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The Legal Framework Construction For Regulating Non-Judge Mediators Outside The Court

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ABSTRACT
This thesis discusses the basic legal construction of the regulation of non-judgmental mediators outside the court, with a focus on the incompleteness of the regulations in Articles 4, 11, and 36 of Supreme Court Regulation (Perma) No. 1 of 2016. These provisions do not adequately regulate the position, authority, and responsibilities of non-judgmental mediators, thus creating legal uncertainty and potentially weakening the legitimacy of non-litigation mediation results. This study aims to answer two research problems: (1) the urgency of establishing legal regulations regarding non-judgmental mediators outside the court; and (2) the appropriate basic legal construction for the regulation. The research method used is normative juridical with a statutory, conceptual, and comparative approach. The results of the study indicate that the urgency of establishing new regulations lies in the need to guarantee legal certainty, strengthen the position of mediators, and increase the effectiveness of mediation as an alternative dispute resolution. Based on Gustav Radbruch's theory of legal certainty, the current regulations do not fulfill the principle of legal certainty. Therefore, it is necessary to amend Articles 11 and 36 of Perma No. 1 of 2016, which covers the qualifications, legal status, accreditation, supervision, code of ethics, and accountability of non-judge mediators. This construction is based on Singapore's Mediation Act 2017 and analyzed using Maria Farida's legal theory. This proposal is expected to provide legal certainty and strengthen the non-litigation mediation system in Indonesia.

Keywords: Construction, Non-Judge Mediators, Courts.

1. INTRODUCTION

Dispute resolution is a fundamental aspect of the legal system, which aims to achieve justice and legal certainty for the community. Over time, dispute resolution has evolved beyond litigation through the courts, with alternative dispute resolution (ADR) emerging, offering a more flexible, efficient, and win-win approach for the disputing parties. This transformation aligns with the needs of modern society, which seeks conflict resolution that is not only fair but also fosters good relations between the disputing parties, while simultaneously reducing the burden on the courts, which has been increasing year after year (Aditya, 2024).

The implementation of mediation in the Indonesian judicial system has undergone significant evolution since 2002. The initial phase began with the issuance of Supreme Court Circular Letter No. 1 of 2002 concerning the Empowerment of First-Instance Courts to Implement Peacemaking Institutions, which mandated every judge to optimize peacemaking efforts based on Article 130 HIR/154 Rbg. This regulation provided a formal basis for mediation practices in court, where judges or appointed parties could act as mediators to reach solutions that benefit all parties.

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Further developments were marked by the issuance of Supreme Court Regulation No. 1 of 2008 concerning Mediation Procedures in Court (hereinafter referred to as Perma No. 1/2008), which provided a more comprehensive framework and introduced the concepts of judge-led mediators and non-judge-led mediators. Non-judge-led mediators in this regulation include legal academics, advocates, or other professionals who have obtained mediator certification from an institution accredited by the Supreme Court (Afifa, 2023).

The pinnacle of the evolution of mediation regulations in Indonesia occurred with the issuance of Supreme Court Regulation No. 1 of 2016 concerning Mediation Procedures in Court (hereinafter referred to as Perma No. 1/2016), which replaced the previous regulation with several substantial improvements. Perma No. 1/2016 not only regulates mediation within the court environment, but also recognizes the existence of mediation outside the court through provisions in Articles 4, 11, and 36 (Nawangsari, 2025).

In article 4 paragraph (1) PERMA no. 1/2016, reads:

"(1) All civil disputes submitted to the Court, including cases of resistance (verzet) against default decisions and resistance by the litigants (partij verzet) or third parties (derden verzet) against the implementation of decisions that have permanent legal force, must first be resolved through mediation, unless otherwise determined based on these Supreme Court Regulations."

Article 4 paragraph (1) states that “all civil disputes submitted to the Court must first be resolved through Mediation...”. This means that this norm clearly limits the main scope to the litigation process and makes mediation a part of civil procedural law in court. Thus, the regulation of non-litigation mediation is merely “alluded to”, not regulated in detail (Hartawan et al., 2024).

Article 11 paragraph (1) acknowledges that mediation can be conducted “in the court mediation room or in another place outside the court as agreed by the parties.” However, paragraphs (2) - (3) actually limit the role of non-judge mediators because they still require a commitment to the court if carried out with a judge or court employee. This creates an unclear position for independent non-judge mediators, because they are not given clear procedural legal guidance when they practice entirely outside the court forum.

