

MEDIATION-BASED CONFLICT RESOLUTION: AN ANALYSIS FROM THE THEORY OF RELATIONSHIP MAINTENANCE TO THE RELIGIOUS COURT DECISIONANCE ANALISIS ON RELIGIOUS COURT DECISION NO. 0478/PDT.G/2023/PA.BI

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Abstract

Humans as social beings are required to have relationships with other individuals. However, relationships that humans experience often cause conflict. The relationship between husband and wife in a marriage bond is an example of a relationship that often also experiences conflict. After a conflict occurs, there will be an effort to restore the relationship together initiated by one or more parties concerned. The presence of this research is because it coincides with the conflict experienced by a family which ended in being resolved at the Boyolali Religious Court in the form of Case Decision Number 0478 / Pdt.G / 2023 / P.A.Bi. Before the court decision was finally determined, several processes of conflict resolution efforts had been carried out by means of mediation between the two parties. This study attempts to analyze the mediation process carried out by the parties based on Case Decision Number 0478 / Pdt.G / 2023 / P.A.Bi reviewed with relationship maintenance theory. This study adopts a qualitative descriptive research method to describe the conditions related to conflicts that occur in families that result in divorce. This study was compiled by conducting a thorough and comprehensive literature review (library research) to identify the decision of the Boyolali Religious Court Number 0478/Pdt.G/2023/P.A.Bi which will then be analyzed using relationship maintenance theory. The conclusions produced by this study are: based on the five theories of relationship maintenance (positivity, openness, assurance, task sharing, networking), almost all of them are only carried out by one party. So that the aim of improving the relationship between the plaintiff (Ratna) and the defendant (Budi) did not find a positive agreement that led to their harmonious relationship again. Finally, the conflict continued to the litigation path which depended on the decision of the judge based on the information and evidence presented during the trial process.

Manusia sebagai makhluk sosial mengharuskan untuk melakukan hubungan (relationship) dengan individu lainnya. Namun hubungan yang dijalani oleh manusia kerap kali sering menimbulkan konflik. Hubungan suami dan istri dalam ikatan perkawinan merupakan contoh hubungan yang sering kali juga terjadi konflik. Setelah ada konflik maka akan ada upaya pemulihan hubungan bersama yang diinisiasi oleh salah satu pihak atau lebih yang bersangkutan. Hadirnya penelitian ini karena bersamaan dengan adanya konflik yang dialami oleh sebuah keluarga yang berakhir diselesaikan di Pengadilan Agama Boyolali berbentuk

Putusan Perkara Nomor 0478/Pdt.G/2023/P.A.Bi. Sebelum akhirnya putusan pengadilan tersebut ditetapkan, telah melalui beberapa kali proses upaya penyelesaian konflik dengan cara mediasi antara kedua belah pihak. Penelitian ini berusaha untuk menganalisis proses mediasi yang dilakukan para pihak berdasarkan Putusan Perkara Nomor 0478/Pdt.G/2023/P.A.Bi ditinjau dengan relationship maintenance theory. Penelitian ini mengadopsi metode penelitian deskriptif kualitatif untuk mendeskripsikan kondisi terkait konflik yang terjadi dalam keluarga yang berakibat pada perceraian. Penelitian ini disusun dengan melakukan tinjauan literatur yang teliti dan komprehensif (library research) untuk mengidentifikasi putusan Pengadilan Agama Boyolali Nomor 0478/Pdt.G/2023/P.A.Bi yang selanjutnya akan dianalisis dengan relationship maintenance theory atau teori pemeliharaan hubungan. Adapun kesimpulan yang dihasilkan oleh penelitian ini adalah: berdasarkan kelima teori pemeliharaan hubungan (positivity, openness, assurance, task sharing, networking), hampir kesemuanya hanya dilakukan oleh satu pihak saja. Sehingga tujuan untuk memperbaiki hubungan antara penggugat (Ratna) dan tergugat (Budi) tidak menemukan kesepakatan positif yang mengantarkan hubungan mereka rukun kembali. Akhirnya konflik dilanjutkan ke jalur litigasi yang menggantungkan keputusan pada hakim berdasarkan keterangan dan bukti yang tersaji selama proses persidangan.

Keywords: *Decision, Mediation, Relationship Maintenance Theory*



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A. INTRODUCTION

Humans as social beings are required to have relationships with other individuals. These relationships are either private or public. Private relationships such as relationships between husband and wife, children and parents and so on. Public relationships such as company leaders and their employees, regional leaders and their people and so on. Relationships between humans usually arise because there is a goal to be achieved together. However, who would have thought that conflicts often arise over the relationships that have been built together. After a conflict, there will be an effort to restore the relationship together initiated by one or more parties concerned.

The relationship between husband and wife in a marriage bond is an example of a relationship that often also experiences conflict. The conflicts that occur are usually caused by various factors. Starting from miscommunication, economic problems, incompatibility problems, third party factors or infidelity and so on.¹ The triggers for the conflict can often be resolved well by both parties and there are also those that cannot produce a bright spot (solution) for the conflict. Conflicts that do not get a solution in a husband and wife relationship can end in the termination of the marriage bond (divorce).

