

The Role of Mediators in Reducing Divorce Rates in Bantaeng Regency Religious Courts in 2019-2020

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Abstract

This project intends to 1) understand the function of mediators in reducing divorce rates, the success rate of mediation in 2019-2020, and the impediments to mediation. 2). Knowing how the Bantaeng Regency Religious Court's mediator carries out the procedure of adopting mediation. This sort of research employs descriptive qualitative methodologies, gathering data directly from the field to observe the item under investigation. Primary and secondary data sources were used to collect information. Primary data comes from field research involving interviews, and secondary data comes from books and official papers. Techniques for gathering data include recordkeeping and interviews. According to the study's findings, 1) the mediator's role in the success rate of mediation in divorce cases at the Bantaeng Regency Religious Court cannot be separated from the mediator's crucial function in enabling the parties. Although the success rate remains very low, it must be implemented because it is PERMA RI's mandate. 2). Mediation is used by the Bantaeng Regency Religious Court in compliance with RI PERMA NO 1/2016 protocols, and all cases that go to court are mediated beforehand. In 2019, just 2.56 percent of mediation cases were effectively mediated out of 39 cases; in 2020, as many as 6.25 percent of the 48 mediation cases entered were successful. While the overall number of divorce cases in 2019 was 342 and 410 in 2020, there were divorce cases that could not be negotiated. The mediation process is hampered by a) the absence of the parties and b) the passage of time. c). In bad faith mediation process d). Absence of parties e). The stipulations of the peace treaty were not followed.

Keywords: Role; Mediator; Divorce; Court

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Introduction

The Qur'an indicates that conflicts and disputes among humans are a common occurrence. This is stated in the Qur'an QS. 9. Al-Hujurat

وَإِنْ طَائِفَتَانِ مِنَ الْمُؤْمِنِينَ اقْتَتَلُوا فَأَصْلِحُوا
بَيْنَهُمَا فَإِنْ بَغَت إِحْدَاهُمَا عَلَى الْأُخْرَى فَقَاتِلُوا
الَّتِي تَبْغِي حَتَّى تَقِيءَ إِلَى أَمْرِ اللَّهِ فَإِنْ فَاءَتْ
فَأَصْلِحُوا بَيْنَهُمَا بِالْعَدْلِ وَأَقْسِطُوا إِنَّ اللَّهَ يُحِبُّ
الْمُقْسِطِينَ (٩)

Translate: *If two groups of believers fight each other, reconcile between them. But if one group aggresses against the other, fight the aggressing group until it complies with God's command. Once it has complied, reconcile between them with justice, and be equitable. God loves the equitable.*

Humans are obligated to resolve disputes as well as possible as His caliphate on earth, because humans are gifted with reason and revelation in regulating their lives. As a result, he must explore and discover a pattern of dispute resolution so that existing problems do not persist and justice can be served. Allah verified this in QS. *Al-Nisa*: 35.

According to the Qur'an, justice can be enforced through a judicial procedure (court) or outside of the court process. The formal provisions provided in Islamic teachings govern the fulfillment of rights and the administration of justice through the courts. Specifically, involving state power in its administration. As a result, the Qur'an pays special attention to those who are trusted to uphold justice in court, particularly judges or qadhi. The Prophet Muhammad himself has demonstrated

a firm stance, does not discriminate, and treats the parties in conflict equally, so that the weak and the strong have the same position in achieving rights and justice in the eyes of the Prophet Muhammad (Syahrizal Abbas, 2017: 125).

Law enforcement, particularly in Indonesia, frequently confronts problems relating to societal growth, which is in accordance with the rapid flow of globalization, resulting in a high potential for disputes, including divorce. As a result, a legal solution is required without violating the values and conventions that govern people's lives.

The mediation procedure is one method of resolving marital disputes. The issuance of PERMA No. 2 of 2003 concerning Court Mediation Procedures, which was later revised in PERMA No. 1 of 2008, is a new history for Indonesia's civil procedural law in that the Supreme Court, based on Article 130 HIR/154 RBG, contained a rule in the first trial that the disputing parties were required to go through the mediation process first (Gatot Soemarno, 2006 :120).

