

## Comparison of Methods for Resolving Child Custody Disputes After Parental Divorce

Nadia Rezky<sup>1</sup>, Arino Bemisado<sup>2</sup>

<sup>1</sup> Universitas Islam Negeri Mataram, Nusa Tenggara Barat, Indonesia; 220402050.mhs@uinmataram.ac.id

<sup>2</sup> Universitas Islam Negeri Mataram, Nusa Tenggara Barat, Indonesia; arinobemisado@uinmataram.ac.id

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<b>Abstract</b>	This research aims to analyze the comparison of two post-divorce child custody dispute resolution methods (litigation and non-litigation) along with the obstacles and challenges faced in finding a solution. This research is qualitative research with field research methods and data obtained through observation, interviews and documentation. The result is obstacles in resolving child custody disputes through litigation methods in court which require a long time, large costs and are difficult to implement the judge's decision, especially if the child is in the control of the losing party and does not want to hand over the child voluntarily. There are no specific rules regarding the implementation of hadhanah and considering the child's psychology, so that often the judge's decision is an illusory (futile) decision. Meanwhile, the obstacles to the non-litigation method are that it relies heavily on cooperation and awareness of both parties and there is still a lack of access to special services for the general public to carry out mediation without having to go to court. For this reason, it is necessary to increase competence and innovative approaches for professionals involved in resolving child custody disputes, the formation of policies that are oriented towards the interests of children and awareness of parents to prioritize the best interests of children rather than ego alone.	
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<b>Corresponding Author</b>	Arino Bemisado Universitas Islam Negeri Mataram, Nusa Tenggara Barat, Indonesia; arinobemisado@uinmataram.ac.id	

### 1. INTRODUCTION

Marriage is a strong bond or what is termed *mitsaqan ghalizhan*. But it is possible that in a marriage that originally aims to realize, form and foster a family *sakinah mawaddah warahmah*, there will be disputes, quarrels, and conflicts between husband and wife ranging from small things to big things. Such as conflicts due to economic problems, love problems, third persons, and other similar problems that have the potential to cause prolonged and protracted conflicts that lead to divorce. (Munir, 2021) Islam has offered settlement of husband and wife/*Shiqaq disputes* through *Sulhu*/peace. It is stated in the Qur'an Surah An-Nisa' verse 35:

وَأِنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَابْعَثُوا حَكَمًا مِّنْ أَهْلِهِ وَحَكَمًا مِّنْ أَهْلِهَا إِن يُرِيدَا إِصْلَاحًا يُوَفِّقِ اللَّهُ بَيْنَهُمَا إِنَّ اللَّهَ كَانَ عَلِيمًا خَبِيرًا



*"If you (the guardians) are worried about a dispute between the two, send a peacemaker from the male family and a peacemaker from the female family. If both intended to do islah (peace), Allah would have informed them. Verily, Allah is All-Knowing, All-Knowing." (QS. An-Nisa': 35)*

If the path of peace does not succeed in solving the problems of husband and wife, then the last emergency door that can be taken is divorce. Divorce is an option and the last resort that can be taken by husbands and wives when their domestic problems are deadlocked. But what is expected is that husband and wife problems can not only be solved by divorce. As is known, divorce on the one hand may be able to solve problems between husband and wife but also cause other problems including joint property, child support and also about the fight for child custody. (Zulkfa & Muchsin, 2021)

One of the post-divorce dispute cases that has not yet reached the final stage is the case between a former married couple who are public figures in the country, namely Atalarik Shah and Tsania Marwa. And this is just one of the many post-divorce disputes experienced by celebrities as well as the general public. This case began after their divorce was broken in 2017 and led to conflicts that until now have not ended. After the divorce, the children are in the care of the father. The mother who did not accept then filed an appeal in 2019 and the decision was to divide the children, namely sons with fathers and daughters with mothers. The disgruntled father filed for cassation because he wanted custody of the two children to fall to him. But the Supreme Court ruled custody of the child fell to the mother. But the father did not want to give the children to his mother and prevented the mother from seeing her children. (Sari, 2021) And the latest case at this time is that Tsania as the holder of child custody does not want to give permission for the passport of children who will be invited to perform Umrah worship by Atalarik Syach (Ig Tsania Marwa, 2023).

