

The Role of Mediation as a Family Counseling Service in Maintaining Marital Integrity at the Religious Court of Batang

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Abstract

Conflict within families is a common phenomenon that can negatively affect harmony and the psychological development of family members, especially children. Mediation as a method of conflict resolution has been widely used in the field of family law, such as in divorce and child custody disputes. A mediation approach combined with counseling principles has proven to be more effective in resolving conflicts peacefully, improving communication, and restoring relationships among family members. This article aims to analyze the effectiveness of mediation as a counseling approach in family conflicts from legal and psychological perspectives. A qualitative method is used to explore in depth the process of conducting counseling guidance for disputing parties through mediation, as well as the factors that influence the effectiveness of mediation in resolving divorce cases. The data in this study are presented descriptively and narratively, with an emphasis on understanding the social, psychological, and cultural contexts that influence the success or failure of counseling guidance. The results show that counseling-based mediation has great potential to create sustainable conflict resolution and strengthen family functioning. Furthermore, the effectiveness of mediation does not only depend on the implementation of formal procedures but also on the commitment and emotional readiness of the parties, the mediator's competence, and adequate social and institutional support.

Keywords: mediation, counseling, family conflict, family law, dispute resolution

Introduction

According to Islamic teachings, marriage is not merely a relationship between two individuals, but a sacred bond (*mitsaqan ghalizha*) aimed at establishing a family founded on *sakinah* (tranquility), *mawaddah* (deep affection), and *rahmah* (compassion). However, in the course of a marriage, various problems or conflicts may arise within the household. These may stem from differences in understanding, values, poor communication, financial issues, unequal household roles, or differences in cultural and educational backgrounds. If such differences are not addressed properly and seriously, they may develop into separation, domestic violence, and even psychological disturbances in children. In the legal context, the resolution of family

conflicts is typically carried out through litigation processes, such as divorce in court, which serves as the last resort when problems or conflicts have become critical or unmanageable.

Based on the Annual Report (Laptah) of the Religious Court of Batang, the data on divorce cases in 2022, 2023, and 2024 are as follows:

Table 1. Data on Divorce Cases in 2022, 2023, and 2024

No	Year	Caseload	Total Caseload of Divorce Cases	
			Cerai Gugat	Cerai Talak
1	2022	2540 case	1499 case	311 case
2	2023	2280 case	1494 case	361 case
3	2024	2085 case	1608 case	455 case

According to the Annual Report, the majority of the registered cases are divorce matters. Divorce is a legal event that arises when the functions and purposes of marriage fail to operate as intended, leading to consequences that ultimately end in separation. In many situations, divorce becomes the final option after various attempts to preserve the household have not succeeded. One of the last steps, which is also a compulsory stage in divorce proceedings at the Religious Courts, is mediation. Mediation is designed to resolve disputes in a peaceful and equitable manner, and at the same time serves as a means to avoid lengthy court proceedings by encouraging voluntary agreements between the parties.

In essence, mediation is a method of resolving disputes through negotiation in order to reach an agreement, with the assistance of a mediator. It may also be understood as a problem-solving negotiation process in which an impartial third party works together with the disputing parties to help them reach a joint resolution. A mediator does not possess the authority to decide the case; rather, their role is limited to assisting the parties in addressing the issues brought before them (Yunita Sari, 2022). Etymologically, the term *mediation* derives from the Latin *mediare*, meaning “to be in the middle,” which reflects the role of the third party who stands between the disputing sides to facilitate the settlement of their conflict. Being “in the middle” also signifies that a mediator must remain neutral and impartial. They are expected to safeguard the interests of both parties fairly and equally, thereby fostering trust between them (Halmi Abdul Halim, 2024). Given its significance, mediation as an alternative form of counseling for disputing parties should be prioritized in the judicial process. It is expected not only to ease the workload of the court but also to create a more constructive space for dialogue and counseling between the parties involved in the dispute.

