

PROBLEMS OF MEDIATION BY RELIGIOUS COURT JUDGES IN LAMPUNG PROVINCE

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Abstract: This article discusses the problems surrounding mediation by Religious Court judges in Lampung Province. Mediation can help simplify a dispute so that it can be resolved more cheaply and quickly. Interestingly, mediation allows litigants to find their solutions or settlements, expecting each party to be satisfied and fairly treated. However, this is not the case in real life. Mediation implementation falls short for a variety of reasons. The results of this study show that the mediation carried out by judges at the Religious Court of Lampung has several problems. Judges are unable to provide optimal mediation in divorce cases because mediation is frequently carried out in their respective homes by religious or traditional leaders. As a result, when mediation takes place in court, the mediation is less than optimal, and the divorce process is thought to be complicated or prolonged. Because not all judges hold mediator certificates, their ability to conduct mediation remains limited. When acting as mediators, some judges appear to be trial judges instead of judges who have received mediator training. Policies such as 'one-day minutes, one-day publish' indirectly impact the performance of judge mediators, despite some Religious Courts setting aside special time for mediation.

Keywords: problems; mediation; Religious Court, Lampung

Abstrak: Artikel ini membahas tentang permasalahan mediasi yang dilakukan oleh hakim Pengadilan Agama di Provinsi Lampung. Mediasi dapat membantu menyederhanakan suatu sengketa sehingga dapat diselesaikan dengan lebih murah dan cepat. Menariknya, mediasi memungkinkan para pihak yang bersengketa untuk menemukan solusi atau penyelesaiannya, dengan harapan masing-masing pihak merasa puas dan diperlakukan secara adil. Namun, kenyataan di lapangan tidak demikian. Pelaksanaan mediasi tidak berjalan dengan baik dengan berbagai penyebab. Hasil penelitian ini menunjukkan bahwa mediasi yang dilakukan oleh hakim Pengadilan Agama Lampung memiliki beberapa permasalahan. Hakim tidak dapat memberikan mediasi yang optimal dalam perkara perceraian karena mediasi sering kali dilakukan di rumah masing-masing oleh tokoh agama atau adat. Akibatnya, ketika mediasi dilakukan di pengadilan, mediasi menjadi kurang optimal, dan proses perceraian dianggap rumit atau berlarut-larut. Karena tidak semua hakim memiliki sertifikat mediator, maka kemampuan mereka dalam melakukan mediasi pun menjadi terbatas. Ketika bertindak sebagai mediator, beberapa hakim tampak seperti hakim pengadilan, bukan hakim yang telah mendapatkan pelatihan mediator. Kebijakan seperti 'one-day minutes, one-day publish' secara tidak langsung berdampak pada kinerja mediator hakim, meskipun beberapa Pengadilan Agama menyediakan waktu khusus untuk mediasi.

Kata kunci: permasalahan; mediasi; Pengadilan Agama, Lampung

Introduction

Dispute resolution through the courts has many shortcomings and criticisms. First, the trial lasts long, making it difficult for the parties to reach a truly final decision. Second, the multi-level procedures and systems incur high costs for each party, not to mention the costs associated with using lawyer services. Third, rigid procedures in court mechanisms frequently appear rigid and seem to attack one party and the other. The fourth is lawyer-oriented. Since the court system appears convoluted, the parties prefer to delegate cases to lawyers. However, the actual dispute is that the lawyer does not investigate the problem, resulting in the client's interests not being adequately represented. The fifth is the win-lose solution. Resolving disputes through a judge's decision, which may not always represent justice for the litigants, causes the relationship between the two parties to become estranged. The sixth is rising new conflicts. Judges' losing and winning decisions generate new conflicts to maintain their respective pride.¹

Mediation has emerged as a peaceful alternative dispute resolution method to address the problems associated with resolving disputes in court.² The Supreme Court issued PERMA (Supreme Court Regulation) No. 02 in 2003, titled "Mediation Procedures in Court," but dispute resolution through mediation is not yet compulsory. It is still dependent on each party's willingness. Therefore, the parties must take the initiative to decide whether or not to participate in mediation.³ After reviewing the

previous PERMA, the Supreme Court issued PERMA No. 1 of 2016, which mandates mediation in civil cases at the first level.⁴ Mediation is the Supreme Court's attempt to simplify a dispute so that it can be resolved more cheaply and quickly. Interestingly, mediation allows litigants to find their solutions or settlements, expecting each party to feel satisfied and fairly treated.