Furthermore, because PERMA No. 1 of 2008 was deemed insufficient to meet the need for more efficient mediation implementation and to increase the success of mediation in court, it was revised to PERMA No. 1 of 2016, which states in article 4 paragraph 1 that all civil disputes submitted to court include cases of resistance (*verzet*) against *verstek* decisions as well as resistance by litigants (*partij verzet*) and third parties (*derden verzet*) aga However, unless otherwise specified in this Supreme Mahakam Regulation, it is mandatory to initially seek a settlement through mediation.

According to Zainal Asikin (2015:74), most peace attempts take place outside of the trial process. If the plaintiff and defendant agree to make peace, the parties enter into a peace agreement. A peace pact is usually made in writing on stamped paper. The court renders his judgement (*acta van vergelijk*) based on the agreement of the two parties, which punishes both parties for complying with the contents of the peace that has been reached. Conciliation rulings have the same authority as ordinary judgements and can be enforced in the same way. An appeal is not conceivable if the parties reach an agreement to make peace.

With the option of using mediation as a form of dispute resolution, it is projected to be a successful tool in lowering divorce rates in many countries. However, the divorce rate continues to rise. As a result of the issues that arose, the author chose the title, "The Role of Mediators in Reducing Divorce Rates in Bantaeng Regency Religious Courts in 2019-2020."

The primary issues to be addressed in this study are as follows: 1) How is the practice of using mediation in divorce cases at the Bantaeng Regency Religious Court in 2019-2020? 2) What role does the mediator have in reducing divorce rates at the Bantaeng Regency Religious Court in 2019-2020?

Based on the concerns listed above, the following are the study's objectives: 1) To learn more about the use of mediation in divorce cases at the Bantaeng Regency Religious Court in 2019-2020. 2) To discover how mediators might help reduce divorce rates at the Bantaeng Regency Religious Court in 2019-2020.

Research Method

This form of research is qualitative in nature, employing a descriptive qualitative approach to investigate a social phenomenon and human problem. In this example, the researcher proceeded immediately to the research site, namely the Bantaeng Regency Religious Court, which is located on A. Mannappiang Street, Lamalaka, Bantaeng, Bantaeng Regency, South Sulawesi.

The data used in this study came from two sources: primary and secondary. Primary data are vocal or spoken words, gestures, or behavior performed by trustworthy subjects, in this case the study subjects (informants), linked to the variables researched (Arikunto, 2014: 22). Secondary data is information received or gathered from existing sources (Iqbal Hasan, 2002: 82). Secondary data was acquired from graphic documents in the form of tables, notes, written reports, images, or video recordings that were required for this investigation. The data for this study were gathered from mediators at the Bantaeng Regency Religious Court.

According to Suharsimi Arikunto (2006: 149), a research instrument is a tool used by researchers to collect data. Meanwhile, it is a tool or facility used by researchers to gather data so that their job is easier and the findings are better, in the sense that they are more accurate, complete, and systematic so that they are easy to process, according to Suharsimi Arikunto in the previous edition.

The author employs the only relevant instrument in qualitative research methodologies in this study, namely the researcher himself. To

acquire data, researchers may use assistive technologies such as a tape recorder, video cassette, or camera. However, the value of these instruments is entirely dependent on the researcher themselves (Moleong: 2000:19).

This study's data was gathered through observation, interviews, and documentation. Observations are carried out through careful observation and documentation of the symptoms under investigation. The researcher made direct observations in this case as the mediator carried out a mediation agenda for the plaintiff and defendant. The most crucial aspect of adopting observation techniques is to rely on the researcher's observations and memory (Husaini Usman et al., 2011: 52). The researcher created a data collection instrument in the form of notes. While an interview is a form of verbal communication, it is a dialogue that seeks information. This communication is carried out directly between parties who seek information and other parties in order to receive the necessary information. The author acquired information in this case from mediators at the Bantaeng Regency Religious Court. Documentation is one way of gathering qualitative data that involves seeing or analyzing documents created by the subject or others concerning the subject. This strategy is used to supplement and strengthen the data obtained. The documentation referred to in this study comprises all types of archives collected while the research is being conducted, whether they are data obtained orally, in writing, or pictures or photos.

