



Legal Analysis of The Role of Mediators in The Sibolga Religious Court in Minimizing Divorce Rates

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Abstract - This study aims to analyze the role of mediators in the mediation process of divorce cases at the Sibolga Religious Court and the effectiveness of mediation efforts in minimizing the divorce rate. Based on data from the Sibolga Religious Court, there was a significant increase in the success rate of mediation in 2021 and 2022. In 2021, from a target mediation success rate of 5%, the realization reached 11.36%, more than double the initial target. In 2022, the success of mediation increased again, reaching 20%, aligning with the set target. In addition, the number of divorce cases decreased from 142 cases in 2021 to 127 cases in 2022. This type of research uses qualitative research with data collection techniques through in-depth interviews with mediators and direct observation to the Sibolga Religious Court and relies on legal documents, mediation reports, related laws and regulations, journals, books, and other relevant articles. The results of the study show that mediators have an important role in facilitating communication and negotiation between the parties to the case, helping them reach a peaceful agreement without having to proceed with the divorce. The increase in mediation effectiveness can be attributed to a variety of factors, including mediator training, a more personalized approach, and increased public awareness of the importance of mediation. In conclusion, mediation at the Sibolga Religious Court has proven to be effective in reducing the divorce rate, and with a more intensive strategy, mediation has greater potential to resolve family conflicts.

Keywords: Mediation, Divorce, The Role of Mediators, Mediation Effectiveness

I. INTRODUCTION

In recent years, the divorce rate in Indonesia has significantly increased. This phenomenon has made the role of the Religious Court increasingly important in managing and resolving marital disputes, both in terms of law and mediation. As an institution with authority over matters of marriage and divorce for Muslims, the Religious Court is at the forefront of addressing this challenge, including seeking balanced solutions between religious law and the needs of modern society. With the marriage taking place, they must know each other, understand, and accept each other's shortcomings, both in a state of joy and sorrow until eternity at the end of life. (Setiawan, 2022). Divorce is the end of a marriage due to a cause based on a judge's decision on the demands of one or both parties in the marriage, so that the married couple is no longer legally bound as a married couple (Simanjutak, 2019).

In Indonesia, the rising divorce rates highlight the importance of effective arrangements for resolving household conflicts. The Religious Court plays a crucial role in handling divorce cases, as outlined in Law No. 7 of 1989, which defines its authority and procedures. Article 49 of this law mandates that the Religious Court examines, decides, and resolves marriage, inheritance, wills, grants, and endowments in accordance with Islamic law (Umar, 2020). To prevent divorce, the Indonesian government, through the Religious Court, has implemented

mediation as a preliminary step before divorce is sanctioned. Mediation is a dispute resolution process involving a neutral third party to help couples reach an agreement or solution to save their marriage. (Ainun Fadillah & Amalia Putri, 2021). In a legal context, mediators play an essential role not only as facilitators but also as balance-keepers of both parties' rights. Mediators are expected to identify the root issues and propose acceptable solutions. While mediation is recognized as effective in reducing divorce rates, its success depends on factors like couples' cooperation, mediator skills, and legal system support. (Ashari, 2020).

According to the law, every divorce case in the Religious Court must undergo mediation as a first step towards reconciliation. This is governed by Supreme Court Regulation No. 1 of 2016 regarding Mediation Procedures. (Lailiyah, 2022). Despite mediation being an integral part of the divorce process, the key question is how effective mediation is at the Sibolga Religious Court in reducing divorces. Data shows that in 2021, mediation resolved 11.36% of cases, increasing to 20% in 2022, indicating an improvement in the mediation process. (Performance Report of the Sibolga Religious Court Government Agency 2021, n.d.)

Given the decrease in the number of divorce cases in the Sibolga Religious Court from 142 cases in 2021 to 127 cases in 2022, the factors that cause such as leaving one of the parties, imprisonment, continuous disputes or quarrels, and the economy. This situation creates a need. effective conflict resolution alternatives before the divorce case reaches the courts. it was found that not all divorce cases at the Sibolga Religious Court succeeded in mediation. The success and failure of mediation in the divorce case can be seen directly through interviews with judges and through the annual report book of the Sibolga Religious Court. Therefore, this study aims to analyze the role of mediators in the Sibolga Religious Court in minimizing the divorce rate and evaluate how effective mediation is in reducing the number of divorces in the region.