However, this is not the case in real life. The implementation of mediation by judges in Religious Courts in Lampung Province is not as extensive as PERMA No. 1 of 2016. Thus, the mediation in court appears to be merely a formality.

Given the mismatch between the objectives of PERMA No. 1 of 2016, which requires mediation through correct and maximum procedures in civil cases at the first level, and the reality in the field, where mediation is not carried out optimally or even mediation is carried out solely to meet the demands of the rules of procedural law in court, it is worthwhile to investigate further. Thus, this study aims to identify a reliable form of mediation for dealing with divorce while adhering to all applicable regulations.

Method

This study employed legal research, which combined normative and empirical methods.⁵ In terms of location, this research was field research since the researcher went directly into the field to collect actual, relevant, and objective data. The data used was descriptive and qualitative. It was descriptive because the data was in the form of interview results and narrated observations, and it

¹ Wildan Suyuti, *Kode Etik, Etika Profesi Dan Tanggung Jawab Hakim*, Kode Etik, Etika Profesi Dan Tanggung Jawab Hakim (Jakarta: Mahkamah Agung Republik Indonesia, 2004). S H Achmad Ali and Sosiologi Hukum Wiwie Haryani, *Sosiologi Hukum: Kajian Empiris Terhadap Pengadilan* (Kencana, 2014).

² R Tresna, *Komentar Herziene Inlandsch Reglement* (Jakarta: Pradya Mitra, 2005.), 110. S E Rani Apriani et al., *Alternatif Penyelesaian Sengketa* (Deepublish, n.d.). Arman Tjoneng, "Gugatan Sederhana Sebagai Terobosan Mahkamah Agung Dalam Menyelesaikan Penumpukan Perkara Di Pengadilan Dan Permasalahannya," *Dialogia Iuridica* 8, no. 2 (2017): 93–106.

³ S.H. D.y.witanto, *Hukum Acara Mediasi* (Bandung: Alfabeta, 2012), 53. Malik Ibrahim, "Efektivitas Peran Mediasi Dalam Menanggulangi Perceraian Di Lingkungan Peradilan Agama," *Madania: Jurnal Kajian Keislaman* 19, no. 1 (2015).

⁴ Ilham Prisgunanto, *Strategi Dan Taktik*, Bogor: Penerbit Ghalia Indonesia (Jakarta: Kencana, 2006). Fahri Latukau, Nam Rumkel, and Suwanti Suwanti, "Mediators Optimization of Civil Disputes Mediation Process at Post-Perma Court No. 1 of 2016," *Journal of Social Science* 3, no. 4 (2022): 714–729. Muhammad Syaifudin Amin, Baharudin Baharudin, and Yulia Hesti, "ANALYSIS OF NON JUDGE MEDIATORS' EFFORTS IN THE SETTLEMENT OF CIVIL CASES BASED ON PERMA NUMBER 1 YEAR 2016 CONCERNING MEDIATION PROCEDURES," *PRANATA HUKUM* 17, no. 2 (2022): 165–186.

⁵ Soerjono Soekanto, "Pengantar Penelitian Hukum, Cet. 3," *Universitas Indonesia, Jakarta* (1986).

was qualitative because it did not employ statistical figures.

