

Mediation, It's Implementation and empowerment in Indonesia

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I. BACKGROUND

- MEDIATION BECAME MANDATORY FOR CIVIL CASES IN 2003
- UP TO PRESENT ONLY **10 INSTITUTIONS** HAVE BEEN ACCREDITED AND ELIGIBLE TO CONDUCT MEDIATION TRAINING
- LIMITED TRAINERS WHO HAVE TOT CERTIFICATE
- REQUIREMENT FOR NON JUDGE MEDIATOR WHO WANTS TO BE REGISTERED IN THE DISTRICT AND RELIGIOUS COURT
- **LOW PRECENTAGE** OF SUCCESS STORY OF COURT ANNEXED MEDIATION

II. TYPES OF MEDIATION

- **COMMUNITY MEDIATION**
- **OUT COURT MEDIATION**
- **COURT ANNEXED MEDIATION**

II. COMMUNITY MEDIATION

- EVERY COMMUNITY HAS ITS OWN WAY AND REGULATION (based on *adat* or traditional culture community)
- USING *MUSYAWARAH MUFAKAT PRINCIPLE* (*deliberation aimed at reaching a consensus*) AS THE MAIN OBJECTIVE OF MEDIATION
- MEDIATION HELD BY THE HEAD OF *ADAT OR RELIGIOUS LEADER OR COMMUNITY LEADER* (social network mediator)

III. OUT COURT MEDIATION

- TRAINING HELDS BY **ACCREDITED INSTITUTIONS** (e.g IICT, PMN)
- DURATION OF TRAINING 40 TO 45 TRAINING HOURS
- TRAINERS MUST HAVE **TOT CERTIFICATE**
- TRAINING CONSISTS OF 30% THEORY AND 70% PRACTICE
- PARTICIPANT HAS TO PAST THE EXAM (**theory and practice**)
- CERTIFIED MEDIATOR **CAN REGISTER** (*not mandatory*) AS NON JUDGE MEDIATOR IN DISTRICT COURT OR RELIGIOUS COURT

IV. COURT-ANNEXED MEDIATION

- TRAINING HELDS BY THE SUPREME COURT
- DURATION OF TRAINING 90 TRAINING HOURS
- TRAINERS MUST HAVE **TOT CERTIFICATE**
- TRAINING CONSISTS OF 30% THEORY AND 70% PRACTICE
- PARTICIPANT HAS TO PAST THE EXAM (**theory and practice**)

V. EXISTING REGULATION

- THE SUPREME COURT REGULATION REGARDING MEDIATION PROCEDURE OF 2003 REVISED IN 2008 AND 2016
- CHIEF JUSTICE DECREE ON COURT MEDIATION GOVERNANCE OF 2016 (requirement to be accredited institution, requirement of room and equipment)
- SECTORAL REGULATION (e.g. Environment, Mining, Labor, Consumer)

VI. EFFORT TO EMPOWERING MEDIATION

- CERTIFIED TRAINING COURSE FOR PUBLIC, SPECIAL PROFESSION AND JUDGE
- PROVIDING TOT FOR JUDGE AND NON JUDGE TRAINERS
- MONITORING AND EVALUATING THE IMPLEMENTATION OF MEDIATION IN PILOT DISTRICT AND RELIGIOUS COURT
- REVITALISATION OF TRAINING CURRICULA
- EMPOWERING THE COMMUNITY MEDIATOR PARTICIPATION BY PROVIDING NON CERTIFIED TRAINING
- PROVIDING MEDIATION TECHNICAL TRAINING AND ASSISTANCE

VII. OBSTACLE

- NO UMBRELLA REGULATION REGARDING MEDIATION
- MOTIVATION OF JUDGE TO APPLY MEDIATION
- NOT TOO MANY COURTS ACCEPT NON JUDGE MEDIATOR APPLICATION TO BE REGISTERED IN COURT AS NON JUDGE MEDIATOR
- REQUIREMENT TO GET ACCREDITATION FROM THE SUPREME COURT
- NOT TO MANY NON JUDGE MEDIATOR BEING CHOSED BY THE PARTIES

TERIMA KASIH
(THANK YOU)