Article 36 paragraphs (1) - (5) do provide a way for a peace agreement resulting from out-of-court mediation to be strengthened into a peace deed. However, this mechanism is not automatic, but must be resubmitted through a lawsuit to the court. This condition means that the results of mediation do not have direct executorial power, unlike mediation in court. As a result, many parties are reluctant to use non-litigation mediation because it is considered less effective and

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carries the risk of causing re-disputes. Although Perma No. 1/2016 has recognized the existence of out-of-court mediation (Article 4, Article 11, and Article 36), this regulation remains focused on mediation in court and does not provide adequate legal instruments to regulate the procedures for implementing non-litigation mediation.

The legal issues become increasingly complex when linked to Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution (hereinafter referred to as the AAPS Law), which is the only law specifically regulating ADR in Indonesia (Fuchs, 1939). The AAPS Law apparently does not provide detailed regulations regarding the position, status, stages, procedural law, or special legal protection for non-judgemental mediators who practice outside the judicial system. As a result, significant legal uncertainty occurs: non-judgemental mediators practice without a clear legal umbrella, while the parties must bear the risk of a peace agreement that is not automatically binding. This condition emphasizes the existence of Legal Incompleteness as a Legal Issue This research, where there is a legal incompleteness in the regulation of non-litigation mediation in Indonesia, which demands the immediate establishment of a special law on mediation.

The limited regulations in the AAPS Law create legal incompleteness that impacts uncertainty in the implementation of out-of-court mediation. The urgency of this research is where non-judgmental mediators who operate independently face a professional dilemma, because on the one hand non-judgmental mediators have recognized competence and certification, but on the other hand non-judgmental mediators do not have a strong legal basis to protect and regulate their professional practice.

The complexity of legal issues in out-of-court mediation also relates to harmonization with other laws and regulations. Various sectoral laws, such as Law Number 1 of 1974 concerning Marriage (hereinafter referred to as the Marriage Law), Law Number 8 of 1999 concerning Consumer Protection (hereinafter referred to as the Consumer Protection Law), and Law Number 21 of 2008 concerning Sharia Banking (hereinafter referred to as the Sharia Banking Law), contain provisions regarding dispute resolution that may intersect with mediation practices. The absence of specific laws on mediation creates the potential for conflicting norms and uncertainty in the application of these various regulations. This situation demands comprehensive harmonization to ensure that mediation practices, both in and out of court, can run in line with various existing legal provisions (Feng, 2001).

The international dimension is an important consideration in regulating mediation in Indonesia. Several countries have comprehensive mediation legal frameworks, most notably

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Singapore through the Mediation Act 2017, which explicitly regulates the qualifications, legal status, and accreditation of non-judicial mediators. Indonesia's backwardness in mediation regulation impacts the competitiveness of international dispute resolution and may reduce investor confidence in the national legal system. The Mediation Act 2017 (Singapore) is a law that comprehensively regulates the out-of-court mediation process, including the qualifications, accreditation, obligations, and legal protection for non-judicial mediators, as well as the legal recognition and enforcement of mediation outcomes. Therefore, this study uses a comparative approach with Singapore to provide a regulatory model that can be adapted in Indonesia, while strengthening Indonesia's legal position in the international context.

Based on an in-depth analysis of the various legal issues outlined above, it can be concluded that non-judicial mediators practicing outside the courts face systemic and multidimensional legal uncertainty. The lack of a clear legal basis for out-of-court mediation is not merely a technical administrative issue, but a fundamental issue related to the public's constitutional right to access justice through the various available dispute resolution mechanisms.

2. RESEARCH METHODS

The research method used is a normative juridical method. The approaches used in this study are the legislative approach, the conceptual approach, and the case study approach. The sources of legal materials are primary legal materials and secondary legal materials. The legal material search technique in this study was carried out through library research and documentation studies of legal materials found at legal documentation and information centers. After all legal materials were collected, they were analyzed using an appropriate legal interpretation approach, namely by applying grammatical, systematic, formal, extensive, restrictive, and hermeneutic interpretations.