II. METHOD

This research employs a qualitative approach, specifically descriptive and analytical, designed to explore the mediator's role in minimizing divorce rates in depth. It integrates two main aspects: descriptive and analytical approaches, which complement each other to provide a comprehensive understanding of mediation practices. The findings are expected to offer deep insights into mediation practices and recommend ways to strengthen the mediator's role within Indonesia's legal system.

The study utilizes both normative legal and empirical legal approaches. The normative approach focuses on applicable legal rules regarding mediation and divorce, analyzing regulations like Law No. 7 of 1989 and Supreme Court Regulation No. 1 of 2016 to explore how Indonesian law governs the mediator's role. It clarifies the legal foundations that underpin the mediator's responsibilities and the rights of the involved parties, framing mediation as a solution to reduce household conflicts.

Conversely, the empirical legal approach aims to understand how these legal rules are applied in practice. By gathering empirical data through interviews with mediators, analyzing divorce case data, and conducting field studies at the Religious Court, this approach evaluates the effectiveness of mediation. It explores various factors affecting mediation success, such as mediator competence, couples' attitudes, and support from the legal system, providing practical insights into the challenges and opportunities of implementing mediation in the field. Statistical data from the Sibolga Religious Court regarding divorce rates and successful and unsuccessful mediation cases will also be analyzed.

III. RESULT AND DISCUSSION

1. The Role of the Mediator of the Sibolga Religious Court in the Mediation Process of Divorce Cases

Mediators at the Sibolga Religious Court have an important role in efforts to reconcile couples who file divorce lawsuits. In accordance with applicable legal procedures, mediation must be carried out before the divorce case is decided. The mediator acts as a facilitator who helps to reconcile in the best way possible to reach an agreement, so that a long and tiring

trial process can be avoided. With the help of mediators in producing win-win solutions that are beneficial to the parties, because they do not give birth to defeats and victories but are able to preserve the humorous relationship of the parties. (Hamzah et al., 2021)

According to Iwin Indra, as the Main Primary Judge of PA Sibolga, mediation is sought as much as possible in each case. However, marriage disputes are different from material disputes. In the case of material disputes, there are physical objects that can be divided, such as houses or land, so the chances of successful mediation are greater. On the other hand, marital disputes involve emotional and heart problems. If someone has been hurt, betrayed, disappointed, it is very difficult to restore the relationship to the way it was. Just as a dispute with a friend about goods can still be resolved, the issue of feelings is much more complicated. Although there have been several divorces that have been successfully reconciled, the chances remain small. (Indra, 2024)

The implementation of divorce mediation at the Sibolga Religious Court follows the provisions of Perma No. 1 of 2016 concerning Mediation Procedures in the Court as follows:

1. At the First Hearing attended by both parties, the Judge instructed the parties to undergo a mediation process. The judge explained the mediation procedure and asked the parties to select a Mediator from the available list, either on the day of the First Hearing or within 2 working days thereafter. If the parties do not reach an agreement, the Chairman of the Panel of Judges will appoint another Judge as a Mediator.
2. After the Mediator is determined, each party must submit a case resume to the Mediator within a maximum of 5 working days. The mediation process lasts for 40 working days from the time the Mediator is appointed. The mediator is obliged to prepare a schedule of mediation meetings that must be agreed upon by the parties and can conduct a "Caucus" if necessary. If one of the parties or their proxies fails to attend the mediation meeting twice in a row without a valid reason after being formally summoned, the Mediator is obliged to declare the mediation failed.
3. If mediation results in a peace agreement, it must be written and signed by all parties as well as the Mediator. If represented by a Legal Representative, consent must also be expressed in writing. The parties must report to the Judge at a predetermined hearing and may submit an agreement to be enforced as a "Deed of Peace." If you do not want a Peace Deed, there must be a clause to revoke the lawsuit or a statement that the case has been completed.
4. If the mediation does not result in an agreement, the Mediator is obliged to make a written statement regarding the failure of the mediation and notify the Judge. The judge examining the case is still authorized to seek peace until the verdict is read. Statements and confessions during failed mediation cannot be used as evidence in a trial.
5. The Judge Mediator may not hold mediation outside the court. The implementation of mediation in the Religious Court room is free of charge.
6. If the parties agree to peace at the level of Appeal, Cassation, or Review, they must convey in writing to the Chief Justice of the Religious Court. The Chairman of the Religious Court will notify the Chief Justice of the Religious High Court or the Chief Justice of the Supreme Court according to the level of the case. The judge must postpone the examination for 14 business days from the time the notice is received. The parties may submit a written peace agreement to the Panel of Judges to be strengthened in the form of a Deed of Peace, which must be signed within a maximum of 30 working days after it is recorded in the Master Register of Cases. (Faizah Erlina Wulandari, Hoirun Nisak, 2020)

