

EFFECTIVENESS OF MEDIATION IN DIVORCE SETTLEMENT IN KLATEN RELIGIOUS COURT

Mahendra Jaya Gumilang

Universitas Muhammadiyah Surakarta

c100200173@student.ums.ac.id

ABSTRAK

Angka perceraian di Indonesia menunjukkan tren peningkatan dalam beberapa tahun terakhir. Secara khusus, di Kabupaten Klaten, angka perceraian juga mengalami peningkatan yang signifikan. Peningkatan angka perceraian ini menjadi perhatian serius bagi pemerintah dan masyarakat, mengingat dampaknya terhadap struktur sosial dan kesejahteraan keluarga. Dalam kasus perceraian, mediasi sering kali menjadi sarana untuk mengidentifikasi akar masalah dalam rumah tangga, seperti konflik komunikasi, masalah ekonomi, atau intervensi pihak ketiga. Dengan demikian, penelitian ini bertujuan untuk menemukan bagaimana efektivitas mediasi dalam penyelesaian perkara perceraian di Pengadilan Agama Klaten dan faktor-faktor apa saja yang memengaruhi keberhasilan atau kegagalan mediasi dalam kasus perceraian. Penelitian ini menggunakan pendekatan yuridis-sosiologis untuk memahami efektivitas mediasi dalam penyelesaian perkara perceraian, baik dari segi hukum maupun implementasi sosialnya yang berhubungan dengan penyelesaian perceraian. Proses mediasi yang dilakukan oleh Pengadilan Agama Klaten sudah dirasa efektif. Hasil penelitian tentang efektifitas proses mediasi dalam penyelesaian perceraian di Pengadilan Agama Klaten, secara kuantitatif proses mediasi yang dilakukan Pengadilan Agama Klaten telah menunjukkan keberhasilan dalam banyak kasus perceraian. Faktor utama yang mendukung keberhasilan mediasi adalah kompetensi mediator yang terlibat dalam proses tersebut, yang mencakup keterampilan dalam mengelola dinamika konflik dan membangun komunikasi yang efektif antara pihak-pihak yang bersengketa. Selain itu, kemauan berdamai dari pihak-pihak yang berperkara juga sangat berpengaruh terhadap keberhasilan mediasi. Meskipun sistem mediasi di Pengadilan Agama Klaten telah memberikan dampak positif, masih diperlukan perbaikan, baik dari sisi kualitas mediator, partisipasi aktif pihak yang berperkara, maupun dukungan dari lembaga pengadilan untuk mengatasi kendala-kendala yang ada.

Kata Kunci: mediasi, perceraian, efektivitas.

ABSTRACT

The divorce rate in Indonesia shows an increasing trend in recent years. In particular, in Klaten Regency, the divorce rate has also increased significantly. The increase in the divorce rate is a serious concern for the government and society, considering its impact on the social structure and family welfare. In divorce cases, mediation is often a means of identifying the root of problems in the household, such as communication conflicts, economic problems, or third party intervention. Thus, this research aims to find out how effective mediation is in resolving divorce cases at Klaten Religious Court and what factors influence the success or failure of mediation in divorce cases. This research uses a juridical-sociological approach to understand the effectiveness of mediation in resolving divorce cases, both from a legal perspective and its social implementation related to divorce resolution. The mediation process carried out by Klaten Religious Court has been deemed effective. The results of research on the effectiveness of the mediation process in resolving divorce at Klaten Religious Court, quantitatively, the mediation process carried out by Klaten Religious Court has shown success in many divorce cases. The main factor that supports the success of mediation is the competence of the mediator involved in the process, which includes skills in managing conflict dynamics and building effective communication between the disputing parties. Apart from that, the willingness to reconcile from the parties involved in the case also greatly influences the success of mediation. Even though the mediation system at Klaten Religious Court has had a positive impact, improvements are still needed, both in terms of the quality of mediators, active participation of litigants, and support from court institutions to overcome existing obstacles.

Keywords: mediation, divorce, effectiveness.