The data acquired is then evaluated qualitatively to characterize the

scenario or phenomena that occur. Beginning with data reduction, presentation, and conclusion. The author examines the mediation process conducted by the mediator at the Bantaeng Regency Religious Court in this instance.

Discussion of the Findings

Concept of Mediation

In terms of etymology, mediation is derived from the Latin "mediare," which means "to be in the middle." This definition describes the function of third parties as mediators in carrying out their responsibilities to mediate and resolve disputes between the parties. "Being in the center" also implies that the mediator must be objective and neutral in resolving the issue. He must be able to protect the interests of the contesting parties in a fair and equal manner in order to establish confidence among the opposing parties. The linguistic explanation of mediation (terminology) highlights the presence of a third party who bridges the gap between the disputing parties in order to mediate the conflict (Syahrizal Abbas, 2009: 2).

Someone who works as an intermediary is referred to as a '*wasith*' in Arabic. The word comes from the Sanskrit phrase "*wasathayasithu-wasathan*," which means "person in the center." A referee should not take sides, but must make an impartial ruling (MI. Muchtar, 2013: 117).

According to the Big Indonesian Dictionary, mediation is the procedure of involving a third person and resolving a conflict as an advisory.

According to Huala A (2008: 19-20), mediation is a means of resolving disputes with the use of a third person,

known as a mediator. It might take the shape of states, international organizations (such as the UN), or individuals (such as politicians, lawyers, or scientists) who actively participate in the negotiating process. It usually strives to reconcile the parties in its capacity as a neutral party by providing advise on dispute resolution.

In general, mediation can be defined as an attempt to resolve disputes between parties through mutual agreement through a neutral mediator, who does not make decisions or draw conclusions for the parties, but rather assists the facilitator in implementing dialogue between parties in an atmosphere of openness, honesty, and the exchange of opinions in order to reach consensus. In other words, a problem-solving negotiating method in which impartial and neutral third parties collaborate with opposing parties to establish a satisfactory solution.

So, a mediator is a judge or a third party with a mediator's certificate who assists disputing parties in resolving problems without resorting to a judgment procedure. Which is impartial and does not intervene in decision-making; instead, he merely assists plaintiffs and defendants during the negotiation process.

The author can deduce from the preceding definition of mediation that it is a conflict settlement process conducted outside of court with the assistance of a neutral third party (mediator). It can take the form of countries, international organizations, or individuals actively engaged in the negotiating process. When both sides reach an agreement as a result of the negotiation process.

The Goal and Advantages of Mediation

According to Syahrizal Abbas (2009: 24), the objective of mediation is to resolve disagreements between parties by involving a neutral and impartial third party. Because dispute resolution through mediation puts all parties in the same position, it can lead to the fulfillment of a lasting and sustainable peace agreement. There is no such thing as a win-win situation. In mediation, the disputants are proactive and have complete decision-making authority.

Mediation is extremely advantageous since the parties have achieved an agreement that ends their disagreement in a fair and mutually beneficial manner. Even in failed mediation, where the parties were unable to achieve an agreement, the benefits were felt. The parties' willingness to engage in a mediation process has helped to identify the basis of the issue and shrink the gap between them. This demonstrates that the parties are eager to resolve the disagreement, but they have yet to find a framework that all parties can agree on.

One of the advantages of mediation in terms of the strength of the eventual judgment is that the mediation mechanism is essentially an effort to direct opposing parties to peacefully resolve conflicts. The peace decision reached through mediation has the same executive power as the decision reached through the trial/litigation process.

If the parties have reached an agreement, the judge just needs to use the dicta (order) to strengthen the decision in accordance with the contents of the peace agreement, namely "punishing the parties to obey

and implement the contents of the peace agreement." The next decision is to punish the parties by ordering them to pay the expense of the case equally.

Function of Mediation.