3. RESULTS AND DISCUSSION

The Urgency of Establishing Legal Regulations Concerning Non-Judicial Mediators Outside the Court

Dispute resolution is not only through litigation, but also developed through ADR which is more flexible, efficient, and maintains good relations between parties. Mediation is one form of ADR that is effective because it provides constructive dialogue with the help of a neutral mediator. The development of mediation in Indonesia began with SEMA No. 1/2002, then Perma No. 1/2008 which introduced judge and non-judge mediators, to Perma No. 1/2016 which refined mediation

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procedures and recognized out-of-court mediation. However, the regulation of non-litigation mediation is still weak because: It is only "mentioned" in Perma No. 1/2016 (Articles 4, 11, 36); The results of out-of-court mediation are not automatically legally binding, must be submitted to the court through a peace lawsuit; The AAPS Law does not regulate the detailed position, procedures, and legal protection for non-judge mediators. As a result, there is legal incompleteness which gives rise to uncertainty, discrimination in the position of non-judge mediators, low public trust, and inconsistency between the results of mediation inside and outside the court.

The absence of comprehensive regulations also poses the risk of overlapping sectoral laws (marriage, consumer protection, Islamic banking) and weakens Indonesia's position compared to other countries that already have Mediation Acts (e.g., Singapore). Therefore, this study emphasizes the need for the establishment of a specific law on mediation to provide legal certainty, national standards for non-judge mediators, and strengthen the role of mediation as an effective means of dispute resolution both in and out of court.

1. Existing Regulations on the Regulation of Non-Judicial Mediators Outside the Court

   The legal framework for mediation in Indonesia has essentially received formal recognition through a number of regulations issued by the Supreme Court, one of which is Supreme Court Regulation No. 1/2016. This regulation was issued as a refinement of Supreme Court Regulation No. 1/2008, with the aim of strengthening mediation's position as a crucial instrument in civil dispute resolution. This provision positions mediation not merely as an alternative option but as a mandatory procedural step in every civil case brought to court. In other words, mediation is placed within the framework of civil procedural law and becomes an integral part of the litigation process.

   However, the primary focus of Supreme Court Regulation No. 1/2016 remains on mediation taking place within the courts, resulting in relatively limited regulation of non-litigation mediation conducted outside the courts. While this regulation acknowledges the possibility of mediation taking place outside the courts, it does not provide a clear legal mechanism regarding the procedures, the mediator's authority, or the legal status of the agreements reached. Consequently, the existence of non-judgemental mediators practicing independently outside the courts is merely "mentioned" without being regulated in depth. This situation creates confusion, as on the one hand, out-of-court mediation is recognized, but on the other hand, there are no adequate normative guidelines to guarantee legal certainty and the effectiveness of its implementation.

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Article 4 paragraph (1) of Supreme Court Regulation No. 1/2016 states that “all civil disputes submitted to the Court must first be resolved through Mediation...”. This provision shows that mediation is positioned as a mandatory process in civil procedural law and is an integral part of the formal stages of litigation dispute resolution. However, this norm explicitly applies only to cases submitted to the court, so its scope is limited to litigation mediation. As a result, non-litigation mediation or mediation conducted independently outside the judicial forum does not have a clear procedural legal basis (Poniatowski, 2018).

The regulation merely "alludes" to its existence without providing detailed provisions regarding the procedures, mechanisms, or legal consequences. This situation gives the impression that non-litigation mediation has not been recognized as a stand-alone dispute resolution instrument, but is still placed in a subordinate position to the judicial process. The main point of Article 4 paragraph (1) is that mediation is made a mandatory stage in the civil litigation process in court, but this provision does not regulate non-litigation mediation in detail, so its existence is only mentioned briefly without a clear legal basis for the procedure.

Article 11 paragraph (1) of Supreme Court Regulation No. 1/2016 opens up space for flexibility in the implementation of mediation, by stating that mediation can be conducted “in the court mediation room or in another place outside the court agreed upon by the parties.” This provision essentially recognizes the existence of non-litigation mediation as a legitimate dispute resolution mechanism as long as there is an agreement between the parties. With this regulation, mediation is not entirely limited to the court forum, but can take place outside the court, which theoretically indicates recognition of the independence of non-litigation mediation (Marzuki et al., 2021).

Article 36 paragraph (1) - (5) of Supreme Court Regulation No. 1/2016 in principle provides a way for parties who successfully reach a peace agreement through out-of-court mediation to obtain legal reinforcement in the form of a peace deed. This mechanism allows the peace agreement to be submitted to the competent court by registering a lawsuit accompanied by a peace agreement document. However, it is important to note that this mechanism is not automatic, because the parties are still required to go through the formal procedure of a lawsuit in court. Thus, a peace agreement born from out-of-court mediation does not yet have direct executorial power, in contrast to the results of mediation conducted in court which can be directly stated in a peace deed by the judge and has the same legal force as a decision with permanent legal force (Aibak & Musonnif, 2019).