INTRODUCTION

Divorce is a legal process that ends the marital relationship between husband and wife, where both parties officially cease to have a marriage bond after a court decision (Hamid, 2018). Indonesia, divorce is regulated in Law Number 1 Year 1974 concerning Marriage and its amendment in Law Number 16 Year 2019 (Nasution, 2019). The divorce process must go through a religious court for Muslim couples and a district court for non-Muslim couples. The factors that lead to divorce in Indonesia are very diverse, ranging from household disharmony, infidelity, economic problems, domestic violence (KDRT), to differences in principles that cannot be resolved (Karyadi, 2022).

The divorce rate in Indonesia has shown an increasing trend in recent years. In 2022, 516,334 divorce cases were recorded, making it the highest number in the last six years. This phenomenon is dominated by young couples from the millennial generation aged 30-40 years, with divorce lawsuits mostly filed by the wife. Factors such as overly high expectations of

couples, increased individualism, and decreased commitment are contributing to this increase in divorce rates (Nariswari, 2023).

Specifically, in Klaten District, the divorce rate has also increased significantly. In 2021, Klaten Religious Court received 2,175 cases, of which 1,712 resulted in divorce. Of these, 1,268 were contested divorces and 444 were divorces. This figure increased compared to 2020, where 1,482 divorce cases were recorded. The dominant factor causing divorce in Klaten is disputes and arguments that occur continuously (Suseno, 2021).

This increase in divorce rates is a serious concern for the government and society, given its impact on the social structure and well-being of families. Efforts to understand and address the causes of divorce, such as economic issues, communication, and differences in views, are crucial in reducing divorce rates in the future.

Mediation is one of the out-of-court dispute resolution efforts implemented in the Indonesian judicial system, including in the Religious Courts, to help parties reach an amicable agreement without having to go through a lengthy litigation process. In the Religious Courts, mediation is a mandatory part of the trial stages, as stipulated in Supreme Court Regulation No. 1 of 2016 on Mediation Procedures in Courts. In the context of civil disputes, including divorce cases, mediation aims to reconcile the husband and wife to reconsider their decision, especially in the interests of children and family stability. The mediation process is conducted by neutral and competent mediators, either judges or other parties who are certified mediators.

The implementation of mediation in the Religious Courts plays an important role in providing space for the parties to express their problems more openly, as well as finding joint solutions that prioritize the principle of deliberation (Jannah, 2013). In divorce cases, mediation is often a means of identifying the root of problems in the household, such as communication conflicts, economic issues or third-party intervention. If an agreement is reached, mediation not only prevents divorce but also reduces the adverse impact on children and extended family (Albab, 2022). However, if the mediation is unsuccessful, the litigation process will proceed according to legal provisions.

The success of mediation in the Religious Courts not only saves time and money, but also reflects the humanist spirit of the law, which prioritizes peace over conflict. However, the effectiveness of mediation depends on the cooperation of the parties, the ability of the mediator, and the availability of supporting facilities (SYAFIQ, 2024). Therefore, improving the quality of mediators, mediation skills training, and public awareness of the importance of peaceful dispute resolution are key factors in strengthening the role of mediation as a fair and dignified dispute resolution solution.

Evaluating the effectiveness of mediation in reducing divorce rates or achieving better solutions is an important step in developing the dispute resolution system in the Religious Courts (Hasim, 2022). Mediation has the primary goal of helping parties resolve conflicts in an amicable manner and reducing the negative impacts of divorce, such as psychological trauma for children,

family disintegration, as well as broader social burdens (Zainuddin, 2024). However, the effectiveness of mediation is not only measured by the success of preventing divorce, but also by the quality of the agreement reached. A good agreement must be able to provide a sense of justice for both parties, improve communication, and ensure the fulfillment of balanced rights and obligations, especially in aspects such as childcare, division of joint property, and maintenance.

Evaluating the effectiveness of mediation requires analyzing various factors, including the success rate in preventing divorce, time and cost savings, and satisfaction with the process and outcome. Additionally, the extent to which mediation helped the parties understand their conflict and find a solution that was legally and emotionally beneficial should be considered. The evaluation should also consider the mediator's role, including their ability to manage conflict dynamics, build trust, and encourage constructive communication. A well-trained, competent mediator significantly influences the outcome of quality mediation.