In summary, the mediation role is as follows (M. Ashri, 2012: 262):

- a. Facilitating communication among disputing parties
- b. Releasing or reducing tensions among disputing parties so that a conducive environment for negotiating can be created
- c. Can be an effective information channel for disputing parties
- d. Present the disputing parties with a satisfactory solution.

Model of Mediation

Lawrence Boule, a law professor and the director of the Bond University Dispute Resolution Center, divides mediation into a number of models, the goal of which is to find the role of the mediator in looking at the position of the dispute and the role of the parties in dispute resolution efforts (Susanti AN, 2019: 67-68).

- a. Model of Settlement or Compromise

The mediation model is meant to bring the difference in the bargaining value of an agreement closer together. The mediator simply focuses on the parties' stated problem or viewpoint.

- b. Model for Facilitation (Facilitative Model)

The facilitation paradigm encourages litigants to address their own problems to the greatest extent possible. The mediator guides the parties away from positional bargaining and toward interest-based bargaining, which leads to a mutually advantageous settlement. The emphasis is on the conflicting parties' needs and interests.

- c. Therapeutic paradigms

The Therapeutic Model emphasizes a holistic resolution that includes not only dispute resolution but also reconciliation between the parties. It is believed that the disagreement will be resolved and that the parties will remain on good terms. Mediators are expected to have "counseling" skills in addition to mediation methods and strategies.

- d. Analytical models

The evaluative model is increasingly prominent in the court annexed. The sides arrive hoping that the mediator would provide some form of understanding as to who will win and who will lose if the case continues. Concentrate more on rights and responsibilities. Because the method is centered on rights, mediators are typically specialists in their field or legal experts. In this case, the mediator's role is to provide solutions and legal information in order to reach a suitable conclusion.

Stage of Mediation

According to Susanti AN (2019: 74-76), mediators generally do 5 (five) stages of mediation, which are as follows:

- a. Forum formation.

A forum must be established by the mediator before negotiations between the mediator and the contesting parties may commence. A joint meeting was held following the formation of the forum.

- b. Gather and share knowledge with one another.

After all of the rules have been agreed upon, the mediator organizes a joint meeting in which each disputing party is asked for a preliminary explanation and each side is given the opportunity to speak.

- c. Troubleshooting in bargaining

On this occasion, the mediator conducts an in-depth question and answer session with the disputing parties in order to determine what the parties truly desire and to find alternate alternatives. And, based on the outcomes of the meeting, the mediator will re-formulate and re-solve the problem.

d. Making a decision

The parties that collaborated with the mediator to examine choices, calculate trade-offs and offer packages, minimize differences and find a reasonable foundation for joint allocation, and lastly the parties who decided to make a joint decision.

e. Decision-making Execution

Mediation Principles

The mediation principle is broken into two parts:

a. Basic mediation principles

1) Confidentiality Principle

The term "confidentiality" refers to the fact that nothing that occurs in a meeting organized by the mediator and the disputing parties may be broadcast to the public or the press by either party.

2) The volunteering concept

Each of the disputing parties came to mediation of their own free will and without compulsion or duress from other parties or outside parties.

3) The empowering principle

This approach is founded on the notion that people who are willing to come to mediation have the ability to resolve their own difficulties and reach the desired conclusion.

4) The neutrality principle

The job of a mediator in mediating is solely to facilitate the process; the contents remain the property of the opposing parties. The mediator is solely empowered to control whether or not mediation is conducted.

5) The idea of a unique solution

states that solutions developed through the mediation process are not need to meet legal norms, but can be generated through the creative process. As a result, the mediation results will most likely reflect the wishes of both parties, which is directly tied to the concept of each other's empowerment.

