

*"In the first trial the panel of judges advised the plaintiff to reconsider his desire for divorce. However, at the next trial, the panel of judges tended to only ask about the progress of the settlement, the plaintiff's willingness to make peace, if they still did not want peace, then they would proceed with the process of proving the argument for the lawsuit. Because the plaintiff stated that they did not want to reconcile, the trial continued with the case examination process."<sup>43</sup>*

The description above shows that the panel of judges had indeed attempted peace, but in reality, peace was not reached so that in the end the judge still decided on divorce. Even though peace efforts are one way to avoid and prevent divorce. The implementation of peace efforts aims to try to resolve cases through peaceful means by advising or suggesting parties who initially want a

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<sup>40</sup> Harmina Arifin, Panitera Pengganti Pengadilan Agama Parepare, Interviewed on January, 17 2023.

<sup>41</sup>Hj. Haderiah, Panitera Pengadilan Agama Parepare, Interviewed on January, 17 2023.

<sup>42</sup> Rita Apriani S, "Penggugat Perkara", Interviewed on January, 17 2023.

<sup>43</sup> Sri Jayanti, "Penggugat Perkara", Interviewed on January, 17 2023.

divorce to think again so as to withdraw the lawsuit and no divorce occurs. Divorce is something that should be avoided because it will bring greater harm than benefit. According to the theory of *maslahah*, everything must provide benefits and avoid harm<sup>44</sup>. However, divorce actually brings more harm than benefit, especially for parties who already have children. Therefore, it is appropriate if the divorce process is complicated in court.

In addition, the main purpose of marriage is to form a family that is eternally happy and prosperous, so this Law adheres to the principle of making it difficult for divorce to occur. To allow for divorce, there must be certain reasons and must be done before the Court. In accordance with the general explanation of number 4 letter e of Law no. 1 of 1974. In line with the provisions in Article 39 Paragraph (1) and (2) of Law no. 1 of 1974. In this regard, there are procedures and conditions that must be followed by the parties if they wish to divorce, one of which is by participating in peace efforts at trial and must have sufficient reasons that the husband and wife will not be able to live in harmony as husband and wife.

The implementation of peace efforts as summarized by Abdul Manan is an obligation that has been mandated by Article 39 Paragraph (1) and (2) of Law No. 1 of 1974 jo. Article 31 PP No. 9 of 1975 jo. Article 65 and Article 82 of Law no. 7 of 1989 jo. Article 115 KHI, that the panel of judges is obliged to seek peace with the parties at each trial before a decision is rendered. The panel of judges is charged with working effectively and optimally in seeking peace between the parties, especially in divorce cases on the grounds of disputes and quarrels. The panel of judges must also find out as much as possible the things that are behind the dispute and the factors that cause problems between the parties<sup>45</sup>

In fact, in the *Parepare Religious Court*, the implementation of peace efforts before the trial has not been carried out optimally in every trial so that it does not work effectively to prevent divorce. This is motivated by several problems, such as the absence of the defendant, so that the panel of judges can

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<sup>44</sup> Jamaluddin, "Teori *Maslahat* Dalam Perceraian Studi Pasca Berlakunya UU No. 1 Tahun 1974 Dan Kompilasi Hukum Islam," *Asy-Syirah* 46, no. 11 (2012).

<sup>45</sup> Manan, *Penerapan Hukum Acara Perdata Di Lingkungan Peradilan Agama*, 152-153.

only seek peace with the plaintiff. In addition, the performance of judges in seeking peace is still not optimal, especially in the verstek case. Including the increasing number of cases that go to the Religious Courts, the resources of judges are minimal. Based on the statement of one of the plaintiffs as described above, that the panel of judges tended to only try to advise the plaintiff at the first trial, while at the second trial the panel of judges only asked the plaintiff's willingness to make peace without trying to re-advise. Whereas in verstek cases, conciliation efforts are only carried out in 2 (two) trials, because usually the judge will immediately issue a verstek divorce decision in the second trial. So it's normal if it's not optimal.