Departing from the case above, of course, disputes over child custody like this are not expected to occur considering the negative impacts caused, especially for innocent children. Research on child custody disputes has been widely conducted, including research conducted by Tiara Ananda Rahman and Wardani Rizkianti on "Settlement of Child Custody Disputes After Divorce: Comparison Between Indonesia and the UK". This study compared methods of resolving child custody disputes in Indonesia and the UK. The result is that there are differences regarding child custody arrangements but there is a similarity that both are oriented towards the best interests of the child. (Rahman & Rizkianti, 2024)

Then research conducted by Faridaziah Syahrain on "Determination of Custody of Minors Due to Divorce Islamic Legal Perspective". This study aims to determine the provisions for determining the custody of minors due to divorce, Islamic legal perspectives, and law enforcement in child custody disputes. The result is that only Article 156 of the Compilation of Islamic Law clearly and unequivocally regulates the care of minors post-divorce. So that law enforcement is not going well because it has not been clearly regulated in the Marriage Law. (Syahrain, 2017)

Further research conducted by Neng Eri Sofiana on "Child Custody Dispute Resolution Through Litigation: Case Review No. 011/Pdt. G/2018/Pta. Plk". Resolution of child custody disputes is an endless dispute, because there is no satisfaction for both parties fighting for custody. This study seeks to see the resolution of one of the child custody disputes through litigation procedures in court. The result is that custody of the child is prioritized to the mother at the judge's discretion, although the regulations do not clearly mention this requirement. (Sofiana, 2022)

Research conducted by Nabilla Karima on "Divorce Dispute Resolution through Mediation and Its Relationship with Hadhanah (Child Custody) in the Stabat Religious Court (Case Study Number: 980/PDT. G/2021/PA. STB)", the result is that in giving a decision the judge based on the best interests of the child as stated in the Child Protection Law Number 23 of 2002 and Human Rights Law Number 39 of 1999. Custody of children under the age of 12 does not only lie with the mother, but also to the father if the mother does not qualify. (Karima, 2022)

The majority of existing research discusses the resolution of child custody disputes through the litigation process in court and there are still few that discuss the resolution through non-litigation procedures, one of which is mediation that is carried out without having to register the case first with the court. Unlike previous studies, this study analyzes the comparison of various methods of resolving post-divorce child custody disputes so that it can provide a new understanding of the advantages and disadvantages of each of these methods and become an alternative that can be chosen in resolving child custody disputes along with the challenges and obstacles faced to find solutions.

This research is expected to be useful for professionals such as mediators, lawyers and counselors in competency improvement so as to better understand the factors that affect the resolution of child custody disputes and ways to improve their competence and approach in providing more effective services in helping parents resolve child custody disputes better. For policy makers to improve existing policies or develop new policies in resolving child custody disputes, taking into account factors that have proven influential in the settlement; and improved public services related to resolving child custody disputes, such as providing better access to mediation or counseling for parents experiencing divorce; And for the individuals involved (parents and children) can increase parental awareness about the importance of healthy child custody dispute resolution and oriented to the interests of the child, not selfishness alone;

## **2. METHOD**

This research uses a qualitative approach with a field study method (*Field Research*), which is carried out by collecting information and data from various cases of child custody disputes that occur, both those resolved in litigation and non-litigation. The primary data sources regarding child custody

disputes are obtained through observation, one of which is @tsaniamarwa54 Instagram account, interviews and impressions from parties involved in resolving child custody disputes, namely counselors, lawyers and parents involved in disputes, and other documentation. While secondary data sources are obtained through articles related to child custody dispute cases as well as from books and scientific journals related to resolving child custody disputes.

Data collected from various sources are classified into several categories, namely obstacles in access to court, challenges in mediation, and difficulties in implementing judges' decisions. After that, descriptive analysis is carried out to describe the characteristics of the data and thematic analysis to identify the main themes that emerge. Data from various cases are compared to identify differences and patterns that arise in the barriers and challenges faced and then interpret the data to understand the implications of these obstacles and challenges in resolving child custody disputes, as well as their impact on child welfare.