Furthermore, evaluating the effectiveness of mediation provides important data to improve future policies and procedures. For example, if mediation success rates are low, this can be an indicator that additional training for mediators is needed, increased public awareness of the benefits of mediation, or revisions to the mediation approach used. Thus, evaluating mediation is not just a matter of measuring short-term success, but also ensuring that mediation is truly an effective instrument to support amicable dispute resolution, reduce the burden on the courts, and create better solutions for all parties involved.

This research addresses two main issues: the effectiveness of mediation in settling divorce cases at Klaten Religious Court and the factors that influence the success or failure of mediation in divorce cases. The study aims to determine the extent to which mediation can reduce the divorce rate or create better solutions for those involved, and to identify aspects that determine the success of mediation, such as mediator skills, the active participation of those involved, the complexity of the conflict, and support from the justice system.

RESEARCH METHOD

This research uses a juridical-sociological approach to understand the effectiveness of mediation in resolving divorce cases, both in terms of law and social implementation. The research location was Klaten Religious Court, with the research subjects including mediators, couples undergoing mediation, and Religious Court judges related to the process. Primary data was collected through in-depth interviews with mediators and parties directly involved in the mediation process, while secondary data was obtained through document analysis, such as court decisions, mediation reports, and relevant regulations. The data analysis technique used is descriptive analysis to describe the implementation of mediation factually, as well as qualitative

analysis to understand in depth the factors that influence the success or failure of mediation. This approach aims to provide a holistic picture of the effectiveness of mediation in reducing divorce rates and finding the best solution for the disputing parties.

RESULT AND DISCUSSION

Mediation Process at Klaten Religious Court

At Klaten Religious Court, mediation is a mandatory stage in the process of resolving civil cases, including divorce, in accordance with Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts. The mediation procedure begins after case registration, where the judge requires the parties to follow a mediation process guided by a certified mediator, either a judge or a non-judge. The mediator is tasked with facilitating communication between the parties in order to reach an amicable agreement without the need to proceed to a full trial. If the mediation is successful, the agreement will be set out in a peace deed that has permanent legal force. However, if the mediation does not reach an agreement, the case will proceed to the next stage of the trial (Atiqoh, 2011).

Regarding the success statistics of mediation in divorce cases at Klaten Religious Court, the data shows that the success rate is still relatively low. A 2010 study found that only 1.5% of the 1,482 divorce cases handled were successfully resolved through mediation. Nevertheless, the court continues to strive to improve the effectiveness of mediation by providing mediator training and improving facilities to support the mediation process. These efforts are expected to increase the success rate of mediating divorce settlements in the future (Pengadilan Agama Klaten, 2024).

Effectiveness of Mediation in Divorce Settlement

Legal effectiveness is a reflection of the situation where the law acts as a supervisor. This can be a benchmark for the law as the achievement of predetermined goals or objectives. According to Soerjono Soekanto, legal effectiveness can be measured by the extent to which a group can achieve its goals. Law is considered effective if it has a positive impact and succeeds in directing or changing human behavior, making it in accordance with legal norms. Legal effectiveness discusses the power of law in regulating and forcing people to comply with it. Factors that influence legal effectiveness must function optimally. The success of a law or regulation can be measured by the extent to which the community complies with and follows the provisions expected or desired by the regulation. (Soekanto, 1998)

The effectiveness of mediation in divorce cases can be measured by several main indicators: settlement time, success rate, and satisfaction with the process and results. Effective mediation should resolve disputes more quickly than full litigation and reduce the emotional

burden and costs borne by the parties (Saifullah, 2015). The success rate of mediation is also an important measure, measured by the percentage of cases that reach an amicable agreement compared to the total number of cases mediated. In addition, the level of satisfaction of the parties is very influential, as mediation aims to create a solution that is fair, mutually beneficial, and maintains good relations in the future, especially if there are children involved (Haeratul & Fatahullah, 2022).

Effectiveness refers to the level of success of a predetermined action or effort. Laws and regulations are designed so that the public and law enforcement officials can implement them consistently and without discrimination. This maintains consistency in the application of the law and ensures that no group in society is treated differently.