The lack of peace efforts made by judges at each trial shows that these peace efforts are essentially carried out only to fulfill technical formalities or procedures. This was also confirmed by the advocate Rusdiyanto, that:

*"The peace efforts carried out by the panel of judges at the Religious Courts are still not optimal and seem to only fulfill the rules so that the decisions handed down by the judges are not null and void".<sup>46</sup>*

The panel of judges should be serious about seeking peace, especially in verstek divorce cases, because in verstek cases, reconciliation can only be sought at each trial, while reconciliation through mediation is no longer needed, because the defendant is not present. Then, the judge's opportunity to seek peace is limited to two trials in the verstek case.

Peace in divorce cases has its own noble value. Because by achieving peace between husband and wife, it is not only the integrity of the household that can be saved but also the continuation of child care can be carried out as it should. Therefore, in seeking peace in divorce cases, judges should find out as much as possible the background of the disputes that occurred, mainly on the grounds that there were constant bickering and bickering<sup>47</sup>. Thus the more peace efforts that are realized, it will be able to reduce the number of divorces in court.

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<sup>46</sup> Rusdiyanto, Lawyer and Scholar, Interviewed on March, 27 2023.

<sup>47</sup> Manan, *Penerapan Hukum Acara Perdata Di Lingkungan Peradilan Agama*.

**The Factors Causing Failed Peace of Divorce Cases at the Parepare Religious Court**

Causes of Failure to Achieve Peace Efforts in Divorce Cases

At the Parepare Religious Court, cases of the absence of the defendant or the respondent from attending court in the 2019-2022 period ranged from more than 200 cases each year. These cases can occur due to various reasons. For more details, can be seen in the following table:

**Tabel 2. Data on Divorce Cases Without the Presence of the Defendant (Verstek) at the Parepare Religious Court for 2019-2022**

No.	Year	Number of Verstek Cases	The Verstek Defendants Reasons	
			The Absent Defendants	The Unknown Defendant's Address (undetected)
1	2019	321	304	17
2	2020	323	314	9
3	2021	189	176	13
4	2022	254	239	15

Source: Kepaniteraan Pengadilan Agama Parepare, 2023.

Based on the table above, it is known that from 2019-2022 divorce cases without the presence of the defendant have increased. The defendant's absence from court can be caused by various reasons, including:

**There was a deliberate factor on the part of the defendant**

According to Jumiati,<sup>48</sup> as a substitute bailiff at the Parepare Religious Court, the summons was made by the bailiff by submitting a summons directly to the defendant at his place of residence, and the letter was received and signed directly by the defendant which was then recorded in the minutes of the summons that the summons had been received by the defendant. However, in reality, even though the defendant knew there was a summons to attend the trial, the defendant chose not to attend. This often happens in the Religious Courts. Based on data obtained at the Parepare Religious Court in the period 2019-2022, cases of

<sup>48</sup>Jumiati, Jurusita Pengganti Pengadilan Agama Parepare, *Wawancara*, pada tanggal 17 Januari 2023.

the defendant's absence due to intentional factors are a factor that often occurs in addition to other factors.

One of the deliberate factors of the defendant can be seen in the divorce case that occurred in 2022 with case number: 542/Pdt.G/2022/PA Parepare. The summons to the defendant has been carried out legally and properly. However, on the days of the trial only the plaintiff was present, while the defendant was never present nor did he send another person as his attorney to attend the trial.

The defendant stated that it was true that the summons had reached him, but he chose not to come. The defendant argued that it was up to the plaintiff if they wanted to bring their household case to the Religious Courts. The defendant already feels reluctant to deal with the plaintiff, so even if the panel of judges grants the plaintiff's claim, the defendant has no objections at all. The defendant chose not to attend on the grounds that the divorce process would be easier and shorter than the defendant attending trial. The results of an interview with the defendant, aged 28, residing in Pinrang, stated that the defendant was aware of a summons against him to appear in court, but he chose not to attend on the grounds that the divorce process could be concluded more quickly by the court<sup>49</sup>

According to Hartini Ahada,<sup>50</sup> a judge at the Parepare Religious Court, the verstek decision has become the dominant decision in divorce cases. One of the reasons is because information has spread in the community that if the defendant is not present, it will speed up the divorce process itself. So that the intentional factor appeared on the part of the defendant not to attend the trial, plus the defendant also wanted the divorce itself. Then, in court practice the community also understands that if at trial the two defendants are also not present, the plaintiff immediately brings witnesses to strengthen the argument for his lawsuit so that the judge can immediately examine the main case and if all procedural law trial procedures have been fulfilled, the judge makes a verstek decision.