### **3. FINDINGS AND DISCUSSION**

#### ***Hadhanah in Modern Society***

The maintenance of children in Islam is called hadhanah. In language hadhanah means "on the side" or "under the armpit". According to the term hadhanah is to care for and educate someone who has not been mumayyiz or who has lost his intelligence of reason, because they are unable to meet their own needs. (Dahlan, 1999) According to Fiqh hadhanah is the maintenance of young children who cannot distinguish between good and bad, and have not been able to take care of themselves. Care, education and nurturing here include physical, mental and intellectual so that the child is able to live a perfect and responsible life as expressed by Sayyid Sabiq. (Sabiq, 1983)

The concept of hadhanah in Islam refers to the responsibility of the maintenance and education of the child. In the context of modern society this concept has great relevance because it emphasizes the importance of protection, care and education for children. Post-divorce childcare is not only about child welfare but also ensuring the protection of children's rights and maintaining family stability and balance after divorce. (Anam & Farida, 2023) Children must be protected from violence, neglect and negative influences from the surrounding environment. Children should also be taught Islamic morals and ethics through, for example, religious education in schools, education for parents, anti-violence campaigns against children, and the establishment of institutions that care about children's rights.

The law of hadhanah, be it caring for and educating children is mandatory based on the agreement of the ulama. However, it is different when setting hadhanah is the right of the child or the rights of parents (especially the mother). Maliki and Hanafi scholars argue that hadhanah is the right of the mother so that she can give up her rights, while the majority of scholars argue that hadhanah is the right

of parents as well as the right of children. In line with *jumhur*, according to Wahbah Zuhayli *hadhanah* is the right of association between father, mother and son. In the event of a quarrel, then the interests and rights of the child must come first. (Nuruddin & Tarigan, 2006)

The process of education and child maintenance can run well if both parents help each other and work together. Especially if the family is really a *sakinah* family, *mawaddah warahmah*. It will be different if the family breaks up because of divorce between the two parents. Nevertheless, the obligation to educate and nurture children must still be carried out. In Islam if husband and wife are at odds over the control of children, then the first step that must be done is by means of deliberation and kinship. (Nuruddin & Tarigan, 2006)

The issue of control over children has been regulated from a long time ago, for example in customary law which can be seen from the kinship system adopted by the community. For example, in matrilineal societies, the control of children is given to the mother or to the mother's brother, while in societies that adhere to the patrilineal kinship system, the emphasis is placed on the family on the father's side. (Nuruddin & Tarigan, 2006) The Prophet said that mothers are the most entitled to maintain children who have not been *mumayyiz* as long as she has not married another man. This is because the inner bond and affection of mothers tend to be closer to children than fathers. And mothers are also more delicate and patient in dealing with children. (Islami & Sahara, 2019)

In Law Number 1 of 1974 specifically regarding the control of children as well as in Government Regulation Number 9 of 1975 in detail, so that the judges determine based on the books of *fiqh*. (Manan, 2000) *Hadhanah* was included in positive law in Indonesia after the existence of Law Number 7 of 1989 concerning Religious Courts and Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law.

In general, the Marriage Law has stipulated in Article 41 that if a parent's marriage breaks up due to divorce, the mother and father are still obliged to maintain and educate the child for the benefit of the child, and the father is responsible for all costs of maintaining and educating the child. Then in article 45 it is stated that the maintenance obligation applies until the child is married or can stand alone. Article 49 states that the power of attorney of both parents or one parent can be revoked if he neglects his obligations towards the child and misbehaves, but does not eliminate the obligation to pay maintenance costs to the child.

Child care in the Compilation of Islamic Law (KHI) is regulated in Chapter XIV Articles 98-106. Article 98 states that the age limit for a child who is able to stand alone is 21 years, as long as he is not physically or mentally disabled and has never been married. In the event of parental divorce, article 105 states that the maintenance of children who are not yet *mumayyiz* (not yet 12 years old) is the right of

the mother, if the child has been *mumayyiz* is given the option to be maintained by the father or mother, and the father bears the cost of maintenance.

### **Alternative Resolution of Child Custody Disputes After Parental Divorce**

A mother and father have equal rights when it comes to nurturing and educating their children. There are no restrictions and apply to all people regardless of differences in religion, ethnicity, and race in the legal protection of human rights. (Puspitosari, 2014) And a child also has the right to get love, nurturing, attention and protection from both parents intact even though both have divorced. (Wiranata, 2013) This is in line with Law Number 23 of 2002 concerning Child Protection Article 1 that:

"Child protection is all activities to guarantee and protect children and their rights in order to live, grow, develop, and participate optimally in accordance with human dignity and dignity, and receive protection from violence and discrimination."