Some of the main roles of mediators in the Sibolga Religious Court in the mediation process of divorce cases include:

- 1) Communication Facilitator: Mediators help couples communicate well, overcome misunderstandings, provide space for open discussion.
- 2) Problem Identification Aid: The mediator also plays a role in helping couples find the root of the problem that triggers the conflict, so that a suitable solution can be discussed.

- 3) Alternative Solution Provider: The mediator offers a variety of unbiased settlement options, giving the couple a great deal of control over the decisions made.
- 4) Guardians of Neutrality and Fairness: mediators maintain balance in mediation, ensuring each party gets a fair opportunity to speak.

Mediating Emotional Conflicts: Divorce is often triggered by emotional factors such as pain, disappointment, or anger. Mediators handle these conflicts using an empathetic and patient approach. They help couples to defuse emotions, so discussions can focus on solving problems rationally. (Wulandari, 2024)

2. Expedition Efforts by the Mediator of the Sibolga Religious Court are Effective in Minimizing the Divorce Rate

The effectiveness of mediation efforts at the Sibolga Religious Court in reducing the divorce rate is one that needs to be analyzed. This can be seen from the data obtained at the Sibolga Religious Court in 2021, recording a significant increase in the number of divorce cases, with a total (142 cases) of cases filed. This is caused by various factors, namely economic factors, disputes or quarrels that continuously cause the loss of harmony, imprisonment, and irresponsible husbands (abandoning one of the parties). This increase highlights the need for the role of mediators in helping to resolve domestic conflicts and minimize the divorce rate through the mediation process. (Laporan Tahunan Pengadilan Agama Tahun 2021,)

Of the total (142 cases) of divorce filed in 2021, as many as (44 cases) were submitted for the mediation process. Of these, (11.36%) managed to reach a peace agreement, while the rest continued to the divorce process in court. Although mediation efforts were carried out around (39 cases) did not succeed in reaching an agreement and the divorce process continued in court. This shows several obstacles in the implementation of mediation such as the strong desire of the parties to divorce, the lack of goodwill and seriousness of the parties in resolving their problems, as well as the high ego of the parties, making it difficult for the mediator to seek peace for both. (Laporan Kinerja Instansi Pemerintah Pengadilan Agama Sibolga Tahun 2021, n.d.)

From the description above, the Sibolga Religious Court shows that in 2021, only 11.36% of divorce cases were successfully mediated. This means that the majority of cases, which is almost 88.64%, end in divorce after failing to reach an agreement through mediation. This figure shows that mediation efforts in the Court have not been effective enough in minimizing the divorce rate. (Litti et al., 2023). However, in 2022 it shows an increase in the signified target, and the reality that it also exceeds the target. The increase from 11.36% to 20% shows that the mediation success is getting better. This includes an increase in trust in mediation as an alternative solution before divorce and mediation methods that are increasingly refined from time to time, in terms of existing techniques, procedures, and legal support.

Mediation increasing from 11.36% (2021) to 20% (2022), this can be interpreted that more couples have managed to reach an agreement through mediation, so divorce can be avoided. With the decrease in divorce cases from 142 to 127 cases caused by the success of the mediation. This means that more and more couples are choosing to reconcile rather than proceed with divorce. (Laporan Kinerja Instansi Pemerintah Pengadilan Agama Sibolga Tahun 2022, n.d.).