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<sup>49</sup>Abdullah (nama samara) umur 28 tahun, tergugat di Pinrang, *Wawancara*, di Pinrang tagl 25 Februari 2023.

<sup>50</sup>Hartini Ahada, hakim Pengadilan Agama Parepare. Tahun 2022.



### **The defendant is outside of jurisdiction**

The defendant sometimes does not appear at the trial not on purpose but is not present. In several cases, the defendant already knew about the summons to appear before the court, however he could not attend due to various reasons, one of which was being out of town due to work matters. This is based on an interview with the defendant named Udhin bin Bandung (anonime named) aged 48 years, originally having his address at Jalan Keterampilan, Cappagalung Village, West Bacukiki District, Parepare City, which stated:

*"He never attended the trial even though he had been legally and properly summoned because on the day the trial took place, he was outside the area so he could not attend the trial".*

While the remainder concerns the case that the defendant had moved to another city, so the summons was made by asking for assistance from the Religious Courts where the respondent was. This is what happened in the case with case number 447/Pdt.G/2020/PA Parepare. The absence of the respondent in this case was due to the fact that the respondent resides outside the city. So it was difficult for him to fulfill the court summons. Basically, if the respondent still wishes to defend his rights, he can send his attorney to appear before the court. However, in their considerations, the panel of judges stated that the respondent never appeared before the trial nor did he order another person to appear as a proxy. In addition, the respondent also did not provide any reasons for his absence. Then the panel of judges considered that the absence of the respondent was not caused by a legal obstacle according to law, therefore the case examination process was continued without his presence.

The defendant's address is unknown (undetected)

Another thing that causes the defendant or the respondent not to appear at the trial because the address is not known. So in circumstances like this special rules apply to summons as stipulated in PP No. 9/1975 can be carried out by announcing through one or several newspapers or other mass media determined

by the Religious Courts.<sup>51</sup> As in case number 473/Pdt.G/2021/PA Parepare with the defendant named Ulandari binti Sawal, now her address within the territory of the Republic of Indonesia (undetected).

The whereabouts of the defendant are not known, so the summons is made by way of announcing it through one or several newspapers or other mass media determined by the Religious Courts. In connection with this case, the Parepare Religious Court made a summons via PT. Radio Suara Mesra Calls via radio broadcasts are made 2 (two) times within one month's gap between the first and second broadcasts. However, on the first trial day and thereafter, the defendant was never present nor did he send his attorney, even though he had been summoned officially and properly. Plus, the defendant's absence was also without a valid reason according to law, so that the case examination process continued without the defendant's presence. Cases of the defendant's absence due to unknown address are rare compared to other cases.

Based on the description of the case above, it can be concluded that the implementation of peace efforts is often not achieved, one of which is caused by the absence of the defendant to court. The results of the research in the verstek divorce case at the Parepare Religious Court, show that the dominant reason for the defendant's absence at trial is due to the wishes of the defendant himself.

The absence of the defendant due to the wishes of the defendant himself was also reinforced by the statement of the Substitute Advocate for the Parepare Religious Court, Andi Istanbul, that in cases of verstek divorce cases, the defendant's absence at trial was generally caused by the wishes of the defendant himself. Meanwhile, in cases where the address is not known, it only ranges from 5%, while the majority is due to the wishes of the defendant himself.<sup>52</sup>

The defendant's desire not to attend court is sometimes with the intention of facilitating the divorce process itself. This fact has been justified by the defendant and the judge. That there is information in the community that if the defendant is not present at the trial, the divorce process will proceed faster than if

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<sup>51</sup>Republik Indonesia, Peraturan Pemerintah Nomor 9 Tahun 1975 Pasal 26 sampai dengan Pasal 29.

<sup>52</sup>Andi Istanbul, Panitera Penggati PA Parepare, *Wawancara*, di Kantor PA Parepare, tgl. 17 Januari 2023.

the defendant is present. In addition, the plaintiff also understands that if the defendant is not present at the second trial, then he can immediately bring witnesses who support the argument for his lawsuit, so that the panel of judges can immediately examine the case, and if this is fulfilled, all judges will immediately issue a *verstek* decision.