The practice that occurs in society is that in the right to care for children it is given to one party only, either father or mother. Deputy Chairman of KPPAD (Regional Women and Children Protection Commission) Bali Province, A.A Made Putra Wirawan said that the paradigm that develops in society in the event of divorce, the holder of custody is the full authority over the child, even though both parents have equal rights to the child. A.A Made Wirawan also said that parents must commit that the problem is the parent, while the child should not be involved in the problem.

But in reality many are fighting for child custody, with various factors such as affection for children, but there are also forms of revenge against their former partners. (Noor et al., 2023) Parents use children as weapons to show their hatred for their former partners by preventing children from meeting their other parents. In this context, of course, children experience psychological violence and do not get their rights. Even children are invited to conflict with their father or mother and also their father's or mother's family.

Such as the case experienced by Atalarik Shah and Tsania Marwa which has been described earlier, and many other cases of fighting for child custody. This is one proof that if a father and mother divorce and do not reconcile in their new life, it is their children's hearts that are most broken. Children will feel a deep loss because parents are no longer intact, and lose habits that were once done together, so that children spontaneously also change their behavior by getting used to being alone, increased anxiety and difficult to get along with. In addition, there are also those who end up having an unhealthy personality, emotional and irresponsible. (Nuraisyah et al., 2024) Children who were previously happy, sociable, active and cheerful, but after divorce parents become difficult to control emotions, and enthusiasm for learning decreases. Some children also experience a decline in academic achievement due to conflicts that occur in parents. (Lestari et al., 2024)

The impact of this divorce is that the majority of children will lose complete love from both parents. Not to mention the hatred instilled by one parent towards the other. Such a case researchers found in the field where a 9-year-old boy was instigated by his mother to hate his father after the separation. When the son was asked about his father he replied that his father was bad and did not love him, but when interviewed with his other 21-year-old son the son explained that his father actually loved them, but it was the mother who always bad-mouthed his father in front of his sister.

One of the cases mentioned in research conducted by Syahputri Hutabarat and Faisar Ananda where due to immaturity a father who took custody of the child from his ex-wife and restricted and prohibited the child from meeting his mother had a bad impact on the child's mentality. The child becomes frightened every time he accidentally meets his mother and feels anxious as if he is a thief who must look around him, indicating that the child is forbidden to meet his mother. Whereas on the other hand, the child's eyes showed a deep longing for his mother. (Hutabarat & Ananda, 2024)

These negative impacts are certainly not expected, therefore a good resolution to the conflict is needed. Dispute or conflict resolution can be resolved through two processes, namely through litigation and non-litigation procedures.

### **Litigation Methods in Child Custody Dispute Resolution**

The litigation procedure is taken through trials in state judicial institutions, be it District Courts, Religious Courts, State Administrative Courts, Military Courts, High Courts and Supreme Courts. The disputing party submits its application or lawsuit to the court, to then go through a series of trials and evidence to resolve the problem.

Regarding child custody through litigation procedures, the institutions authorized to determine child maintenance rights or better known as child custody are the Religious Court for Muslims and the District Court for non-Muslims. This application for child custody can be included in a divorce application or lawsuit filed with the court and decided simultaneously with the divorce verdict and can also be filed at a later date after the divorce decision by the parents who want child custody.

Dispute resolution through litigation provides a decision that has binding legal force, legal certainty with the existence of winning and losing parties (*win-lose solution*) based on evidence and can be forced / executory (Rosita, 2017). However, Aaz Jidatul Haz, a lawyer from the legal aid office of AYO Center, explained that in resolving child custody disputes, there are difficulties and obstacles faced. In the realm of procedural legal proceedings, lawyers have difficulty finding loopholes to convince the panel of judges to be able to grant custody of the child to the client. While the client only feels confident that he is able to be given custody but does not have supporting evidence such as proof

of sufficient income. Another problem is in the executory process where until now there is still a legal vacuum in the process of executing hadhanah/child custody decisions.