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Although Supreme Court Regulation No. 1/2016, through Articles 4, 11, and 36, recognizes the existence of out-of-court mediation, the provisions provided are still partial and limited. This regulation continues to emphasize mediation conducted in court, while fundamental aspects of non-litigation mediation, such as implementation procedures, professional standards for non-judge mediators, oversight mechanisms, and the legal force of peace agreements, have not been adequately regulated. As a result, non-litigation mediation remains in a gray area within the legal system, its existence recognized but without the support of legal instruments that provide certainty.

Article 36 of Supreme Court Regulation No. 1/2016 provides a way for peace agreements resulting from out-of-court mediation to obtain legal force by being strengthened through a peace deed in court. However, this mechanism is not automatic, as it must be resubmitted through a lawsuit procedure. Consequently, the results of non-litigation mediation lack direct enforceable power, thus creating weaknesses in effectiveness and legal certainty. Thus, although non-litigation mediation is normatively recognized, this regulation still places it in a limited and subordinate position compared to litigation mediation.

2. **Implications of Incomplete Regulations on Out-of-Court Mediation Practices**

The incomplete regulations regarding out-of-court mediation have complex implications, both normatively and in practice. This is evident in the lack of alignment between the public's need for fast, affordable, and flexible dispute resolution and the legal instruments that should provide certainty and protection. The provisions contained in Supreme Court Regulation No. 1/2016 merely touch on the existence of non-litigation mediation without providing adequate operational guidelines. As a result, various consequences arise in legal practice and in public perception of mediation.

a) Implications for legal certainty

Incomplete regulations weaken legal certainty in non-litigation mediation. Although mediation outcomes can be upheld in court, the agreement is not automatically enforceable and remains dependent on the will of the parties or subsequent court proceedings. This contradicts the principle of legal certainty in dispute resolution.

b) Implications for the effectiveness of dispute resolution

The lack of adequate regulation reduces the effectiveness of non-litigation mediation as a fast and affordable dispute resolution method. The additional process

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through the courts actually equates mediation with litigation, prolonging the resolution process and burdening the justice system. Consequently, people are reluctant to choose this route, despite its numerous advantages, such as cost-effectiveness, confidentiality, and maintaining relationships between the parties.

c) Implications for the position and professionalism of non-judge mediators

Incomplete regulations weaken the position of non-judge mediators, due to the lack of clear rules regarding qualifications, codes of ethics, accreditation, and legal protection. Consequently, their legitimacy and authority can be questioned, and they are prone to unprofessional mediation practices. Mediators face a dilemma between fulfilling their role based on their certification without adequate legal protection.

d) Implications for Public Trust

The uncertainty and weak regulation of non-litigation mediation can undermine public trust in this mechanism. Consequently, the public prefers litigation or court mediation, which are perceived as more certain and legally binding. This subtracts from the potential of non-litigation mediation as an alternative solution and a way to reduce the burden on the courts.

e) Implications for Harmonization of Legislation

Incomplete regulations have led to a lack of legal harmonization in non-litigation mediation. Although several sectoral laws list mediation as a dispute resolution option, the lack of specific regulations has led to inconsistent implementation, potential conflict of norms, and confusion in out-of-court mediation procedures.

f) Implications from a Constitutional Rights Perspective

This incomplete regulation can also be seen as a violation of the public's constitutional right to access to justice. Without legal certainty and equal protection as litigation, the public's right to choose peaceful, expeditious, and affordable dispute resolution is undermined.