Fikri, Lecturer at the Faculty of Sharia and Islamic Law at the Parepare State Islamic Institute stated that *verstek* has become a strategy used to facilitate divorce. Then according to Saidah, Lecturer at the Faculty of Sharia and Islamic Law at the Parepare State Islamic Institute, stated that basically in procedural law, *verstek* is a natural phenomenon, where the defendant's absence is due to reasons of remote residence, illness, and so on. However, in practice, *verstek* has turned into something that is fabricated or engineered, where the absence of the defendant is due to an intentional element, and sometimes it is actually the result of the agreement of the parties themselves so that one of the parties does not need to be present with the intention of speeding up the divorce process.<sup>53</sup>

*Verstek* is included in the civil procedural law section philosophically to provide legal certainty and protect the plaintiff from the arbitrariness of the defendant. For this reason, the process of imposing a *verstek* should be tightened, and judges are required to be careful and prudent in passing a *verstek* decision in a divorce case. In essence, divorce is something that is complicated as contained in the general explanation number 4 letter e of Law no. 1 of 1974.

However, in reality, the *verstek* procedural has opened loopholes to facilitate divorce. It is understood from Erfani Aljan Abdullah's statement that *verstek* has indeed opened up opportunities to facilitate divorce, but in fact the divorce process is still running as it should, because there is still a process of conciliation efforts, proof, which is not immediately decided by the judge. In this case, the *verstek* divorce case only shortens the trial process and does not directly facilitate divorce.<sup>54</sup>

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<sup>53</sup> Fikri and Saidah, "Lecturers in IAIN Parepare" Interviewed on March, 23 (Parepare, 2023).

<sup>54</sup> Erfani Aljan Abdullah, "Sisi Lain Putusan *Verstek*," Mahkamah Agung Republik Indonesia Direktorat Jenderal Badan dan Pengadilan Agama, 2016, <https://badilag.mahkamahagung.go.id/artikel/publikasi/artikel/sisi-lain-putusan-verstek-oleh-erfani-aljan-abdullah-4-1>.

Therefore, conciliation efforts in divorce cases are one of the procedures that are still and must be taken by one or the parties in every trial. Even though in the verstek case this effort becomes more difficult to carry out, the judge has an obligation to reconcile so that it is carried out seriously in optimizing peace. So that peace efforts will not only end as mere rules but as concrete actions in order to prevent and complicate divorce. These three factors determine the creation of peaceful efforts in divorce cases in court.

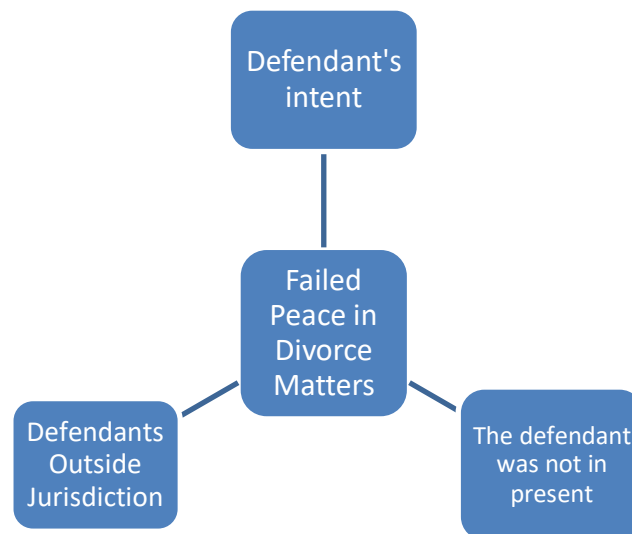


Figure 1: research analysis flowchart, 2023

The parties agree to reconcile and reconcile in divorce cases, then peace is considered to have been reached. The form of creating peace is by revoking the case. According to Abdul Manan,<sup>55</sup> the revocation of divorce cases in practice in the Religious Courts has two opinions, namely: (1) it is sufficient to record the revocation in the minutes of the trial and the case is crossed out from the list of cases that have been exist in the Religious Courts, and (2) it is not sufficient to record the revocation of the event in the minutes of the trial but a product must be made in the form of a stipulation or decision. It is necessary to make a court product in the form of a stipulation or decision to find out the existence of *nebis in idem* and for certainty of the amount of fees to be paid by the applicant/plaintiff in the revoked case.