### **Obstacles and Challenges in Litigation Methods**

Some disadvantages of resolving child custody disputes through litigation methods include:

1. Adversarial in nature, where both parties or parents fight for their own interests in front of the court hearing, so that it can cause conflicts between both parties;
2. Focusing on rights, meaning that existing formal legal systems tend to focus more on determining the legal rights of each party, rather than the interests or welfare of children directly;
3. A long and expensive process, the process of resolving child custody disputes through the courts often takes a long time and costs a lot, because it involves complex legal processes and not to mention the cost of services for lawyers;
4. Limited flexibility, weakness of legal procedures in court is too strict and lack of flexibility in finding solutions that suit the needs and interests of children;
5. Increased stress and conflict between parents that can have a negative impact on children;
6. Decisions are not always optimal and even illusoior, although the court has tried to give a decision that is best for the benefit of the child, the decision taken does not work optimally due to limited information or understanding that the court may have;
7. Lack of consideration of parent-child relationships in determining custody decisions.

In reality, the resolution of child custody disputes that are resolved in court has implications for a party who wins custody of either mother or father and someone is defeated. For parents, they certainly want their children to stay close and in their care. But for divorced parents inevitably have to be willing and hand over control of the child to one of them or based on the decision of the judge who decided their divorce. Efforts will continue at the level of appeal and cassation which certainly takes a long time even years, draining funds, emotions and energy that is not small.

Against a judgment that already has legal force, it is difficult to implement with the willingness of the litigant, so the last way that can be taken is execution. (Layli Lukita Sari). Such was the case in the case of Atalarik Syah and Tsania Marwa, where the execution attempt against the Bandung High Religious Court ruling that won custody of the child fell to Tsania in 2019. Likewise, the Supreme Court's ruling in 2021 was unable to unite Tsania with her children. Execution will have a negative impact on the child if a child who is on the losing side is forcibly taken. In addition, this execution also has weaknesses because there is no legal umbrella for the execution of hadhanah verdicts. There are only rules on execution that are generally accepted in civil law. Some of the obstacles and obstacles that led to the execution of the hadhanah verdict were caused by several factors: (Gushairi, 2022)



1. There is an assumption for the losing party that the judge's decision is unfair because of the low awareness and obedience of the community's law.
2. Refusal from children because they want to stay with the execution respondent (mother or father) or the child's family already feel psychologically close.
3. The child's whereabouts are not clearly known, it can be caused by changing addresses and it is difficult to find him.
4. There is a legal vacuum because there is no formal law specifically regulating the issue of child execution.

In Indonesia today, the litigation method in court is still the standard in resolving child custody disputes, but unfortunately it has not provided satisfactory results for both parties because there are still parties who feel defeated and won. The failure in the child execution process also finally at this time gave rise to a lawsuit to the Constitutional Court regarding the criminal application of child abduction by biological fathers.

### **Non-Litigation Methods in Child Custody Dispute Resolution**

The non-litigation method is a dispute resolution carried out outside the court session. One way is by mediation procedure. Gary Goodpaster argues "mediation is a form of Alternative Dispute Resolution (ADR) handled by a third party that is neutral, impartial, does not have the authority to decide disputes. Mediation can lead the parties to the realization of a permanent and sustainable agreement, given that settlement through mediation puts both parties in the same position, neither party is won or the party is defeated". (Santoso, 2021)

Article 1 paragraph 10 of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution states:

"Alternative dispute resolution is an institution for resolving disputes or disagreements through procedures agreed by the parties, namely out-of-court settlement by means of consultation, negotiation, mediation, conciliation, or expert assessment".

This Act does not provide more detail than those alternative Institutions, as does its arrangement on Arbitration. In article 1 of Supreme Court Regulation (PERMA) Number 1 of 2016 concerning Mediation Procedures in Court:

"Mediation is a way of resolving disputes through the negotiation process to obtain agreement between the parties assisted by a Mediator."

The mediator referred to in this article is a Judge or other party who has a Mediator Certificate as a neutral party who assists the parties in the negotiation process to find various possible dispute resolutions without using the means of deciding or forcing a settlement. So the mediation referred to

here is mediation provided by the court before the trial process continues.

Principles of mediation among others: (Santoso, 2021)

1. Mediation is voluntary, meaning that in principle the initiative of the choice of dispute resolution through mediation is subject to the agreement of the parties, not one of the parties alone.
2. The scope of the dispute is civil in nature.
3. The process is simple, because it does not go through a long process for years if the case goes to cassation appeals as there is in dispute resolution through litigation in court.
4. Maintaining the confidentiality of the parties' disputes, carried out behind closed doors so that not everyone can attend mediation negotiation sessions such as in civil hearings in courts that are open to the public.
5. The mediator mediates, by clearly positioning the conflict at hand and providing the best alternative solution that can be chosen.