In practice, there is a distinct difference between successful and unsuccessful mediation cases. Successful cases usually involve parties who are committed to reconciliation, a competent mediator who is able to facilitate dialog effectively, and adequate emotional and social support (Fauzi & Faisal, 2018). In contrast, mediation often fails due to one party's unwillingness to compromise, deep distrust resulting from previous conflicts, or one party's absence from the process. For example, in Klaten Religious Court, the success rate of mediation in divorce cases remains relatively low, with only a small proportion of cases being resolved through amicable agreements. Nevertheless, mediation is considered an important mechanism that provides parties with the opportunity to resolve conflicts more peacefully and humanely. Evaluation of these success and failure factors is important to improve the effectiveness of mediation, whether through mediator training, a more personalized approach, or policies that support the sustainability of mediation as a dispute resolution instrument (Handayani & Syaflwar , Implementasi Mediasi dalam Penyelesaian Perkara Perceraian di Pengadilan Agama., 2017).

The implementation of mediation in the settlement of divorce cases often faces various legal obstacles that can hinder the effectiveness of the process. One of the main obstacles is the absence of one of the parties in the mediation session, which often occurs due to a lack of commitment or intention to reconcile (Sofiani, 2010). This absence impedes the mediation process and demonstrates resistance to peaceful dispute resolution. A lack of commitment to comply with the mediation procedure may stem from a lack of understanding of the benefits of mediation or one party's desire to proceed immediately to litigation. Another significant obstacle is regulatory barriers, such as inflexible mediation rules that prevent tailoring the approach to the parties' specific needs (Sunarsi, Yuherman, & Sumiyati , 2018).

In some cases, mediators have limitations in accommodating complex conflicts due to rigid procedural guidelines. On the other hand, not all parties understand that mediation has the same legal force as a court decision if an agreement is reached and set out in a peace deed. This often leads to distrust of mediation as a dispute resolution mechanism. These constraints underscore the importance of reforms in mediation regulation, such as giving mediators greater authority to take a more adaptive approach, increasing public education on the benefits of mediation, and

strengthening sanctions for uncooperative parties without valid reasons. By overcoming these obstacles, mediation is expected to become a more effective instrument in resolving divorce cases.

In addition to legal obstacles, the implementation of mediation in divorce cases is also often faced with various non-legal obstacles that can affect the effectiveness of the process (Purnomo, 2022). Psychological factors are one of the main obstacles, where negative emotions, such as anger, resentment, or distrust between parties, often get in the way of constructive communication in mediation. One party who feels hurt or aggrieved may be unable or unwilling to engage in open dialogue, hindering the mediation process (Sururie, 2012). In addition, feelings of anxiety or fear of unfair mediation outcomes can also affect the parties' attitudes and participation in resolving problems amicably.

Cultural factors also play an important role in the success of mediation, especially in societies with certain values that may view divorce as a disgrace or taboo (Abbas, 2017). In this context, the parties may be reluctant to open up or accept the mediator's proposed solutions because they are concerned about social or cultural judgments against divorce. Cultural norms that emphasize maintaining a marital relationship despite disharmony may cause parties to remain in an unhealthy situation even when mediation could provide a better solution (Kamilah, 2010).

Barriers to communication between the parties are also a frequent obstacle in mediation. When parties are unable or unwilling to openly and honestly communicate about the underlying issues of their divorce, the mediation process can be prolonged and its potential for failure increased. This is especially true when a party cannot clearly express their needs and expectations or when there is a misunderstanding about the purpose of mediation. Overcoming psychological, cultural, and communication barriers is essential to ensuring that mediation runs smoothly and successfully achieves a fair solution for all parties involved.

Determinants of Mediation Success

Mediator competence is a key factor that determines the success of mediation in resolving divorce cases. A competent mediator must not only have a strong understanding of legal procedures, but also good interpersonal skills to manage the emotional and psychological dynamics of the parties involved in the dispute (Rizky & Nizar, 2021). The mediator should be able to create a safe and open atmosphere, where both parties feel valued and listened to, even if they are in conflicting positions. The ability to identify the underlying root causes of conflict, such as disharmonious communication or unfairness in the division of family responsibilities, is essential to facilitate effective resolution (Akil & Hasriani, 2023).