Mediation, as an alternative form of counseling for disputing parties within the framework of Alternative Dispute Resolution (ADR), offers a more constructive and conciliatory approach by involving a neutral third party who facilitates dialogue and helps the parties work toward a mutually acceptable solution. When mediation incorporates counseling principles, its effectiveness in resolving family disputes tends to increase, as the process not only seeks a legal agreement but also aims to support emotional recovery and restore interpersonal relationships.

The application of mediation in divorce proceedings is regulated under the Supreme Court Regulation of the Republic of Indonesia Number 1 of 2016 on Mediation Procedures in Courts, which mandates that all civil cases including divorce cases undergo mediation before the court may proceed to the substantive hearing. Nonetheless, in practice, many divorce cases still conclude with a formal dissolution of marriage, indicating a relatively low rate of successful mediation. This trend is reflected in the mediation reports of the Religious Court of Batang from 2022 to 2024, which show the following data:

Table 2. Reports of the Religious Court of Batang from 2022 to 2024

No	Year	Cases Received	Number of Cases Not Eligible for Mediation	Number of Cases Mediated	Mediation Settlement Report			
					Un successful	Successful	Failed	In Process
1	2022	2540	2274	266	213	44	3	6
2	2023	2280	2015	265	196	33	9	27
3	2024	2085	1866	219	145	56	10	8

These conditions may stem from a range of factors, including the psychological readiness of the parties, the competence of the mediator, and prevailing social norms in which divorce is often perceived as an immediate solution to marital conflict, while mediation is not yet viewed as an optimal alternative.

The present study examines the effectiveness of mediation as a counseling mechanism for disputing parties in resolving divorce cases at the Religious Court of Batang. It explores the factors that support and hinder the mediation process and identifies strategies that may enhance its success. The objective of this research is to assess the extent to which mediation can function as an effective alternative counseling method for parties involved in divorce proceedings, as well as to offer empirically grounded recommendations for improving the quality of mediation services. This study is expected to provide both theoretical and practical contributions. Theoretically, its findings may enrich the body of literature on mediation-based counseling in dispute

resolution within the framework of Islamic law. Practically, the study may serve as a valuable input for judicial practitioners particularly those at the Religious Court of Batang in improving the quality and effectiveness of mediation implementation.

Methods

This study employs a qualitative research method. The qualitative approach is used to explore in depth the implementation of counseling services for disputing parties through mediation, as well as the factors that influence the effectiveness of mediation in resolving divorce cases. The data are presented in a descriptive–narrative manner, with particular emphasis on understanding the social, psychological, and cultural contexts that contribute to the success or failure of counseling efforts conducted through mediation at the Religious Court of Batang.

The research adopts a case study approach, focusing on divorce cases that have undergone mediation at the Religious Court of Batang. The case study design enables the researcher to examine the counseling processes conducted through mediation in a concrete and comprehensive way, taking into account the local context of the Batang community. The sources of data in this study consist of the following:

- Primary data were obtained through interviews with individuals involved in the mediation process, including mediator judges who handled couples undergoing divorce proceedings.
- Secondary data were collected from divorce case files, relevant legal regulations particularly Supreme Court Regulation (PERMA) No. 1 of 2016 and other scholarly literature that supports the discussion.

The initial stage of this research involved gathering documents and identifying divorce cases that had undergone mediation at the Religious Court of Batang. The researcher then conducted field observations and direct interviews with mediator judges who provided counseling and facilitated mediation for couples seeking divorce. All collected data were analyzed using data reduction, data presentation, and conclusion-drawing techniques, as commonly applied in descriptive–analytical approaches. This method was selected to provide a comprehensive portrayal of the implementation of counseling through mediation, the challenges encountered, and the strategies that may be adopted to enhance the effectiveness of mediation as an alternative mechanism for resolving disputes in a fair, expeditious, and conciliatory manner.