Process of Mediation

The mediation procedure is broken down into three steps, which are as follows:

a. The stage of pre-mediation

The pre-mediation stage is the first stage in which the mediator organizes a number of steps and preparations before the mediation begins. The pre-mediation stage is critical because it determines whether or not the next mediation process will take place. At this stage, the mediator takes several steps, including building confidence, contacting the parties, investigating and providing preliminary mediation information, focusing on the future, coordinating the conflicting parties, being aware of cultural differences, determining who is present, determining the purpose of the meeting, agreeing on a time and place, and creating a sense of security for both parties to meet and discuss their disputes (Kraybill et al, 2006: 64-67).

b. Stage of mediation implementation

The implementation stage of mediation occurs after the disputing parties have met and begun the mediation process. There are several important steps in this stage, including the mediator's preliminary remarks, presentation and presentation of the parties' stories, sorting and clarifying problems, discussing and negotiating agreed

issues, creating options, finding points of agreement and formulating decisions, recording and recounting decisions, and closing the mediation (Syahrizal Abbas, 2009: 44).

c. The final stage of putting the mediation results into action

This is the stage at which the parties only carry out the terms of the agreement that they have drafted in writing. The parties carry out the agreement's outcomes based on the commitments they demonstrated during the mediation process. In general, the parties carry out the mediation outcomes themselves, but it is conceivable that other parties will aid in the realization of a written agreement or agreement. The other party's presence here is simply to assist in carrying out the outcomes of the written agreement, after he has acquired the assent of both parties.

Mediation's Normative Foundation

The Qur'an and Prophet Muhammad's hadith both explain the existence of mediation as a means of resolving disagreements. The legal basis of mediation is discussed in the following verses and hadiths:

a. Surah An-Nisa: 35.

وَإِنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَابْعَثُوا حَكَمًا مِّنْ أَهْلِهَا
وَحَكَمًا مِّنْ أَهْلِهَا إِنْ يُرِيدَا إِصْلَاحًا يُوَفِّقِ اللَّهُ

بَيْنَهُمَا ۗ إِنَّ اللَّهَ كَانَ عَلِيمًا خَبِيرًا

Translate: *If you fear a breach between the two, appoint an arbiter from his family and an arbiter from her family. If they wish to reconcile, God will bring them together. God is Knowledgeable, Expert.* (QS. An-Nisa: 35).

b. Al-Hujurat: 10,

إِنَّمَا الْمُؤْمِنُونَ إِخْوَةٌ فَأَصْلِحُوا بَيْنَ أَخَوَيْكُمْ
وَاتَّقُوا اللَّهَ لَعَلَّكُمْ تُرْحَمُونَ

Translate: *The believers are brothers, so reconcile between your brothers, and remain conscious of God, so that you may receive mercy.* (QS. Al-Hujurat: 10)

c. Tirmidhi's Hadith History;

حَدَّثَنَا كَثِيرُ بْنُ عَبْدِ اللَّهِ بْنِ عَمْرٍو بْنِ عَوْفِ
الْمُرَيْبِيِّ، عَنْ أَبِيهِ، عَنْ جَدِّهِ، أَنَّ رَسُولَ اللَّهِ
صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: «الْصُّلْحُ جَائِزٌ بَيْنَ
الْمُسْلِمِينَ، إِلَّا صُلْحًا حَرَّمَ حَلَالًا، أَوْ أَحَلَّ
حَرَامًا

Meaning: *Has told us Katsir Bin Abdillah Bin Amir Bin Aufin Al-Muzni from his father from his grandfather that the Messenger of Allah said: Between fellow Muslims, peace may be made, except peace that forbids what is lawful or makes lawful what is unlawful, and each Muslim on his own terms. except for the conditions that forbid what is legal or make legal what is illegal* (Tirmidzi, 1975: 626)

d. Supreme Court of the Republic of Indonesia Regulation (PERMA RI)

The legal basis for mediation is also regulated in the Regulation of the Supreme Court of the Republic of Indonesia (PERMA RI) No. 1 of 2016, regarding the mediation procedure in court, taking into account the provisions of the applicable civil procedural law, article 154 regulation of procedural law for regions outside Java and Madura (reglement tot regeling van het rechtswezen in de gewesten buiten Java en Madura staatsblad 1927:227) and article Then, in article 3 paragraph 1, it is stated that every judge, mediator, parties, and/or legal counsel must adhere to the procedure for resolving conflicts through mediation.