This research used research legal sources, including research legal materials. This research made use of both primary and secondary legal materials. The primary legal materials consisted of laws and regulations relevant to this research. The secondary legal materials included legal textbooks and scientific papers related to this research, such as legal dissertations and legal journals. This research used both primary and secondary data sources. The primary data sources were basic data obtained directly from the first source or data obtained directly from the source, observed and recorded for the first time,⁶ such as interview results in the form of information from relevant parties. In this case, the information came from informant interviews.

Results and Discussion

The Concept of Mediation

a. The Definition of Mediation

Mediation derives from the Latin word *mediare*, which means “to be in the middle,”⁷ indicating the role of a neutral party as a mediator in resolving each party's dispute. Being in the middle means that the mediator must take an impartial stance when tasked with resolving disputes.⁸ In the Indonesian Dictionary, mediation refers to a third party resolving a dispute. There are several explanations of mediation. First, mediation is a method of resolving disputes between two or more parties. Second, the mediator is a third party not involved in the dispute because they must remain neutral. Third, someone who participates in dispute resolution only serves as an advisor. In terms of language (etymology), mediation focuses on the role of a third party to bridge each

party involved in the dispute to resolve it. Given the similarity of definitions between mediation and negotiation, arbitration, adjudication, and others, this previous explanation is critical for understanding the distinction between each definition. The mediation by a mediator bridges to a solution to resolve a dispute between each party involved.⁹

Takdir Rahmadi argues that mediation is resolving a dispute by finding a way out by each party with an agreement, assisted by a third party who is impartial and neutral.¹⁰ The neutral party serves as the mediator, assisting with procedures or methods for resolving disputes on the subject matter. Thus, from the definition of mediation above, the essential elements in mediation are:

- 1) Mediation involves negotiations between disputing parties to reach an agreement or consensus;
- 2) A neutral third party assists in resolving the dispute;
- 3) The decision to settle the dispute is made by each party, not the mediator, so the parties can accept the settlement.¹¹

b. Legal Basis of Mediation

The legal basis of reconciliation or mediation in Indonesia is as follows:

- 1) The Pancasila (The Five Principles) emphasizes peaceful dispute resolution through deliberation and consensus. The 1945 Constitution also includes this principle.¹²
- 2) PERMA No. 02 of 2003 outlines mediation procedures in courts.¹³

⁹ Abas, *Mediasi Dalam Perspektif Hukum Syari'ah, Hukum Adat, Dan Hukum Nasional*.

¹⁰ Takdir Rahmadi, *Mediasi Penyelesaian Sengketa Melalui Pendekatan Kemufakatan* (Jakarta: PT Raja Grafindo Persada, 2020), 12

¹¹ Djulia Herjanara and Lembaga Mediasi Sebagai Instrumen Pemenuhan Rasa Keadilan, “Jurnal Mimbar Hukum Dan Peradilan, Jakarta,” *Edisi*, no. 76 (2013), 109

¹² Nurnaningsih Amriani, *Mediasi Alternatif Penyelesaian Sengketa Perdata Di Indonesia, Jakarta: Rajagrafindo* (Jakarta: Raja Grafindo Persada, 2011).

¹³ As' Adi, *Hukum Acara Perdata Dalam Perspektif Mediasi (ADR) Di Indonesia*.

⁶ Marzuki, *Metodologi Riset* (Yogyakarta: Prasetia Widya Pratama, 2000), 56

⁷ Edi As' Adi, *Hukum Acara Perdata Dalam Perspektif Mediasi (ADR) Di Indonesia* (di Indonesia, Yogyakarta: Graha Ilmu, 2000), 3. Hon Mrs Justice Catherine McGuinness, “Alternative Dispute Resolution-Mediation and Conciliation” (2016).