There are various factors that explain why more cases are not successfully mediated at the Sibolga Religious Court, including:

- 1) Difficulties in Building a Commitment to Reconciliation, many couples who come to mediation are already at a point of conflict that is difficult to fix. They may have experienced conflict for years before filing for divorce, and the harsh stance of either or both parties becomes a barrier to the mediation process. The mediator's difficulty in rebuilding communication and trust between the couple has repeatedly caused mediation to fail.
- 2) Conflicts that are too complex to resolve through mediation, some divorce cases involve very complex issues, such as ongoing arguments, irresponsibility, or economic

problems. This situation often makes mediation incapable of providing an adequate solution, as these issues require deeper inverts and longer periods of time than are available in standard mediation processes.

- 3) High Emotional Factor, divorce is often colored by feelings of anger, disappointment, or deep trauma. In many cases, these feelings make it difficult for couples to compromise or reconcile through mediation. Intense emotions can impair a partner's ability to think rationally and find a profitable solution.
- 4) Lack of Awareness About the Benefits of Mediation, some couples may see mediation as a formality that must be passed before divorce, without really understanding the benefits or potential solutions that can be generated through this process. Lack of awareness or trust in mediation as an effective method of conflict resolution often causes couples to be reluctant to actively participate in mediation.
- 5) Limited Resources and Time, the mediation process at the Sibolga Religious Court is also limited by the available time and resources. With so many cases to handle, the mediator may not have enough time to mediate each case with the necessary intensity and depth. This results in the mediation process being rushed or lacking in depth, which has an impact on the low success rate.
- 6) Social and Cultural Pressures, in some communities, divorce may be considered as one of the solutions to major household problems, especially if social and cultural norms encourage separation. Pressure from extended family or society can also be a factor that makes couples choose divorce, even though mediation has been carried out. (Sikri et al., 2022)

The factors for the success of mediation that have been explained by Iwin Indra as the mediator judge at the Sibolga Religious Court include:

1. Willingness of both parties to reconcile: The success of mediation depends heavily on the emotional readiness and willingness of both parties to find a peaceful solution. Couples who come to mediation with the intention of resolving the problem have a greater chance of reconciliation.
2. The Active Role of the Mediator: A mediator who is competent, experienced, and able to maintain neutrality can help couples bridge their differences. Good communication skills, empathy, and a personalized approach from the mediator are often the keys to success.
3. The Right Approach: The use of appropriate mediation approaches, such as emotional facilitation and the involvement of influential parties (e.g. family or counsellors), can help create an atmosphere conducive to reconciliation.
4. External Support: Support from family, friends, or a psychological counselor can also play a role in the success of mediation. Well-supported couples tend to be more open in the dialogue and negotiation process.
5. Sufficient mediation time: The success of mediation often depends on a sufficient duration to discuss complex issues. The mediation process that is not rushed allows couples to have a deeper space for reflection and understanding.
6. Awareness of the Impact of Divorce: When couples are aware of the negative impact of divorce on their children, finances, or social relationships, they are more likely to be willing to try to find a solution through mediation. (KHOIRUL ANAM, 2021)

The success of mediation is influenced by the couple's willingness to compromise, the ability of the mediator, and the support that the partner receives. On the other hand, mediation fails if the conflict is too complex, emotions are too strong, or pressure from outside parties is blocking the peace process. This factor must be considered to increase the effectiveness of mediation in the future.

IV. CONCLUSION

Mediators at the Sibolga Religious Court have an important role in resolving divorce disputes before the case reaches the decision stage. In accordance with Supreme Court Regulation (Perma) Number 1 of 2016, mediators' function as neutral parties that facilitate

communication between conflicting couples. The mediator's main job is to help both parties find a fair and win-win solution to prevent divorce.

The analysis showed that mediators were active in reconciling couples who were about to divorce, which was evident from the increase in the percentage of mediation success. In 2021, the success of mediation exceeded the target with a realization of 11.36%, and in 2022, the realization reached 20%, far above the target of 15%. In addition, the decrease in the number of divorce cases from 142 cases in 2021 to 127 cases in 2022 indicates that mediation is effective in reducing the divorce rate in this region.

The increase in the success of mediation can be attributed to factors such as increased quality of mediators, public awareness of the importance of mediation, and court support in the implementation of the mediation process. Training for mediators and a more personalized approach to handling divorce cases also contributed to this positive outcome. Thus, mediation is an effective alternative solution in resolving domestic conflicts without having to go through the divorce process.

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