Mediation Practice in Bantaeng Regency Religious Courts

The incorporation of mediation institutions into the courtroom litigation process is a sufficient attempt to provide hope for the achievement of services for justice seekers in resolving their conflicts effectively, promptly, and affordably. With the incorporation of mediation into the litigation process, it is much easier for the parties to develop a dispute resolution model that benefits both parties.

According to PERMA No. 1 of 2016, the civil dispute resolution process is essential for both parties to pursue the mediation method. A mediator is required in the mediation agenda; the mediator can be from among the judges or from outside the judges who have a mediator certificate and are registered with the court concerned. Even though a mediator possesses a mediator certificate, he cannot become a mediator on the mediation agenda if he is not registered.

The practice of adopting mediation has been detailed in PERMA No. 1 of 2016. The practice of implementing mediation by the Bantaeng Religious Court mediator is the same as that stipulated in PERMA No. 1 of 2016, according to the head of the Bantaeng Religious Court, all cases have been mediated beforehand, but sometimes the mediator cannot carry out according to the rules because some cases cannot be mediated.

So, the practice of implementing mediation at the Bantaeng Religious Court is not much different from the mediation agenda in any court, particularly religious courts, because its implementation is regulated in PERMA No. 1 of 2016, but in the

litigation process, sometimes parties do not have the good faith to carry out the mediation agenda, so the mediator cannot take a good attitude in reconciling or even bringing the two parties together to discuss the problem.

Based on the Supreme Court of the Republic of Indonesia's Regulation No. 1 of 2016, the following is the flow of the mediation procedure at the Bantaeng Religious Court:

1. Civil lawsuits filed with the Bantaeng Religious Court
2. The chairman of the Bantaeng Religious Court selects the panel of justices.
3. The examining judge is required to explain the mediation method to the parties during the first session.
4. Appointment of mediators:
 - a) Appointment of mediator based on the parties' agreement
 - b) The chairman of the panel of judges appointing a mediator.
5. Case resume submission to the mediator The parties may provide a resume of the case to the other party and the mediator within 5 (five) days of the agreement referred to in Article 20 paragraph 5.
6. The mediation process is limited to 30 (thirty) days from the date the order to mediate is issued. The mediation term may be extended for a maximum of 30 (thirty) days from the end of the time referred to in paragraph 2 based on the parties' agreement.
7. At the request of the parties, the mediator submits to the

- examining judge a request for an extension of the mediation period referred to in paragraph 3 together with the reasons for doing so.
8. Report on mediation results, namely, the mediator submits a written report to the panel of judges hearing the case, which includes the following information:
 - a. Successful mediation
 - 1) Mediation was partially successful;
 - 2) Mediation was unsuccessful; and
 - 3) Mediation cannot be carried out.
 9. The judicial panel hearing the case
 - a. Mediation success:
 - 1) Act of peace (*acta van danding*)
 - 2) Determination of lawsuit revocation
 - b. Partially successful mediation:
 - 1) Deed of peace (*acta van danding*), which means that a peace agreement reached by some of the litigating parties can be enhanced by a deed of peace as long as it does not touch the assets, assets, and/or interests of the parties who did not reach an agreement.
 - 2) The determination to continue the case investigation.
 - a) The legal ramifications of the parties' bad intentions.
 1. The litigation decision is deemed undesirable (*Niet Ontvankelijk Verklaard*)
 - a. If the plaintiff is found to be acting in bad faith based on the mediator's report (Article 22 PERMA No. 1 of 2016)
 - b. If the mediator declares the parties to be acting in bad faith (Article 22

paragraph (8) of PERMA No. 1 of 2016).

2. The defendant bears the expense of mediation.
 - a. If the defendant is found not to have good intentions based on the mediator's report.
 - b. Stipulation to make an order indicating that the defendant had bad intents and charging him mediation expenses (Article 23 paragraphs (1), (2), (3) and Letters a, b, c in PERMA No. 1 of 2016).