A competent mediator must have skills in negotiating and encouraging the parties to seek win-win solutions that benefit both parties, especially in terms of childcare, property division, and other rights. Skills in defusing tensions and emotions that arise during mediation are also indispensable, as in divorce cases, parties are often caught up in feelings of hurt or deep

disappointment. A mediator's ability to remain neutral and impartial, and to avoid outside influences that could affect their objectivity, is also essential to maintaining the credibility of the mediation process. Continuous training for mediators, especially in communication and mediation techniques, greatly supports the success of mediation in resolving divorce disputes. Competent mediators can facilitate smoother processes, provide fair solutions, and reduce future conflict (Hopipah, et al. 2023).

The active participation of the disputing parties is one of the main determining factors in the success of mediation, especially in divorce cases. Without the full involvement and goodwill of both parties, the mediation process is likely to have difficulty in reaching an adequate agreement (Ivanda & Syaputri, 2024). For mediation to be successful, each party must commit not only to attending the sessions but also to openly expressing their feelings, needs, and expectations regarding the issues at hand. This is particularly important in divorce cases, as conflict often involves complex emotions such as hurt, disappointment, and distrust. Those who feel hurt or aggrieved may be reluctant to speak honestly or may try to keep their distance from the other party, which can hinder the mediation process.

When both parties actively participate and are willing to listen and understand each other's points of view, the mediation process can be more constructive. Active participation includes the ability to listen with empathy, find common ground acceptable to both parties, and compromise to reach a fair solution. In addition, the desire to resolve the dispute in an amicable manner, especially if there are children involved, greatly influences the success of the mediation. If either party feels that mediation is a last resort to reach a settlement that does not disadvantage them, they will be more open to cooperating. If, on the other hand, one party shows resistance or lack of commitment, the mediation is likely to fail. The active participation of both parties, supported by a willingness to resolve the issues in a more harmonious manner, is an important condition for the success of mediation in divorce cases (Saladin, 2017).

The support of the court plays a very important role in the success of mediation, especially in divorce cases. As an institution that has the authority to facilitate the mediation process, the courts must pay serious attention to the mediation mechanisms in place, including providing adequate resources to support the effective implementation of mediation. Urgently needed support includes training and skill development for mediators—both judges and non-judges—so they can manage conflict dynamics and direct parties to find constructive solutions. The court must ensure that the mediation process adheres to the procedures outlined in regulations such as Supreme Court Regulation No. 1 of 2016 and provide supportive facilities such as a comfortable, distraction-free mediation room to foster an environment conducive to reaching an agreement (Talli, 2015).

Court support also includes strengthening administrative systems that allow parties to more easily access mediation services, as well as speeding up the process of case resolution without having to wait long periods of time for a hearing to be scheduled. In addition, the courts need to

reinforce the importance of mediation to the parties involved in the dispute, so that they understand that mediation is an alternative dispute resolution that can save time, money and reduce emotional tension compared to lengthy litigation procedures (Antasari, 2013). With the support of the courts in the form of clear policies, trained human resources, and adequate facilities, the mediation process will be more easily accepted by the community, and the parties will be more encouraged to actively participate in resolving their problems in a more peaceful manner. Thus, mediation is expected to be one of the effective solutions in reducing the burden of divorce cases in the courts, as well as helping to achieve a fair and favorable settlement for all parties involved.

A comparison with mediation effectiveness theory highlights the significance of the various elements that impact the success of the mediation process in divorce cases. According to this theory, effectiveness is measured by how quickly the dispute is resolved and by the quality of the settlement and level of satisfaction of all parties involved. A frequently used theory is the “win-win” theory, which emphasizes finding a solution that benefits both parties (Nugroho, Manfaat Mediasi Sebagai Alternatif Penyelesaian Sengketa, 2019). In this theory, mediation is considered effective if the parties can reach a mutually beneficial agreement without any party feeling disadvantaged. This is in line with practice in the Religious Courts, where mediation aims to produce an amicable agreement that not only resolves the legal dispute, but also reduces the emotional impact of the divorce, especially if there are children involved.