<sup>55</sup> Manan, *Penerapan Hukum Acara Perdata Di Lingkungan Peradilan Agama*.

If the divorce case is repealed, it becomes a form of achieving peace between the parties at trial. Thus it has minimized the occurrence of divorce. However, in fact, efforts to reconcile in divorce are often not reached between the parties in court, especially in *verstek* cases, so that the judge ultimately still makes a *verstek* divorce decision. Among the reasons for not achieving peace in the divorce case are due to:

### **The defendant was not present**

Generally, in the process of examining a case, the parties attend court. The presence of the parties to the trial will facilitate the judge in seeking peace. However, in practice, one of the parties, namely the defendant or the respondent, often does not attend court and does not also send his attorney even though he has been legally and properly summoned by the Religious Courts. As a result, the judge passed a *verstek* decision.

According to Sarwono, a *verstek* decision or known as *in absentia* is a decision that the defendant is not present in a case after being duly summoned by a court, has never been present at a trial and has never ordered his representative or attorney to attend a trial.<sup>56</sup> Summons against the parties, both the plaintiff and the defendant, are carried out by the bailiff or substitute bailiff legally and properly.

A legal summons is a summons made by a bailiff or surrogate bailiff by submitting a summons or direct *relaas* to the litigants at their place of residence. This is intended so that the target or object of the summons must be appropriate according to the procedure determined by the applicable laws and regulations. While a proper summons is a summons delivered at least 3 (days) before the trial. This means, the summons must meet the appropriate deadline, namely the specified grace period cannot be less than three days before the trial begins and does not include holidays or holidays. Determining the date and day of the trial should also pay attention to the location of the residence of the litigant parties.<sup>57</sup>

The plaintiff's desire to divorce

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<sup>56</sup> Sarwono, *Hukum Acara Perdata Teori Dan Praktek* (Jakarta: Sinar Grafika, 2011), 216.

<sup>57</sup> Manan, *Penerapan Hukum Acara Perdata Di Lingkungan Peradilan Agama*.

Peace efforts were carried out by the panel of judges by providing advice and advice to the parties to reconsider their intention to divorce. If this effort is successful, then the parties who originally intended to divorce end peacefully and reconcile. But if not, it ends in divorce. In practice at the Parepare Religious Court, peace efforts often end in divorce rather than peace, especially in divorce cases with the verstek event. The reason is that the process of conciliation in the verstek divorce case is only attended by the plaintiff, so that the panel of judges can only seek peace with one party, while the defendant has never attended court.

The absence of the defendant has been one of the reasons why peace efforts are often not reached, but on the other hand the plaintiff can also play a role in not achieving peace in verstek cases. This is because the panel of judges in the verstek case can only seek peace with the plaintiff. As was the case in the divorce case Number 535/Pdt.G/2022/PA.Pare, the panel of judges had tried to reconcile by advising the plaintiff to discourage his intention to divorce the defendant, but these efforts were unsuccessful. The plaintiff stated that his household was no longer in harmony, and between him and the defendant there were often disputes and quarrels caused by the defendant hitting, consuming illegal drugs in the form of methamphetamine and having separated residences. Even though peace has been sought, the plaintiff still wishes to separate from the defendant because he feels that his household cannot be maintained anymore, so it is difficult for him to live in harmony with the defendant.<sup>58</sup>

Another statement from the plaintiff named Novri Widya Ningsih, S. Sos bint Muh. Rustan, 29 years old, Bachelor's degree, that the panel of judges in every trial always advised the plaintiff to reconsider his lawsuit. The plaintiff is advised to just make peace with the defendant and reconcile. However, the plaintiff still wants to separate from the defendant.