Based on the District Religious Court's mediator's approach of implementing mediation. The author, Bantaeng, can conclude that the problem of the existence or necessity of a mediation agenda, with the hope of reducing divorce cases every year, but the facts on the ground that the authors discover, the use of mediation does not work as expected. Mediation is essentially an endeavor by the Supreme Court, the hope of the panel of judges, and the ability of the mediator to cancel the parties' intention to divorce and resolve the issue peacefully. Because the core of the elements determining the success or failure of mediation is actually determined by the plaintiff and defendant, whether they have good faith or not to make peace.

The findings of the authors' research at the Bantaeng Religious Court revealed that the Supreme Court's efforts in PERMA No. 1 of 2008, which was deemed insufficient and was updated to PERMA No. 1 of 2016, were insufficient to reduce the divorce rate with a mediation agenda. However, we cannot say if it was successful or not because, at the very least, the parties attempted to resolve the conflict through mediation.

Several inhibitory elements throughout the mediation process, according to DY. Witanto (2011:204-212), impact mediation failure. The following are some of the reasons why mediation is regarded a failure:

1. The parties' absence

The absence of the parties in the mediation process is very important, because the mediation process cannot be carried out if one of the parties is not present at the scheduled meeting. The presence will also determine the parties' willingness to pursue the peace process. So, if the parties/or one of the parties fails to attend the arranged meeting, it is clear that the parties do not intend to resolve the disagreement peacefully.

2. After the deadline has passed

The second reason for mediation failure or inability to carry out is that the time limit established by the PERMA requirements has expired, as stated in article 24 paragraph 2.

3. A sham mediation process

In bad faith mediation, the parties must not conceal their evil intentions behind the current mediation process. The mediation procedure must be demonstrated simply to resolve the conflict peacefully, with no intrigue or other goals hidden under the desire to resolve the dispute. Failure to comply with these standards will result in the mediation process being deemed a failure, either at the request of any party or on the mediator's initiative.

4. Missing parties

In principle, the peace process is a dispute resolution process with the goal of concluding the case, so the peace process must involve all parties involved in the dispute being reconciled, so that after the results of the agreement are strengthened into a peace deed, there will be no new

disputes in the future because there are parties who were not involved in the peace process. If there are parties in the peace process who should be included but are not, the peace process becomes less involved.

5. The terms of the peace treaty have not been met.

A mediator has the authority to analyze the material of the parties' agreement before it is submitted to the examining judge of the case for confirmation as a peace deed. If there are aspects in the peace agreement that are against the law or are impossible to implement through legal procedures, or if one of the parties is acting in bad faith in agreeing to the peace agreement, the mediator has the right to declare that the mediation has failed.

In addition to the elements described above, the author observed throughout the research that the mediator influences the process of inhibiting the course of mediation. Inexperienced mediators have an impact on their skills, which has an impact on the success of mediation. Dian Aslamiyah's admissions during the interview session revealed that she could not provide much information about mediation because she had only recently become a mediator. However, the author believes that the new challenge of becoming a mediator will not be a problem if the mediator regularly attends trainings or training to add insight and talents previously acquired.

The Bantaeng Regency Religious Court has yet to appoint a non-judiciary mediator. The availability of non-judge mediators is critical to the success of mediation, especially if the number of mediators is small and not

proportional to the number of incoming cases, so that the mediator is overwhelmed in handling cases that could be a mediation agenda that is only used as a process to get to the next trial process.

Mediator's Role in Bantaeng Regency Religious Courts

The mediator plays a critical role in the mediation process. The success or failure of mediation is also heavily influenced by the mediator's role. He was instrumental in bridging a number of meetings between the parties. The mediator's major tasks must be to design the meeting, lead and direct the meeting, maintain the balance of the mediation process, and insist that the parties achieve an agreement. In this role, the mediator serves as a catalyst for the emergence of constructive dialogues in which the parties actively participate in debating the source of their disagreement. Several issues and potential solutions were mentioned during the conversation. The mediator supports the parties in exchanging information and bargaining to reach a number of agreements (Syahrizal Abbas: 77-78).