⁸ Syahrizal Abas, *Mediasi Dalam Perspektif Hukum Syari'ah, Hukum Adat, Dan Hukum Nasional, Jakarta, Kencana* (Jakarta: Kencana, 2009), 2

- 3) PERMA No. 01 of 2008 outlines mediation procedures in courts.
- 4) PERMA No.1 of 2016 outlines mediation procedures in courts.

c. Mediation Procedure

If the parties can resolve their own disputes without having to go before a judge, the mediation process is expected to address the case backlog problems.¹⁴ PERMA Number 1 of 2016 and PERMA Number 1 of 2008 clarify that the mediation process must be pursued on the day of the first hearing attended by the disputing parties. The parties involved in the legal dispute must first reach an agreement through mediation. On the other hand, on the day of the first hearing, the relevant judge must order and explain the obligation for the parties to participate in the mediation process and the mediation procedure in accordance with PERMA Number 1 Year 2016.¹⁵

The mediation procedure is divided into several provisions, including:

a) Pre-mediation Stage

The pre-mediation stage consists of several steps. First, the judge or the head of the panel of judges orders the parties to participate in mediation during a hearing attended by all parties. Second, the presiding judge informs the parties about the mediation process. Third, the parties must select one or more mediators from the available options within three days. Fourth, suppose the parties cannot agree on a mediator after three days. In that case, the presiding judge immediately appoints a non-certified trial judge, who will serve as a mediator with or without a certificate.¹⁶

b) Mediation Stage Process

The mediation process includes two steps. First, the parties send case resumes to each other and the mediator. Second, the mediator sets up mediation sessions or meetings.¹⁷

c) Mediation Process Leads to Settlement Agreement

The mediation process ends with the possibility of parties reaching a settlement agreement. If the parties are successful in reaching a settlement agreement,¹⁸ then the following steps are:

- 1) Formulate the agreement in writing.
- 2) Include the case revocation clause.
- 3) The mediator must examine the agreement material.

d) Reappearing before the Judge

On the scheduled hearing date, the parties must either reappear before the judge or inform the judge that they have reached an agreement through mediation.

e) The judge may confirm the agreement.

f) Mediation Process That Failed to Results in a Settlement Agreement.

It is not an issue if a settlement is not reached during mediation because it remains possible throughout the trial process until the final decision is reached.¹⁹ The mediator is required to declare that the mediation has failed if one of the parties, or the parties or their attorneys, fails to attend the mediation meeting twice in a row according to the agreed-upon mediation meeting schedule or fails to attend the mediation meeting twice in a row without reason after being properly summoned.²⁰

If the mediation effort fails before the case examination process, the parties can pursue

¹⁴ Sunarto, *Peran Aktif Hakim* (Jakarta: Prenadamedia Group, 2014), 135. Agung Akbar Lamsu, "Tahapan Dan Proses Mediasi Dalam Penyelesaian Sengketa Perdata Di Pengadilan," *Lex et Societatis* 4, no. 2 (2016).

¹⁵ Rachmadi Usman, *Mediasi Di Pengadilan: Dalam Teori Dan Praktik* (Jakarta: Sinar Grafika, 2012), 73

¹⁶ Usman, *Mediasi Di Pengadilan: Dalam Teori Dan Praktik*.

¹⁷ Usman, *Mediasi Di Pengadilan: Dalam Teori Dan Praktik*.

¹⁸ Usman, *Mediasi Di Pengadilan: Dalam Teori Dan Praktik*.

¹⁹ V. Harlen Sinaga, *Hukum Acara Perdata: Dengan Pemahaman Hukum Materiil* (Gelora Aksara Pratama, 2018).

²⁰ H Zainal Asikin and S U Sh, *Hukum Acara Perdata Di Indonesia* (Prenada Media, 2019).

another mediation or settlement attempt.²¹ Supreme Court Regulation No. 1 of 2016 embodies the spirit of continuing to provide opportunities for dispute resolution at each stage of the case examination following the failure of mediation at the initial stage.²²

The Mediation at Religious Courts in Lampung Province

Data was collected from a few religious court cases considered relevant representations in this study to investigate the mediation by religious court judges in Lampung Province. Data was collected from the following Religious Courts:

1) The Mediation at Tanjung Karang Religious Court

The Tanjung Karang Religious Court practices mediation following the Supreme Court mandate, as stated in PERMA No. 1 of 2016. Mr. Junaidi, one of the Tanjung Karang Religious Court Judges, explained that the principle of conducting mediation is to have the parties present during the mediation process. Mediation is not required if only one party is present and the case is contingent. However, if there is resistance by the plaintiff or the defendant, the law requires mediation, which is an attempt to achieve a settlement. The judge attempts to achieve settlement in the first stage, but because the nature of this mediation is mandatory, a mediator is appointed to act as a third party as an arbitrator for the plaintiff and defendant.²³

When the Tanjung Karang Religious Court has appointed a mediator, the parties will meet for mediation. The mediation process varies depending on the issue at hand. In some cases, it is repeated twice to reach a conclusion, specifically in divorce cases. If each party is determined and cannot be

persuaded to reconcile and keep the marriage, the outcome of mediation can be predicted. However, mediation can be done three, four, or five times before a decision is reached in cases involving inheritance or other property.²⁴

The Bandar Lampung City Religious Court has implemented mediation following PERMA No. 1 of 2016. On the day of the first hearing, which both parties attended, the panel's chairman explained that the parties must participate in the mediation process. The parties can choose their mediator, whether a judge mediator with a predetermined schedule or a non-judge mediator. If the parties choose a mediator over a judge, the panel's chairman will appoint a mediator judge for that day. In this case, the trial is adjourned until the mediation process is completed. If one of the parties does not appear at the first hearing, the court will issue three summonses. If one of the parties did not attend the hearing, the panel of judges would make various efforts, such as visiting the party's address to provide an understanding of the trial process and the stages that must be completed.

The mediator judge on duty that day is always available and ready in the designated mediation room. The parties could then meet with the mediator directly in the room. The mediator's and both parties' sitting positions resemble a triangle. The mediator's first step will be to introduce himself to the parties. The mediator explains his/her role as a mediator to assist the parties in reaching a settlement agreement that benefits both parties. The mediator also stated that the success of mediation is a shared victory, not one of the parties or the mediator. The mediator also explained that, unlike when acting as a judge, the mediator does not have decision-making authority during the mediation process. Each party to the dispute retains the option of making a settlement or continuing the case.

Furthermore, the mediator allows the litigants to express their concerns about each party. This effort allowed the mediator judge to obtain direct

²¹ Sri Puspitaningrum, "Mediasi Sebagai Upaya Penyelesaian Sengketa Perdata Di Pengadilan," *Spektrum Hukum* 15, no. 2 (2018): 275–299.

²² Asikin and Sh, *Hukum Acara Perdata Di Indonesia*.

²³ K.M.Junaidi, Mediation at Tanjung Karang Religious Court, Interview, June 28, 2022

²⁴ K.M.Junaidi, Mediation at Tanjung Karang Religious Court, Interview, June 28, 2022

and accurate information from both parties, and each party was allowed to hear information directly from the other party. Furthermore, the mediator summarizes each party's present issues, which the party provides information about. The parties then hear the summary again to fully analyze and comprehend it. Throughout the mediation process, the mediator strives to reconcile the parties. The mediator clarified the legal consequences of divorce and reminded them of its religious significance. Allah strongly opposes divorce despite it being legal. However, a mediator cannot force their will. Separation is the best option if both parties are determined to divorce.²⁵

The panel of judges assigned a 40-day mediation time. However, suppose an agreement is not reached within that time frame, and another mediation is still possible. In that case, the parties can request another extension of mediation time from the panel of judges. According to PERMA No. 1 of 2016, article 13 paragraph (3), the panel of judges has the authority to grant an extension of up to 14 working days from the end of the provided 40-day period.