The plaintiff argued that so far his household was no longer harmonious, because there were frequent disputes and misunderstandings caused by the defendant not trusting the plaintiff to manage finances, the defendant preferred to play games on Dario's cellphone to help take care of the children and even

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<sup>58</sup> Rezky Wulandari Yusuf, "Penggugat," Interviewed on January, 28 2023.

separated. The defendant is also not responsible for providing maintenance to the plaintiff and his child. Then the plaintiff also stated that the family did not try to reconcile. the attitude and actions of the defendant already wanted to part with the defendant.<sup>59</sup> The cases due to the desire of the plaintiff to divorce are cases that often occur in the Parepare Religious Court, especially in contested divorce cases. It is known that in the 2019-2022 period, almost the average divorce case filed by the plaintiff was due to the plaintiff's desire to divorce. As in *verstek* divorce cases in 2019-2022, reaching an average of 272 cases each year, the cases that were registered with the Parepare Religious Court did indeed have a desire on the part of the plaintiff to divorce. And in the trial process the defendant also did not have good faith to attend so that the plaintiff, who initially still wanted to reconcile, changed his mind and decided to part ways with the defendant.

Based on the cases described above, it can be concluded that one of the other factors that made peace efforts difficult to achieve was that it came from the plaintiff's insistence on divorce. The judge must have tried to reconcile by giving advice and suggestions so that the plaintiff would reconsider his desire to divorce, but in reality these efforts were not successful. The reason for the constant bickering and disputes between the plaintiff and the defendant has become the dominant reason for the plaintiff choosing to end their household. In addition, coupled with the lack of good faith on the part of the defendant to attend the trial, it has solidified the intention of the plaintiff to divorce.

One of the procedural procedures at trial that must be taken by the parties who wish to divorce is peace efforts. This effort aims to provide an opportunity for parties who wish to divorce to be able to think again so as to discourage them. In the *verstek* case, peace efforts can only be made to the plaintiff, so the judge must try his best to seek peace, either by giving advice or suggestions to the plaintiff at each trial.

The absence of the defendant has created its own difficulties for the judge in seeking peace. However, it must still be carried out in every trial by the judge as

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<sup>59</sup> Novri Widya Ningsih, "Penggugat", Interviewed on January, 29 2023.

mandated by law so that it can run effectively and optimally. to prevent divorce, especially in cases of *verstek* divorce.

### **E. Conclusion**

Peaceful efforts in divorce cases by the Parepare Religious Court have not run effectively and optimally in preventing divorce, especially in the case of imposing a *verstek* decision. This is because the judge has not worked optimally in peaceful efforts at every stage of the trial. The panel of judges tended to only comply with the formalities of the trial. As a result, many cases submitted to the Parepare Religious Court did not reach an amicable agreement, in the end the court made a *verstek* decision.

This study reveals that several factors are the cause of not achieving peace in divorce cases so that judges make *verstek* decisions, including: 1) the absence of the defendant. This condition is motivated by various factors, including: the intentional factor of the defendant, the defendant was not in place or was outside the jurisdiction, and the whereabouts of the defendant were unknown (*ghoib*). In the period 2019-2022, the defendant's intentional factor was not to attend every stage of the trial at the Parepare Religious Court, this factor was carried out by the defendant in the hope that it would facilitate the divorce process. As a result, the *verstek* decision in a divorce case, which was basically handed down in order to provide legal certainty to one of the parties, has actually been misused by certain parties from the defendant to facilitate the divorce process. So that the initial goal of peaceful efforts to prevent and complicate the divorce process cannot run as it should. 2) The plaintiff's desire to divorce. The judge has made maximum efforts at each stage of the trial in advising the plaintiff to cancel the divorce, but the plaintiff remains in his stance, namely divorce and is reluctant to reconcile. This is because the plaintiff's goal of filing a lawsuit to the Religious Courts is as a last resort to resolve problems in their household.

This research still has limitations in uncovering the other side of the cause of the defendant's inactivity and lack of cooperation in the trial at the Parepare Religious Court. Of course the role of legal educators in educating the public in the



field of law is very important, at this point it is also a recommendation for future researchers to perfect the existing research gaps for the sake of perfecting the contribution of this academic study in the field of civil law.