As a neutral third party, the mediator serves the interests of the disputing parties. The mediator must foster constructive engagement and conversation so that he may investigate the parties' interests and propose solutions for achieving those interests.

The mediator's duty in leading a meeting attended by both parties is to help, direct, and aid the parties in opening two-way positive dialogue, because the communication that is formed will facilitate the later mediation process. In this job, the mediator must use polite, kind language that does not upset the

parties, so that the parties appear calm when conversing with one another.

According to Syahrizal Abbas (2009:78), in addition to managing the communication process, the mediator directs the parties to consider the possible measures that both of them may do to resolve the conflict in phases. The mediator helps to facilitate conversation so that the parties can obtain a thorough knowledge of the issues at hand. The parties can make an objective assessment of their situation with the assistance of a mediator, and then move forward with negotiations to establish an agreement that can resolve the disagreement.

The mediator's capacity to foster positive two-way communication has an impact on the parties' degree of trust, which strongly determines mediation success. A mediator who is skilled at conflict resolution and communication can help the parties find common ground, making it easier to promote peace. Dian Aslamiyah S believes that Sy. The ability to use an emotional approach is also vital because it gives the parties trust that the mediator will not divulge the problem to anyone; it is only known to the mediator and is confidential. So that both sides communicate the problem honestly and the mediator can propose the best solution.

In terms of resolving cases, the mediator plays an extremely crucial role, despite the fact that success rates remain quite low. However, according to Dian Aslamiyah, even if the majority of them fail, mediation is necessary and must be done since it is the most effective strategy to reduce divorce rates, supported by good faith on the side of the parties.

In actuality, it is common to find that several mediator positions emerge during the mediation process. These steps include:

- a. Building and maintaining trust between the parties.
- b. Explain the process and educate the parties on communication in order to maintain a positive culture.
- c. Assisting parties in dealing with the situation or reality
- d. Inform the parties on the bargaining process and skills; and
- e. Assist the parties in gathering critical information and developing choices to enable problem solving.

The role of the mediator is only possible if he has a number of skills. This skill is acquired through a number of education, training and experience in resolving conflicts or disputes. A mediator who has a lot of experience will make it easier for him to carry out the mediation process, because he is used to dealing with conflict situations where both parties are in conflict. The mediator's mature skills and experience will continuously encourage him to take positive actions in the mediation process. On the other hand, mediators who have poor experience and limited skills will have an effect on their weak ability to carry out mediation.

According to the author's observations, the role of mediators at the Bantaeng Regency Religious Court in reducing the divorce rate is less than optimal, as evidenced by the available data in 2019 only one case was successfully mediated while in 2020 3 cases. the lack of skills possessed by the mediator plus the number of incoming cases is not proportional to the availability of judges or mediators which makes the behavior of the mediator in mediating

the parties only a formality. So according to the author, this is also what causes the success rate of peace in court is still very low. The infertility of the judiciary in producing a settlement through peace is not due to the parties or the presence of legal counsel. But attached to the same mediator judge as the parties consider mediation just a formality. Coupled with the dualism function of the judge who also doubles as a mediator which affects the psychological condition of the judge so that the mediation process does not run optimally.

Conclusion

Based on the results of an analysis of the role of mediators and the practice of applying mediation in divorce cases conducted by the Religious Courts of Bantaeng Regency. Then the conclusions can be drawn as follows:

1. The practice of implementing mediation carried out by the mediator of the Bantaeng Regency Religious Court in terms of divorce cases in general is in accordance with the applicable procedures in the Indonesian Supreme Court Regulation No. 1 of 2016. In practice, all cases that go to court will be mediated first. PERMA RI's juridical review has a binding and coercive nature for the litigants in court. And if the parties refuse to participate in mediation, the trial process is null and void and cannot be continued.
2. The role of the mediator in reducing the divorce rate at the Bantaeng Regency Religious Court in 2019-2020 cannot reduce the divorce rate as evidenced by the available data in 2019 only 1 case was successfully mediated while in

2020 3 cases. Although the success rate is still very low, mediation must still be carried out. Because this has been regulated in PERMA RI No. 1 of 2016.

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