Mediation is carried out with the aim of resolving disputes between the parties by involving neutral and impartial third parties. The benefit of mediation is the existence of an agreement that ends the dispute fairly and mutually beneficial to the parties. Even in failed mediation there are perceived benefits, namely being able to clarify the root cause and narrow the dispute between them with the willingness of the parties to meet in a mediation process. This indicates the parties' desire to resolve the dispute, but they have not yet found an appropriate format mutually agreed upon. Dispute resolution is difficult, but that does not mean it is impossible to realize. (Santoso, 2021)

The emphasis in mediation is on deliberation and the desire of the parties to the dispute to then jointly seek and accept the settlement offered by the mediator (outside the court) or judge (inside the court) that is considered satisfactory to the parties. This is essentially a manifestation of the fourth precept of Pancasila which states that deliberation is a very important element in making a decision for the welfare of the nation. (Faisal & Abdul Hamid Bashori, 2022)

Mediation carried out outside the court can provide a wider space for the parties to discuss their problems and find solutions together, because the atmosphere created in mediation is more relaxed and not as rigid as in court. It is well realized that the trial process in court indirectly puts mental stress on the person in court and affects emotions. And fight each other to show who is most worthy of parenting. Mediation will be assisted by a mediator or team who has the ability and accreditation in mediation and negotiation and especially has the ability and specialization in family disputes.

I.A Saraswati Indraharsani, a psychologist at UPTD PPA Badung Regency Bali, said that one of the strategies in resolving child custody disputes is through *Family Therapy* with mediation procedures. Each parent will be asked about their expectations of their children that have not been conveyed, not what is the problem. Then also an examination of the child's psychology and the child's feelings for his

mother and father. In resolving child custody conflicts should also be avoided side family interference (such as grandparents, uncles, aunts or other relatives).

Some stages that can be taken in the mediation process of resolving child custody disputes include:

1. Both parents are given the opportunity to sit together with cool heads listening to each other's views and opinions. Fathers and mothers are both given the opportunity to express opinions and reasons why they want to take care of children and the steps and strategies that will be carried out in parenting. While the other party must listen and must not interrupt when the other is talking.
2. Both parents share information about the actual conditions that occur today, such as financial conditions, health, and future plans. This is so that each party is aware of their respective conditions so that in taking action they are not coercive and based on ego alone.
3. Formulate ideas and alternatives that both parents might agree on in parenting. But still the benchmark here is a decision that puts the interests of children first. What parents need to pay attention to here is, a) the age of the child, parents must understand and realize who needs their figure most in the infant child; b) who of the two parents is best positioned to provide daily care; c) Understand the capacity and ability of parents both in terms of time, attention, and also financial ability; d) Understand the child's special needs, health conditions and education; e) The child's opinion, especially for children who have been able to make their choices; f) Child safety;
4. Make a written agreement between the parents in the care of the child, as a form of both parties have agreed to end the child custody dispute;

### **Barriers and Challenges in Non-Litigation Methods**

Resolution of child custody disputes through mediation has advantages compared to court procedures. The advantages of this method include:

1. It is collaborative and oriented towards child welfare. This method focuses on cooperation between parents and the best interests of the child, as opposed to legal battles in court;
2. A faster and more economical process, because there is no need to go through a series of court hearings that have a certain time span for each trial process, but can be held direct meetings between the disputing parties anywhere and anytime according to the agreement;
3. Decisions are mutually acceptable because they involve both parties in finding solutions rather than decisions taken by the court;
4. Greater consideration of the child's well-being, as decisions are made based on open discussion of the child's needs and interests
5. Although it has advantages, this method is also inseparable from disadvantages, including:

6. Depending on good cooperation between parents, if one does not want to participate or is uncooperative, the mediation process will be difficult and may end in failure;
7. Less suitable for complex cases, for example in cases involving domestic violence;
8. Decisions reached through mediation do not have the same legal force as court decisions, and in some cases still need to be approved by the court;
9. Limitations in sustainable conflict resolution. While this method can help resolve conflicts briefly, they are not always successful in resolving conflicts that may arise later on.
10. Limited access to public services in terms of mediation and counseling for the resolution of child custody disputes outside the court session.