3. **The Urgency of Forming New Regulations as a Response to Legal Incompleteness**

The incomplete regulations regarding non-litigation mediation in Indonesia, as previously described, underscore the urgent need to develop new, more comprehensive regulations. These regulations are crucial not only to provide legal certainty for parties who choose out-of-court mediation but also to strengthen the position of non-judicial mediators as a legally recognized and protected profession. The urgency of developing new regulations can be examined from the following perspectives:

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a) Legal Certainty for the Parties

New regulations are needed to ensure that the results of non-litigation mediation have clear legal force and are equal to litigation mediation, including executive power without having to go through the courts.

b) Protection and Accountability of Non-Judicial Mediators

There needs to be rules governing the qualifications, code of ethics, accreditation and legal protection for non-judge mediators so that they have legitimacy and a recognized professional standing.

c) Efficiency and Access to Justice

Adequate regulation can make non-litigation mediation a fast, inexpensive, and easily accessible dispute resolution mechanism, in accordance with the principles of simple justice and low costs.

d) Harmonization of the National Legal System

Specific rules are needed as a legal umbrella that unifies various sectoral provisions on mediation, avoids conflicts of norms and ensures uniformity of implementation.

e) Answering global challenges

Clear regulations are important to enhance Indonesia's credibility and competitiveness in dispute resolution, particularly in the international context and with foreign investment.

f) Strengthening the Position of Mediation as an Alternative Pillar for Dispute Resolution

Comprehensive regulations will place non-litigation mediation on an equal footing with litigation, strengthening mediation's role as a primary solution that prioritizes peace and efficiency.

4. **Urgency Analysis Based on Gustav Radbruch's Theory of Legal Certainty**

Gustav Radbruch's theory of legal certainty asserts that law must be able to provide certainty (rechtssicherheit), justice (gerechtigkeit), and utility (zweckmäßigkeit) in a balanced manner. According to Radbruch, these three values are the main pillars that must be realized by law in order to fulfill social and moral goals in society. However, in practice, the law's primary priority remains legal certainty, because without legal certainty, justice and utility cannot be effectively realized.

Based on the explanation above,It can be concluded that the current regulations, namely Article 4, Article 11, Article 36 of Perma No. 1/2016, are not in line with the

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principle of legal certainty according to Gustav Radbruch. The absence of regulations regarding technical competency standards and work mechanisms makes the position of non-judge mediators unclear, even though they have been certified. As a result, the results of non-litigation mediation lack executorial certainty, risk being disputed for their validity, and cause injustice to the parties. This condition shows that without specific regulations, non-judge mediators remain in a weak position and non-litigation mediation is difficult to develop as an effective dispute resolution instrument.

Basic Legal Construction of Legal Regulations for Non-Judicial Mediators Outside the Court

The basic legal framework for non-judicial mediators is a crucial aspect in the development of an alternative dispute resolution system in Indonesia (Sarda, 2016). The existence of non-judicial mediators is expected to broaden public access to faster, simpler, and less expensive dispute resolution mechanisms. However, current normative arrangements remain limited and are primarily oriented toward judicial mediation, leading to an unclear position and authority for non-judicial mediators when performing their independent mediation functions outside the courts. Therefore, a study of this basic legal framework is necessary to examine the extent to which existing regulations provide legal certainty and to identify weaknesses that underlie the urgency of establishing new regulations in the field of non-litigation mediation (Handayani et al., 2023).

This leaves the position of independent non-judicial mediators uncertain, given the lack of procedural guidelines governing the procedures for conducting mediation entirely outside the courts. Third, Article 36 provides the option for the parties to strengthen the peace agreement resulting from non-litigation mediation into a settlement deed. However, this mechanism can only be pursued by filing a new lawsuit with the court, so the non-litigation mediation agreement is not automatically binding and does not have direct enforceable power. This differs from litigation mediation, where the results can be directly outlined in a settlement deed by a judge with permanent legal force.

In addition to Supreme Court Regulation No. 1/2016, another normative reference that can be used as a basis is the AAPS Law. However, this law does not specifically regulate non-judicial mediation outside the court. There are no provisions regarding mediator competency requirements, mediation stages and procedures, or oversight and accountability mechanisms for non-judicial mediators. As a result, even though there are non-judicial mediators certified by accredited institutions, they still lack a clear legal framework in carrying out their professional functions. This has implications for weak legal protection for both mediators and the parties who use their

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services, and raises the risk that the validity of the mediation results could be disputed (Chakim, 2019).

Thus, it can be emphasized that the current regulations only scratch the surface of the existence of non-judicial mediators outside the court. Neither Supreme Court Regulation No. 1/2016 nor the AAPS Law provide a comprehensive legal framework regarding the status, authority, procedures, or legal consequences of non-litigation mediation. This clearly demonstrates the incompleteness of the regulations, which has implications for the weak position of non-judicial mediators, the low effectiveness of non-litigation mediation, and a lack of public trust in alternative dispute resolution channels outside the courts.