### References

- Abbas, Syahrizal. *Mediasi: Dalam Perspektif Hukum Syariah, Hukum Adat, Dan Hukum Nasional*. Jakarta: Kencana Prenada Group, 2009.
- Abdullah, Erfani Aljan. "Sisi Lain Putusan Verstek." Mahkamah Agung Republik Indonesia Direktorat Jenderal Badan dan Pengadilan Agama, 2016. <https://badilag.mahkamahagung.go.id/artikel/publikasi/artikel/sisi-lain-putusan-verstek-oleh-erfani-aljan-abdullah-4-1>.
- Achmad, Zulkifli, Supardin, and Asni. "The Effort of Judges in Finding The Solution of Divorce Case With Reconciliation Verdict Refers to Maqasid Al-Sharia Perspective (Case Study at The Religious Court of Polewali Class 1 B)." *International Journal of Islamic Studies E-ISSN: 2*, no. 1 (2022): 179–90. <http://journal.uin-alauddin.ac.id/index.php/ijis%0ATHE>.
- Amarulloh, Amarulloh, Mukhidin Mukhidin, and Nuridin Nuridin. "Prosecution of Livelihood by Judge Against Petitioner in Verstek's Decision" 3 (2022). <https://doi.org/10.4108/eai.28-5-2022.2320540>.
- Apriani S, Rita. "Penggugat Perkara," 2023.
- Arifin, Harmina. "Panitera Pengganti Pengadilan Agama Parepare." Kantor PA Parepare, 2023.
- Baihaki, Ahmad. "Upaya Pemenuhan Hak-Hak Keperdataan Anak Yang Lahir Di Luar Perkawinan" 9, no. 1 (2023): 187–209.
- Berutu, Lisfer, Edy Lisdiyono, Sigit Irianto, and Chris Anggi Natalia Berutu. "E-Court System In Realizing Simple, Fast And Low-Cost Civil Justice: Learning From Indonesian Experience." *Journal of Positive School Psychology* 6, no. 7 (2022): 2805–19. <http://journalppw.com>.
- Bintang, Hasdiana Juwita. "A Legal Protection Of Children To Adults As Victims Parental Divorce According To The Marriage Law Number 16 Of 2019 Concerning Marriage" 10, no. 5 (2022): 509–16.
- Direktorat Jederal Badan Peradilan Agama Mahkamah Agung RI. *Pedoman Pelaksanaan Tugas Dan Administrasi Peradilan Agama*, 2021.
- Djuniarti, Evi. "Hukum Harta Bersama Ditinjau Dari Perspektif Undang-Undang Perkawinan Dan KUH Perdata." *Jurnal Penelitian Hukum De Jure* 17, no. 4 (2017): 445. <https://doi.org/10.30641/dejure.2017.v17.445-461>.
- Ediwarman. *Monograf Metodologi Penelitian Hukum: Panduan Penulisan Skripsi*,

*Tesis, Dan Disertasi*. Medan: Sopi Media, 2015.

Faisal, Ahmad, Iain Sultan, and Amai Gorontalo. "Reproduction of Unregistered Polygamous: Unregistered Marriage Services and Marriage Simplification." *Al-Ulum* 20, no. 2 (December 12, 2020): 542–60. <https://doi.org/10.30603/AU.V2012.3459>.

Fikri, and Saidah. "Leaturers in IAIN Parepare." Parepare, 2023.

Harahap, M. Yahya. *Hukum Acara Perdata*. Jakarta: Sinar Grafika, 2006.

———. *Kedudukan Kewenangan Dan Acara Peradilan Agama*. Jakarta: Sinar Grafika, 2003.

Iskandar. "Hakim Pengadilan Agama Parepare." Parepare, 2023.

Jamaluddin. "Teori Maslahat Dalam Perceraian Studi Pasca Berlakunya UU No. 1 Tahun 1974 Dan Kompilasi Hukum Islam." *Asy-Syirah* 46, no. 11 (2012).

Jayanti, Sri. "Pengugat Perkara," 2023.

Juhanis, Hasan, and Muh Tahmid. "Public Perception of Early Marriage in Enrekang Regency Based on a Review of Islamic Law in Baraka District" 1, no. August (2022): 42–51.

Kamaruddin, Iswandi, Andi Yaqub, Layyin Mahfiyana, and Muh. Akbar. "Justice, Mediation, and Kalosara Custom of the Tolaki Community in Southeast Sulawesi from the Perspective of Islamic Law" 7, no. 2 (2023): 1077–96. <https://doi.org/10.22373/sjhc.v7i2.13183>.