### **Solutions in Resolving Child Custody Disputes**

Some solutions that can help overcome challenges and obstacles in resolving post-divorce child custody disputes include:

1. Mediation and counseling can help parents communicate effectively and reach a fair agreement on child custody and assist parents and children in managing emotional conflicts and finding the best solutions;
2. Parental education about the importance of child welfare and how best to handle post-divorce conflict, so as to reduce conflict and increase cooperation between parents;
3. A child welfare-based approach as a top priority can help parents to focus on their child's best interests in making decisions;
4. The use of alternative legal approaches such as mediation can reduce the cost and time required in resolving child custody disputes;
5. The involvement of experts such as child psychologists or social workers in the dispute resolution process can help to better understand the needs and interests of children;
6. Making a clear and detailed parenting plan agreement regarding parental rights and obligations towards children can reduce conflict and facilitate cooperation between parents
7. Encourage parents to adopt collaborative methods of resolving disputes, where they can work together to find solutions that are best in the interests of the child and help resolve conflicts;
8. Strengthening social support systems for divorced parents can help reduce the stress and stress they experience, thereby improving their ability to better resolve conflicts.

When there is a divorce, there is no such thing as an ex-child and an ex-father or mother, there is only an ex-wife and an ex-husband. Therefore, sincerity and cooperation between parents are needed so that children continue to grow and develop with their mother and father. According to Maghfirah and Gushairi at this time, it is also important to put forward a shared parenting style, with the

understanding that childcare is based on the best interests of the child. (Maghfirah & Gushairi, 2020) The involvement of both parents is needed to provide moral and physical support to children and overcome various problems that arise in children due to their parents' divorce.

The benefits of this co-parenting are *first*, the child feels safe because he knows he will always be loved by his father and mother. *Second*, be directed, foster discipline and maintain children's self-esteem, and children will become more focused and understand what they and their parents want. *Third*, children become healthier mentally and emotionally, because children who are victims of divorce from both parents may be more likely to experience mental problems, such as depression, ADHD, and anxiety disorders. The existence of *co-parenting* indirectly provides an example of maintaining a good relationship, behind the failure of parents in maintaining marriage.

This co-parenting will indeed be difficult and difficult because parents must try to get rid of anger and hatred for each other, not only for the feelings of parents, but about the happiness and well-being of children for the future. Therefore, do not involve children in the problems faced by their parents. If anyone is stuck with an ex-partner, contact him immediately and don't badmouth in front of the child. Moreover, making children as messengers between both parents.

In essence, there is no need for child struggle, as discussed in the previous mediation process, parents simply divide the parenting schedule for children by adjusting the time owned by parents and children's schedules, for example for children who have gone to school. The most important thing here is that the child remains in the care of his parents even though separately. Examples of parents who have implemented co-parenting and agreed to reconcile in parenting even though some have remarried to others include Desta and Natasya Rizki, Gading and Gisela, Deddy Corbuzier and Kalina Octarina, Mike Lewis and Tamara Bleszynski, Ben Kasyafani and Marshanda. (Adikara, 2023)

#### 4. CONCLUSION

Settlement of child custody disputes after parental divorce can be taken in two methods, namely, first by litigation method by submitting a child custody application in court. Obstacles and challenges in the litigation method in court require a long time, a lot of funds and the final decision of the judge will win one party. In addition, the implementation of the judge's decision will be difficult to implement, especially if the child is in the possession of the losing party. It takes the willingness of the losing party to hand over the child to the winning party, otherwise it can only be executed. The problem again is that the rules regarding the execution of hadhanah have not been specifically regulated and not to mention the psychological impact on the child being executed.

The second alternative is the non-litigation method by means of mediation where parents are guided to make an agreement on the child's parenting, where the best interests of the child come first,

and parents are equally given the opportunity to nurture, care for and educate the child, without having to be hindered by either party. So parents can collaborate in hadhanah, and children do not become victims of the divorce of both parents. The main obstacle in this method is when both sides are uncooperative and refuse to mediate.

It can be concluded that if parents are wise and unselfish, then there will really be no problem of this child custody dispute. Because children are not items that must be fought over, especially until they must be executed. Also keep in mind that every situation of post-divorce child custody disputes can differ from one family to another, therefore, an effective method for one family may not necessarily be suitable for another. So it is very important to consider the uniqueness of each case and find a solution that best suits the needs and interests of the child.

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