Results And Discussion

Stages of Counseling Implementation through Divorce Mediation at the Religious Court of Batang

The counseling process for disputing parties through mediation at the Religious Court of Batang constitutes a mandatory stage in divorce proceedings, in accordance with the Supreme Court Regulation (PERMA) No. 1 of 2016 on Mediation Procedures in Courts. The purpose of mediation is to provide a forum for the parties to resolve their dispute amicably, without having to proceed to a full trial and the issuance of a divorce decree. In practice, the implementation of divorce mediation at the Religious Court of Batang generally follows the formal procedures set forth in PERMA No. 1 of 2016. Under this regulation, mediation is divided into three stages: the pre-mediation stage, the mediation stage, and the closing stage. These stages essentially continue the framework established under the earlier regulation, PERMA No. 1 of 2008, which had previously governed mediation procedures in the courts.

1. Pre-Mediation Stage

This initial stage takes place before the mediation process formally begins. At this stage, the obligations of each party to attend mediation in good faith are explained. In addition, the mediator is selected, the time frame for the mediation process is determined, and formal summonses are issued to the disputing parties.

2. Mediation Stage

- a. The conduct of mediation is regulated under Article 24 of the Supreme Court Regulation (PERMA) No. 1 of 2016 on Mediation Procedures in Courts. Among its provisions is the requirement that, within no later than five days from the issuance of the order referred to in Article 20 paragraph (5), each party may submit a case summary to the other party and to the mediator.
- b. During the mediation process at the Religious Court of Batang, the parties are required to attend in good faith. Failure to appear without valid justification after two official summonses, or attending only the first meeting and subsequently being absent, is deemed an indication of bad faith.
- c. The mediator facilitates meetings between the parties to encourage dialogue and the search for an amicable resolution. This process must be completed within a maximum of 30 working days from the date on which the mediator is selected and approved. The period may be extended for an additional 30 days.
- d. To deepen the understanding of the issues in dispute, the mediator may involve experts, community leaders, or religious or customary figures, with the consent of the parties, as provided in Article 26 paragraph (1).

The outcomes of the mediation process are classified into four categories:

- Successful Mediation (in which a full agreement is reached)
- Partially Successful Mediation
- Unsuccessful Mediation (where no agreement is achieved)
- Mediation Not Feasible to Conduct

3. Closing Stage of Mediation

- a. The time limit for court-annexed mediation is 22 days, regardless of whether an agreement is reached. For mediation conducted outside the court, the time allocation is 30 days.
- b. If mediation results in an agreement, both parties must set out the terms in writing and sign the document. The agreement may then be validated by the judge as a deed of settlement.
- c. If mediation fails to produce an agreement, the court proceedings will continue in accordance with the applicable rules of civil procedure (Saragih, 2021).

Based on interviews with mediator judges and several individuals who have participated in mediation, the stages of mediation at the Religious Court of Batang generally include:

- Appointment of a mediator by the judicial panel following the first hearing.
- Summoning the parties to attend the mediation sessions within a maximum period of 30 days.
- An opening stage, during which the mediator explains the purpose and benefits of mediation.
- A discussion stage, in which the mediator identifies the core issues and encourages the parties to find common ground.
- A concluding stage, where a deed of settlement is drafted if an agreement is reached; if not, the case proceeds to trial.

Nonetheless, the mediation process does not always unfold ideally in practice. Various obstacles such as time limitations, the emotional unpreparedness of the parties, and the heavy caseload handled by the court often hinder the achievement of an effective mediation outcome. It is therefore important to recognize that the success of mediation depends not only on the procedures prescribed by regulation but also on the commitment, presence, and good faith of all parties involved in seeking a peaceful resolution.

Factors Contributing to the Success and Failure of Mediation Effectiveness at the Religious Court of Batang

The following are several factors that influence the success of mediation in the Religious Court of Batang:

1. Mediator's competence

A mediator with strong communication skills and the ability to manage disputes effectively plays a crucial role in helping the parties reach an acceptable resolution. Thus, the mediator's diligence, skill, and professionalism become key determinants in the success of the mediation process.

2. Supporting facilities

Adequate facilities and infrastructure are essential for the proper implementation of mediation. A representative and comfortable mediation room is one of the primary needs. In addition, mediation rooms in Religious Courts often display motivational quotes about the beauty and value of marriage, intended to encourage parties seeking divorce to reflect on the meaning and importance of their marital relationship.