Another relevant theory is the “Neutrality and Impartiality” theory, which emphasizes that the mediator must remain neutral and impartial when facilitating the mediation process. This directly relates to the mediator’s ability to maintain balance and ensure that both parties can express their views without feeling judged. If the mediator fails to remain neutral, the mediation is likely to fail, and the parties may perceive the process as unfair, which could lead to an inability to reach an agreement. In accordance with the principles of mediation theory, courts should support mediators through rigorous training and supervision (Djuyandi, Prawira, & Irawan, 2017).

The “Cooperation and Communication” theory also provides important insights into the importance of open communication and cooperation between the disputants. This theory considers that mediation is effective only if both parties actively participate, listen to each other, and are willing to compromise. In the context of divorce, psychological and cultural factors are often barriers, so the success of mediation depends largely on the parties being willing to communicate honestly and openly. If both parties are unable to overcome emotional barriers and commit to participating in mediation, then this theory suggests that mediation may not be effective.

Overall, this comparison with theories of mediation effectiveness underscores the importance of mediator competence, active participation of the parties, and support from the courts in creating an effective and successful mediation process (Fischer, Miller, & Baihaqi,

2021). These factors must support each other in order for mediation to function properly and produce a fair and satisfactory settlement for all parties involved.

The implications for improving the mediation system in the courts are very important to increase the effectiveness of the dispute resolution process, especially in divorce cases (Taufik, Hasbullah, & Wardani, 2023). One of the first steps that needs to be taken is to strengthen the competence of mediators, both judges and non-judges, by providing ongoing training and knowledge updates on the latest mediation techniques and approaches that are more adaptive to the psychological dynamics of the parties. With more skilled mediators, it is expected that they will be more effective in managing conflicts, building open communication between the parties, and creating an atmosphere conducive to reaching an agreement (Konoras, 2022). In addition, it is important to provide more adequate facilities, such as a comfortable and private mediation room, which can support the smooth running of the mediation process (AM, Zakk, & Huda, 2024).

Improvements to the mediation system should also include the development of regulations that are more flexible and responsive to different types of disputes, including those involving cultural and psychological factors that influence the attitudes of the parties (Rahmah, 2019). For example, courts can provide space for mediators to adapt their approach according to the specific context of the case, without being bound by overly rigid procedures (Hanifah, 2016). Furthermore, the courts need to provide stronger support to the parties involved in mediation, such as providing clear information about the mediation process and its benefits, and convincing them that mediation is a legitimate alternative and can provide more satisfactory results than litigation (Amriani, 2005).

To increase the active participation of the parties in mediation, courts need to encourage public awareness of the importance of mediation as a more amicable way of resolving disputes that saves money, time and emotion. A more holistic approach, involving education about mediation at the community level and motivating the parties to resolve disputes amicably, is needed (Hidayat, 2016). With improvements to these aspects, the court mediation system can become more effective, reduce court caseloads, and provide fairer and more sustainable outcomes for all parties involved.

CONCLUSION

The mediation process conducted by Klaten Religious Court has been deemed effective. While the process has shown success in many divorce cases, not all mediations can achieve satisfactory results, especially when external and internal factors hinder the process. Main obstacles include the absence of parties involved, a lack of commitment to resolving issues, and psychological and cultural barriers that make parties reluctant to communicate constructively.

A major factor supporting the success of mediation is the competence of the mediators involved in the process, which includes skills in managing conflict dynamics and establishing effective communication between the disputing parties. Mediators who have a deep understanding of the law as well as good emotional skills tend to be more successful in encouraging the parties to reach an agreement. The willingness of the litigants to reconcile also greatly influences the success of mediation. When both parties are open to listening and compromising, mediation can be more effective and produce mutually beneficial solutions. Thus, although the mediation system at Klaten Religious Court has had a positive impact, improvements are needed in terms of mediator quality, litigant participation, and institutional support to overcome existing obstacles.

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