Kementerian Agama RI. *Al-Qur'an Dan Terjemahnya*. Jakarta: Yayasan Penerjemah/Penafsir al-Qur'an, 2007.

Khaira, Ummul, and Azhari Yahya. "Pelaksanaan Upaya Perdamaian Dalam Perkara Perceraian (Suatu Kajian Terhadap Putusan Verstek Pada Mahkamah Syar'iyah Bireuen) (Reconciliation Efforts in a Divorce Lawsuit (A Review to the In-Absentia Decision at the Shariah Court of Bireuen))." *Jurnal Penelitian Hukum De Jure* 18, no. 10 (2018): 319–34.

Kusnandar, Viva Budy. "Penduduk Cerai Hidup Di Kota Parepare Tertinggi Se-Sulawesi Selatan Pada 2021." Databoks, 2022. <https://databoks.katadata.co.id/datapublish/2022/06/21/penduduk-cerai-hidup-di-kota-parepare-tertinggi-se-sulawesi-selatan-pada-2021>.

L., Sudirman. *Perdamaian Perkara Perceraian Perspektif Undang-Undang Dan Maqashid Al-Syari'ah*. 1st ed. Parepare: Nusantara Press, 2020.

Manan, H. Abdul. *Penerapan Hukum Acara Perdata Di Lingkungan Peradilan Agama*. Jakarta: Yayasan al Hikmah, 2000.

Ningsih, Novri Widya. "Penggugat," 2023.

- Nur, Nazar Fuadi, Azhari Yahya, and Efendi Idris. "Maqashid Shariah Study on The Recording of Unregistered Marriage in The Family Card." *Jurnal Penelitian Hukum De Jure* 22, no. 3 (2022): 411. <https://doi.org/10.30641/dejure.2022.v22.411-422>.
- Oktavira, Bernadheta Aurelia. "Cara Mendapatkan Akta Cerai Jika Tidak Hadir Saat Sidang." *Hukumonline.com*, 2022. <https://www.hukumonline.com/klinik/a/cara-mendapatkan-akta-cerai-jika-tidak-hadir-saat-sidang-lt5f61d56b4a024/>.
- Republik Indonesia. "Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan (Pasal 39 Ayat (1) Dan (2))." Jakarta, 1974.
- Saepullah, Asep, Ahmad Rofi, and Putri Berlian Sari. "Fenomena Childfree Pada Pasangan Muda Ditinjau Berdasarkan Hukum Keluarga Islam (Study Kasus Di Kota Cirebon)." *Mahkamah: Jurnal Kajian Hukum Islam* 8, no. 1 (2023).
- Sarwono. *Hukum Acara Perdata Teori Dan Praktek*. Jakarta: Sinar Grafika, 2011.
- Sentana, Made Rai Diascitta Hardi, I Wayan Wesna Astara, and I Nyoman Gede Sugiarta. "Peranan Hakim Untuk Mendamaikan Para Pihak Yang Bersengketa Dalam Perkara Perdata Di Pengadilan Negeri Denpasar." *Jurnal Analogi Hukum* 2, no. 2 (2020): 203-8. <https://doi.org/10.22225/ah.2.2.1933.203-208>.
- Subekti. *Aneka Perjanjian*. 10th ed. Bandung: PT. Citra Aditya Bakti, 1995.
- Sutantio, Retnowulan, and Iskandar Oeripkartawinata. *Hukum Acara Perdata Dalam Teori Dan Praktek*. Bandung: Bandung Mandar Maju, 2019.
- Undang-undang RI. Nomor 1 Tahun 1974 Tentang Perkawinan.
- Wijayanti, Asri, and Lilik Sofyan A. *Strategi Penulisan Hukum*. Bandung: Lubuk Agung, 2011.
- Yus, Zulkifli. "Mediasi Dalam Penyelesaian Sengketa Perkawinan Pada Mahkamah Syar'iyah Di Aceh." *El-USrah: Jurnal Hukum Keluarga* 5, no. 2 (May 12, 2023): 1-28. <https://jurnal.ar-raniry.ac.id/index.php/usrah/article/view/17893>.
- Yusuf, Muh. Gazali. "Hakim Pengadilan Agama Parepare." Parepare, 2023.
- Yusuf, Rezky Wulandari. "Penggugat," 2023.