2) The Mediation at Gunung Sugih Religious Court

Mediation at the Gunung Sugih Religious Court is subject to PERMA No. 1 of 2016, which requires both parties, the defendant and the plaintiff, to be present. Because divorce and property cases are distinct, the techniques used in mediation differ as well. Divorce cases are related to the sensitivity of the heart, so the approach must also be heart-to-heart, especially if both parties are truly determined to divorce, in which case it is very difficult to achieve reconciliation. As a result, the primary goal of divorce mediation is to reduce the impact of divorce, such as the impact on children, while emphasizing the wife's rights after divorce. In contrast to property mediation, mediation in property cases allows a mediator to provide acceptable solution options to both parties.²⁶

The stages of mediation at the Gunung Sugih Religious Court consider the possibility of the case at hand. If the mediator believes there is a good chance of settlement, mediation can be repeated several times to reach an amicable settlement. In this case, the mediator provides input and advice for parties to consider when reconciling. The needs determine the number of mediation meetings. More meetings can be held if the divorce requires at least two or three. When one of the judges was appointed as a mediator in sharia economic cases, the meetings were held up to eight times.²⁷

The parties' active participation in mediation varies between divorce and property cases. In a property case, the parties are more active at the mediation stage because they prefer to resolve property cases at mediation, where the settlement can be discussed. However, if it is a divorce case, many parties prefer to resolve it through litigation because those who litigate in divorce want to finish the litigation as soon as possible. Therefore, mediation is not always the best option. Even parties who want to divorce are considered to complicate or prolong the divorce process when mediation is required.

3) The Mediation at Sukadana Religious Court

Juridically, the Sukadana Religious Court mediation refers to PERMA No. 1 of 2016, a civil procedural law obligation. At the ideal level, it must be implemented optimally by meeting the required conditions for cases that must be mediated and cases that can be excluded from mediation. According to the Sukadana Religious Court judge, the norms are the same as those of the other Religious Courts. However, one factor distinguishes the practice of each work unit offering mediation implementation so that it can be carried out optimally. It leads to maximum results and improves mediation quality.²⁸

²⁵ K.M.Junaidi, Mediation at Tanjung Karang Religious Court, Interview, June 28, 2022

²⁶ Muhammad Ilhamuna, Mediation at Gunung Sugih Religious Court, Interview, July 06, 2022

²⁷ Muhammad Ilhamuna, Mediation at Gunung Sugih Religious Court, Interview, July 06, 2022

²⁸ Fatkul Mujib, Mediation at Sukadana Religious Court, Interview, June 30, 2022

The mediation at the Sukadana Religious Court proceeds well. The use of mediation to resolve disputes has increased year after year. Aside from improving mediation outcomes, the Sukadana Religious Court's mediation room meets the standards outlined in PERMA No. 1 of 2016. The mediation room is not identical to the trial room. The mediation room is as comfortable as possible to give the parties a sense of familiarity rather than resistance. The stages of mediation at the Sukadana Religious Court are identical to those at other Religious Courts because they follow the same regulations. When the parties are present, the judge will advise them to settle. However, if a settlement cannot be reached, the judge will provide an opportunity for mediation, in which the parties choose a mediator or a judge appoints one. At the Sukadana Religious Court, the parties typically agree on a mediator of the judge's choosing.

The judge selects the mediator who will lead the mediation. In addition to determining the form of mediation, the judge specifies the day length in the case file. This is the foundation upon which the mediator will conduct the mediation. Meetings in mediation between cases are not the same and vary depending on the needs of the mediation. Typically, mediation meetings at the Sukadana Religious Court in divorce cases are held twice. A mediator already understands the parties' intentions in mediation and whether they want to resolve the issue through mediation or litigation. Furthermore, the court's spirit is to resolve cases quickly while adhering to legal principles.²⁹

A mediator judge's roles in the settlement process are:

- a) The mediator judge advises the disputing parties not to continue the dispute or divorce. Each party is asked to be patient when dealing with household issues or problems while prioritizing the family's and children's future.
- b) The mediator judge reminds the parties of the purpose of marriage and the importance of maintaining the marriage's integrity. The mediator

also emphasizes that marriage is a sacred bond with the value of worship, and divorce, although a legal act, is detested by Allah.