3. Awareness of the parties

When the parties recognize their own errors or misjudgments in filing a lawsuit or a petition for divorce, the mediation process often encourages them to become more receptive to seeking a mutually acceptable solution. The willingness of one or both parties to reconcile becomes a decisive element in the success of mediation in resolving the dispute. The following are the factors that contribute to the failure of mediation effectiveness at the Religious Court of Batang:

a. Factors Related to the Disputing Parties

The cultural background of the parties involved in divorce disputes often becomes an obstacle to achieving reconciliation, as cases brought before the Religious Court generally have reached a highly critical stage. As a result, the predominant intention of the parties is simply to proceed with the divorce. A societal culture that tends to resist reconciliation, particularly in matters of domestic conflict, significantly contributes to the failure of mediation. In addition, the parties' limited awareness of the mediation process and its benefits further hinders its effectiveness. Therefore, it is crucial for the disputing parties to understand, comply with, and respect the regulations governing mediation.

b. Mediator-related factors

The effectiveness of mediation at the Religious Court of Batang is shaped not only by the mediator's competence but also by the willingness of the parties and the prevailing socio-cultural context. Even a skilled mediator requires

active participation and genuine good faith from the disputing parties for the process to function effectively. In Batang, however, customary norms and pressure from extended family networks often influence decision-making, making the parties' goodwill appear superficial rather than substantive. Furthermore, limitations in facilities and institutional support within the court can also hinder the attainment of optimal mediation outcomes. Consequently, the effectiveness of mediation depends on a combination of the mediator's capability, the psychological readiness of the parties, and the support provided by both the social environment and institutional structures.

Interview Findings

To support the preparation of this journal, the author conducted interviews with two mediators at the Religious Court of Batang. The first interview was carried out with a judge-mediator, Yudi Hardeos, S.H., M.H., who conveyed the following statements:

In practical application, civil dispute mediation presents considerable potential. The success of mediation is often reflected in partial agreements reached on ancillary matters. For example, in a petition for cerai talak, even when the principal claim (the divorce itself) does not result in a settlement, mediation may still achieve partial success on issues arising from the divorce, such as agreements concerning: joint marital property, joint debts, child custody, child support, outstanding maintenance (nafkah madhiyah), maintenance during the iddah period, post-divorce compensation (mut'ah), and unpaid mahar.

Civil mediation frequently encounters several obstacles. The most common is the lack of genuine good faith from one of the parties, often manifested in attempts to delay the proceedings. This issue is addressed in Supreme Court Regulation No. 1 of 2016, which provides a clear definition of "lack of good faith." It includes: failure to appear after two consecutive proper summonses without valid justification; attending the first session but failing to attend subsequent sessions despite two consecutive proper summonses without valid reason; repeated absences that disrupt the mediation schedule without acceptable cause; attending sessions but refusing to submit or respond to the other party's mediation brief; and/or refusal to sign a mutually agreed draft settlement without legitimate grounds. The mediator may report such conduct to the trial judge, accompanied by a recommendation for imposing mediation costs on the party concerned, including the calculation of the amount, as part of the report on the failure or impossibility of conducting mediation.

When mediation is carried out optimally in accordance with the applicable rules, it becomes highly effective in reducing and simplifying the litigation process. For

instance, when partial agreements are reached, a party who initially intended to file a counterclaim may withdraw that intention after obtaining certainty through a partial settlement that offers a mutually beneficial outcome. This significantly shortens the duration of case resolution and supports timely case settlement, which is one of the priority programs of the Religious Courts.

The second perspective was obtained from a non-judge mediator, **Miqdam Yusria Ahmad, S.H.I., M.Ag.**, who expressed the following:

In divorce cases, there remains a considerable opportunity for achieving partial agreements approximately 60 percent because beyond the divorce petition itself, there are various cumulative issues that still offer multiple settlement options. For instance, in matters involving property, the likelihood of reaching an agreement is quite high, provided that the discussion focuses on the asset itself rather than on the actions or conduct related to it.