Comparing regulations regarding non-judicial mediators across countries is important to assess the extent to which mediators' legal status is recognized and protected within their respective legal systems. Indonesia, through Supreme Court Regulation No. 1/2016 and the AAPS Law, has provided a normative basis for mediation, but its regulations are still limited to in-court mediation. Meanwhile, out-of-court mediation is only briefly mentioned without a clear mechanism, thus lacking legal certainty regarding the status of independent non-judicial mediators.

Singapore was chosen as a comparison country because it has the Mediation Act 2017, a comprehensive regulation that explicitly regulates out-of-court mediation. The law covers the status of non-judgmental mediators, competency standards, implementation mechanisms, legal protections, and the enforceability of mediation outcomes.

From a legal perspective, although Singapore adheres to a common law system, unlike Indonesia, a country with a civil law tradition, Singapore's experience remains relevant as a reference. This is because the substance of mediation regulations is essentially universal, guaranteeing legal certainty, protection for the parties, and the effectiveness of the agreement. Therefore, comparing Indonesia with Singapore can provide a clearer picture of the weaknesses of Indonesian regulations and serve as a reference in formulating a more ideal legal framework for non-judgmental mediators outside the court, without ignoring the characteristics of the national legal system.

Comparison of Indonesia and Singapore as follows:

SETTING ASPECTS	**INDONESIA (PERMA NO. 1/2016& AAPS Act)**	***SINGAPORE (MEDIATION ACT 2017)***
Legal basis	- Supreme Court Regulation No. 1/2016 concerning Mediation Procedures in Court. - Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution.	*Sections 3, 6, 8, 10 Mediation Act 2017.*
Focus Settings	- More emphasis on mediation in court - Mediation outside the court is only	- Comprehensively regulates out-of-court mediation. - Provides a clear

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	mentioned in a limited way without detailed procedures.	legal framework regarding the role of the mediator, mechanisms, and legal consequences of the agreement.
Position of Non-Judge Mediator	- Recognized, but limited. - Must remain related to the judicial forum if carried out with judges/court employees (Article 11 of Supreme Court Regulation No. 1/2016). - There are no clear rules for independent non-judge mediators.	- Fully recognized as a profession that can operate independently.- Not dependent on attachment to the courts.
The Power of Mediation Agreements	- The results of mediation in court can immediately become a peace deed which has executory power. - The results of mediation outside the court can only be binding if they are resubmitted to the court through a lawsuit (Article 36 of Supreme Court Regulation No. 1/2016).	- The results of the mediation can be registered with the court and immediately have binding and enforceable force without going through a new lawsuit.
Competence of Non-Judge Mediators	- Only regulated in general through mediator certification from an institution accredited by the Supreme Court. - There are no detailed technical standards in the AAPS Law or the Supreme Court Regulation.	- There are clear standards regarding the qualifications, competence and ethics of mediators. - Regulated through official institutions connected to the Singapore legal system.
Legal Protection for Mediators	- There is no clear protection mechanism for independent non-judge mediators.- Their position is legally weak.	- Mediators have legal protection, including guarantees of confidentiality and limitations on legal liability while carrying out their duties.
Effectiveness	- Weak, because many parties are reluctant to use non-litigation mediation due to the lack of legal certainty and direct executive power.	- High, because the results of out-of-court mediation guarantee legal certainty and can be executed immediately.

The advantage of the Singapore model also lies in its integration of domestic mediation with the international mediation framework. The Mediation Act 2017 was developed to support the implementation of the Singapore Convention on Mediation, which provides a mechanism for recognizing and enforcing international mediation agreements. This provides added value for non-judge-based mediators in Singapore, as the agreements they facilitate can be enforced across borders, in accordance with the provisions of the international convention.

The oversight and quality control mechanisms within Singapore's mediation system also deserve special attention. SIMC and SMC play a role not only in accreditation but also in monitoring mediator performance, handling complaints, and continuously developing professional standards. This system ensures that non-judge-based mediators not only meet minimum standards at the time of certification but also continuously improve their competency in line with developments in international mediation practice.