- c) If the parties divorce, they will be unable to reunite as before, particularly if they have children. The child will feel the effects of the mother and father's divorce, which may impact the child's fate and development.
- d) The mediator judge reminds the parties that households are imperfect and have flaws. Thus, it is best to accept these flaws and value their strengths.
- e) Both parties are advised to reflect on themselves. Divorce is not a solution to household conflicts but a reflection of each party's selfishness.

After the disputing parties have received advice from the mediator and have decided to reconcile, the mediator notifies the panel of judges that the parties have reached an agreement. The parties may withdraw their lawsuit in court without a deed of peace. Matters to be agreed upon must be documented in a deed of peace and signed by both parties. However, if no agreement is reached, the mediator judge must notify the panel of judges that the mediation process failed. After receiving the notification, the parties' divorce case is assigned to the next case examiner before being decided by the panel of judges and declared divorced. If the parties wish to preserve the household's integrity, the mediator judge considers the reasons for both parties' divorce. The mediator judge then provides the best solutions, advice, and problem-solving that benefits both parties. Furthermore, the mediator judge reminds the parties who want to divorce that they may not find a companion or life partner similar to theirs now because they have been running their household for many years.

The Mediation Problems by Religious Court Judges in Lampung Province

1) The Mediation Problems by Judges at the Tanjung Karang Religious Court

The most important principle is that mediation has taken place, as the Religious Courts' procedural rules require mediation. However, no definitive way

²⁹ Fatkul Mujib, Mediation at Sukadana Religious Court, Interview, June 30, 2022

exists to determine whether mediation has been maximized. On the other hand, a judge is required to expedite case resolution using the one-day-minute-one-day-publish principle. If a judge serving as a mediator notices that the parties no longer intend to reconcile, the mediation will conclude more quickly.

The most common issue brought before the Religious Court is divorce. Whether or not a husband-and-wife divorce is a matter of the heart, the mediator judge's challenge is to manage the hearts of the parties and invite them to reunite. Sometimes, a judge serving as a mediator notices that the parties are no longer willing to reconcile.

Mediation at the Tanjung Karang Religious Court seeks peace for both parties. Mediation can benefit both parties because it results in a win-win solution. In addition, the litigation process is faster and easier. However, the success rate of mediation in the Tanjung Karang Religious Court remains significantly lower than expected, with only a few successful cases per year and not proportional to the number of divorce cases filed.

Several factors influence the success or failure of mediation, including both inhibiting and driving factors. The inhibiting factor in mediation is the seriousness of the parties, which determines the outcome of the mediation, as there is no desire to conduct mediation, and the parties believe it is unnecessary. As a result, neither party is present. The next causative factor is the obstacles in the mediation process, specifically the plaintiff's unwillingness to continue divorcing and, on occasion, the parties' inability to control their emotions, resulting in a noncommunicative mediation. Sometimes, an influential factor that causes mediation to fail is that the parties have been separated for a long time, and sometimes, one of the parties, or even both, has had a relationship with someone else but is unwilling to acknowledge it. Thus, mediation is extremely difficult to achieve. In addition, parents' interference forces their children to separate.

The religious court's attempt to maximize mediation is to allow judges one day to conduct it. However, in the Tanjung Karang Religious Court,

the number of cases does not match the number of judges. There are only five judges, and one is on leave, leaving only four active judges.

2) The Mediation Problems by Judges at the Gunung Sugih Religious Court

A judge at the Religious Court must complete a case in no more than 6 months. If the case is not completed or exceeds 6 months, the judge must report and explain the reasons why. The effort to maximize mediation is to arrange the trial schedule at the Gunung Sugih Religious Court so that it can focus. Therefore, mediation is focused on Friday.

According to the results of an interview with one of the judges at the Gunung Sugih Religious Court, mediation is entertaining with the density and saturation of the trial, which is carried out monotonously and must be subject to the procedural laws of the trial. In mediation, the problem-solving model is more flexible and does not adhere to the procedural laws of the court. There are 4 out of 6 judges are certified mediators in the Gunung Sugih Religious Court.