However, one of the main challenges in divorce disputes is the deep emotional hurt or disappointment experienced by the parties. Such feelings often become a major barrier to reconciliation, particularly when additional individuals outside the Plaintiff and Defendant who may themselves harbor resentment—become involved and tend to provoke further conflict. Likewise, in property disputes, when the core issue stems from the parties' behavior, which has caused profound emotional distress or even escalated into broader social conflict, reaching a resolution becomes increasingly difficult.

Despite these challenges, mediation remains substantially effective. Its success, however, depends greatly on the mediator's approach as well as the professionalism and integrity of the court personnel involved.

Based on the interviews conducted with the two mediators at the Religious Court of Batang, it can be concluded that the success rate of mediation at this court is relatively high. This is largely attributed to the mediators' effective strategies in resolving disputes and facilitating reconciliation between parties seeking divorce an area that constitutes the majority of cases filed at the Religious Court of Batang. The mediators employ an approach commonly referred to as the social work approach, which involves the following steps:

1. The mediator introduces himself to the parties and provides an explanation of the mediator's role, the mediation process, and the confidentiality that governs it.
2. The mediator offers an overview and explanation of the issues arising within the household. This may be carried out through interviews and by reviewing the documents submitted during the mediation process.
3. When necessary, the mediator schedules separate meetings with each party. In addition, both parties are given appropriate advice, including an explanation of the

negative consequences that divorce may have—particularly for their children and for both families.

4. The mediator then proposes a peace agreement as one of the most constructive solutions to prevent the divorce and to help restore harmony within the marriage.
5. The final step involves drafting an official deed or formal agreement if the mediation is successful. This document, known as the *Akta Van Dading* (peace deed), is prepared by the mediator and signed by both parties (Al Fadhili, 2019).

However, the strategies outlined above are not the only approaches a mediator may use in resolving or reconciling divorce disputes. A mediator must be confident that the strategies employed are appropriate and capable of increasing the likelihood of a successful mediation. Mediators at the Religious Court of Batang also emphasize that many troubled or delinquent children are those who feel uncomfortable at home due to a broken family environment children whose parents have divorced and who therefore seek comfort outside the home, often leading them into criminal behavior and legal problems.

This issue is effectively communicated by mediators at the Religious Court of Batang to encourage the parties to reconsider their decision, with the hope that they will withdraw the case before a divorce judgment is issued. The fundamental goal of a mediator is to influence the parties, using various methods and strategies, so that they do not proceed to the trial stage. Instead, the mediator seeks to reconcile the parties and bring the litigation process to an end through a peaceful resolution.

Conclusion

The implementation of mediation in divorce cases at the Religious Court of Batang constitutes a mandatory stage designed to provide an opportunity for the parties to seek an amicable resolution before proceeding to trial. Mediation is carried out in accordance with Supreme Court Regulation (PERMA) No. 1 of 2016 and consists of three main phases: the pre-mediation stage, the mediation process itself, and the closing stage. In practice, mediation begins with the appointment of a mediator, followed by discussions and joint problem-solving, and concludes either with the drafting of a settlement agreement or with the continuation of court proceedings if mediation is unsuccessful.

The effectiveness of mediation is shaped by multiple factors. Contributing factors include the mediator's competence and diligence, the availability of adequate and supportive facilities, and the parties' awareness and good faith in seeking a peaceful resolution. Conversely, factors contributing to failure include societal tendencies to resist reconciliation in domestic disputes, limited understanding among

the parties of the benefits of mediation, and the need for enhanced training and institutional support for mediators.

Consequently, the effectiveness of mediation depends not only on adherence to formal procedures but also on the commitment and emotional readiness of the parties, the capacity of the mediator, and the presence of sufficient social and institutional support. Collaboration among these elements is essential for mediation to serve as a meaningful and effective mechanism for resolving divorce disputes at the Religious Court of Batang. Overall, the mediation process in divorce cases at this court demonstrates a relatively high level of success.

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