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Reconstruction of Articles 11 and 36 of Supreme Court Regulation No. 1/2016 is crucial because neither of them currently adequately regulates the position and role of non-judgemental mediators and the mechanisms for out-of-court mediation. Article 11 only addresses the location of mediation and binds non-judgemental mediators when collaborating with judges or court staff, thus creating uncertainty regarding the position of independent mediators. Meanwhile, Article 36 provides a procedure for amicable agreements resulting from out-of-court mediation to be submitted to the court to obtain a peace deed, but this mechanism is not automatic and does not provide certainty of execution, so that the results of non-litigation mediation have the potential to be less effective and reduce the interest of the parties to choose the out-of-court mediation route.

Based on Maria Farida's legal theory, a good article or regulation must address several important aspects, including the basis for its formation, the hierarchy of regulations, clear legal language, and adequate normative content to achieve the legal objectives. Maria Farida emphasizes that legislation has two dimensions: as a process of formation and as the result of that process, namely a generally binding legal order. From this perspective, the reconstruction of articles 11 and 36 must address the legal drafting process, be consistent with higher laws, and use clear legal language that is not open to multiple interpretations so that mediators, litigants, and judges can clearly understand their respective rights and obligations.

Furthermore, the legal norms contained in the reconstruction of this article must include sufficient provisions to guarantee the legal standing of non-judge mediators, the necessary qualifications, procedures for implementing out-of-court mediation, and mechanisms for ratifying peace agreements. This aligns with Maria Farida's principle that norms in regulations must be sufficient to achieve the desired objectives, not merely non-operational formal rules. By incorporating these aspects, PERMA not only serves as a procedural guideline but also provides legal certainty and protection for all parties involved in mediation.

This reconstruction can also be viewed from international practice, particularly Singapore's Mediation Act 2017, which provides a concrete example of how a legal system can strictly regulate non-judgemental mediators, establish qualifications, maintain confidentiality, and guarantee legal recognition of mediation outcomes. Singapore's experience demonstrates that clear regulations regarding independent mediators increase the trust of disputing parties and the effectiveness of mediation as an alternative to out-of-court dispute resolution. In the Indonesian context, the reconstruction of Articles 11 and 36 will enable non-litigation mediation to be conducted more professionally and reliably, while remaining consistent with the principles of civil procedure in the applicable courts.

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Based on the explanation above,It can be concluded that the current regulations, namely Article 4, Article 11, Article 36 of Perma No. 1/2016, are not in line with the principles of legislation according to Maria Farida, so that regulatory reconstruction is needed. Thus, the reconstruction of Articles 11 and 36 of Perma No. 1/2016 is in accordance with Maria Farida's legal theory, because it pays attention to the process of forming regulations, regulatory hierarchy, legal language, and adequate normative content. The reconstructed articles will provide clarity regarding the position of non-judge mediators, non-litigation mediation procedures, and the ratification of peace agreements, so that the results of mediation have clear legal force and can be implemented effectively in Indonesia. This not only increases legal certainty, but also strengthens the mediation system as a professional, voluntary, and efficient alternative dispute resolution.

4. CONCLUSION

The urgency of legal regulation for non-judgemental mediators outside the court arises because Articles 4, 11, and 36 of Perma No. 1/2016 do not adequately regulate the position and qualifications of non-judgemental mediators, so new regulations are needed. Without regulation, legal certainty for the parties is weak, the mediator's position is subordinate, and the effectiveness of non-litigation mediation is reduced. The author proposes the construction of a new regulation with a comparative approach, referring to the Mediation Act 2017 Singapore which clearly regulates the qualifications, authority, and protection of mediators. This model is relevant for Indonesia because the Indonesian procedural law system recognizes out-of-court mediation. Based on Gustav Radbruch's theory of legal certainty, the current Perma does not guarantee the certainty of the mediator's status and the mediation results. Therefore, comprehensive regulations are needed to uphold legal certainty, protect mediators, and ensure the validity of mediation results.

The basic legal construction of the regulation of non-judgemental mediators outside the court begins with the amendment of Article 11 and Article 36 of Perma No. 1/2016. Article 11 is proposed to regulate the qualifications, legal status, and accreditation of non-judgemental mediators, while Article 36 is proposed to regulate the supervision, code of ethics, and accountability of mediators. This proposal is based on the Mediation Act 2017 Singapore which recognizes non-judgemental mediators as an independent profession, relevant to the Indonesian procedural legal system. Based on Maria Farida's legal theory, this regulatory construction is in accordance with the principles of law formation because it takes into account the legal basis, material, legal language, hierarchy of norms, as well as the function and legal certainty of regulations.

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