The mediation process is very different from dispute resolution in court, which seems rigid. The mediation process is an effort to resolve cases through peaceful channels by involving third parties who function as mediators. This third party must be neutral and impartial to one of the parties. More deeply, mediation can be interpreted as a process of deliberation to resolve problems by finding solutions so that they can be reconciled and aim to reduce the divorce rate. Mediation is a problem-solving negotiation process in which an impartial and neutral outsider works with the disputing parties to help them reach a mutual agreement. The mediator is an intermediary and has no authority to decide the dispute between the parties. A mediator can only assist the parties in resolving the issues in dispute.

3) The Mediation Problems by Judges at the Sukadana Religious Court

The Sukadana Religious Court, which separated from the Metro Religious Court, now has many cases

due to the size of the East Lampung regency. The problem of judges in the Sukadana Religious Court with the one-day-minute, one-day-publish system is consistent with Supreme Court provisions, which require a judge to be swift in preparing a case decision report. However, to mediate, a judge must act as a mediator. However, at the Sukadana Religious Court, a judge's mediation schedule differs from the trial schedule. This is done in an attempt to optimize mediation.

The problem of mediation faced by Sukadana Religious Court judges is to see the community's paradigm of thinking, which considers divorce cases very private and personal. As a result, the community considers divorce to be the final option for ending a marriage. When a person files a divorce case in the Religious Court, their affairs are usually completed, and mediation is carried out by the family, religious leaders, and community leaders in their respective homes. As a result, when a case is brought before the court and mediation is undergone, some people believe that the mediation process complicates and lengthens the case's resolution. Nonetheless, the increase in mediation results at the Sukadana Religious Court from year to year demonstrates that when judges act as mediators, the community feels differently.

Some of the obstacles to mediation that judges of the Sukadana Religious Court face are:

The parties lack seriousness. The presence of the parties determines the course of the mediation, as mediation can only occur when both parties are present at the appointed time. Typically, the parties are not present during mediation. As a result, the parties' willingness to participate in mediation is questionable. The parties' lack of seriousness toward mediation is a major factor in the inability to conduct mediation. With these obstacles, mediation cannot be implemented within the time frame specified, resulting in underutilization of the mediation process.

The determination of the plaintiff's party. One of the background factors was the plaintiff and applicant's unshakable attitude toward divorce. Despite the mediator's understanding and advice

not to divorce, they insisted on proceeding with it and had no desire for peace. The plaintiffs only attended the mediation as a formality.

The parties conflicted and had been apart for a long time. The long separation meant the parties no longer wanted to reconcile and decided to separate. Sometimes, the parties are already in relationships with others. The parties have conflicted for quite some time. During mediation, the parties cannot suppress their emotions, so they can no longer accept the mediator's input and feel self-important. Indeed, it is not uncommon for the applicant/plaintiff to be unable to forgive the respondent/defendant, making it difficult to reconcile.

Another issue with mediation at the Sukadana Religious Court is the presence of the parties. Mediation should be conducted directly between the parties, not by a lawyer, as the appointment of a lawyer influences the outcome of the mediation. Furthermore, remote parties, such as those working abroad, can benefit from virtual mediation. Virtual mediation is also problematic, as mediation should take place in person. Mediation through the network has a less-than-ideal impact.

Conclusion

Mediation is the process of resolving a dispute by finding a solution for each party through an agreement assisted by a third party, namely the mediator, who is impartial and neutral. The problems handled through mediation are mostly divorce problems caused by interference from parents and family. The obstacle in the mediation process is the hard attitude of the plaintiff to keep the divorce. Sometimes, both parties cannot control their emotions, so the mediation process is no longer communicative. In addition, an influential factor that makes mediation unsuccessful is that the two parties have been separated for a long time. Sometimes, after tracing the root of the problem, one of the parties or both already have a relationship with someone else but are reluctant to admit it, so it is very difficult for the mediation to succeed.

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