¹Nibras Syafriani Manna, et al., "Divorce Lawsuit: Study of Causes of Divorce in Families in Indonesia", Al-Azhar Indonesia Journal Humanities Series, Vol. 6, No. 1, 2021, 11-21.

Speaking in the context of Indonesia, the breaking of the bonds of marriage (divorce) between husband and wife due to conflicts that arise in the relationship is still common. The Religious Courts Agency (BADILAG) stated that there were 516,344 divorce cases that occurred in 2022.² The Central Statistics Agency also stated that there were 516,344 divorce cases in 2022.³ BPS explained that the biggest factor triggering divorce is disputes and quarrels. After that, it is followed by the economic factor of families who are less able to maintain the integrity of the household.

Based on the many divorce cases in Indonesia, there is one divorce case that occurred in Central Java between Budi (pseudonym) and Ratna (pseudonym) which has been decided at the Boyolali Religious Court, Decision Number 0478/Pdt.G/2023/PA.Bi. This divorce case was filed by the wife (Ratna) to the Religious Court because of her disappointment with her husband's (Budi) behavior. Before the case was processed in court, both parties had made several attempts to improve the relationship (mediation) which had been strained. However, they could not find a common ground or solution from both of them. Until then, Ratna still filed a divorce petition to the Boyolali Religious Court to be processed and submitted to the judge for the decision.

Since the issuance of Perma No. 2 of 2003 concerning Mediation Procedures in Court which was later amended by Perma No. 1 of 2008 concerning Mediation Procedures in Court which was later amended again by Perma No. 1 of 2016 concerning Mediation Procedures in Court, all civil cases including divorce cases must first go through the mediation or peace stage through a mediator. So it is certain that Case Number 0478/Pdt.G/2023/PA.Bi, which was submitted to the Boyolali Religious Court has gone through the mediation stage.

The presence of this research is to then try to describe the problems that exist in the relationship between Budi and Ratna based on the decision that has been determined by the Boyolali Religious Court. Then this research also tries to analyze based on relationship maintenance theory or relationship maintenance theory on conflict resolution efforts before/during (mediation) processed at the Boyolali Religious Court. It is hoped that this research can be a source of information and inspiration in resolving conflicts, especially husband and wife relationship conflicts or other conflicts.

B. METHODOLOGY

The study adopted a qualitative descriptive research method. This method was chosen because it allows the author to describe the conditions related to

²Religious Courts, Number of Divorce Cases 2022, accessed October 30, 2023; <http://kinsatker.badilag.net/Direktorilist>

³Monavia Ayu Rizaty, There were 516,344 Divorce Cases in Indonesia in 2022, quoted from <https://dataindonesia.id/ragam/detail/ada-516344-kas-perceraian-di-indonesia-pada-2022>

conflicts that occur in families that result in divorce. This study was compiled by conducting a thorough and comprehensive literature review to identify the Boyolali Religious Court decision Number 0478/Pdt.G/2023/PA.Bi which will then be analyzed using relationship maintenance theory.

The collected data will be analyzed using content and thematic analysis approaches. The results of the analysis will be used to identify patterns, themes, and general views that emerge in the context of family dispute resolution. The author will also use the data to compare and contrast views from various sources.

The theory used in this study is the relationship maintenance theory. Dinda and Canary (1993) define the theory as an effort to maintain the relationship owned by a couple to ensure that it remains in a stable condition or a certain state.⁴ In addition, this theory is also used to repair relationships that were previously in poor or damaged conditions. According to Stafford & Canary (1991), the strategies used in this theory to maintain relationships include the following; first, making positive efforts. This effort is implemented by creating a sense of comfort and happiness in the couple and building relationships and interactions to be more enjoyable than before, such as being kind, romantic, praising the couple and so on. second, openness efforts. This effort is an open attitude in any matter that is only applied to the couple and does not apply to others. Third, assurance efforts. Efforts made by couples to re-encourage the attitude of commitment and certainty to each other by giving trust. Fourth, task sharing efforts. This effort is made by sharing the burden and responsibility that must be borne together in the relationship. Fifth, networking efforts. This effort is made by building good relationships with people close to them other than their own partner.⁵

C. DISCUSSION AND RESULT

Marriage is a happy moment that will always be remembered and remembered by every person who makes this sacred bond throughout their life⁶. Marriage is a new gateway to life that will be passed together with a loved one to build a happy family. Various efforts and preparations will be made by prospective husband and wife to live life after promising to go through life together. In general, most people have the view that in marriage will always be happy because they will spend their entire life side by side with their loved one. But who would have thought, in the process of going through the marriage is not completely happy. Often in marriage there will be conflicts that must be found

⁴DJ Canary and Yum, YO, Relationship Maintenance Strategies, In The International Encyclopedia of Interpersonal Communication (eds CR Berger, ME Roloff SR Wilson, JP Dilliard, J. Caughlin and D.Solomon), 1.

⁵Andika Sanjaya, Irwansyah and Hardi Alunaza, Maintaining Organizational Relationships and Communication via Cyber Media, Journal of Communication Science, Vol. 14, No. 2, 2017, 239-243.

⁶Ahmad Syarqawi, Family Counseling: A Dynamic in Living Family Life and Problem Solving Efforts, Al-Irsyad: Journal of Education and Counseling, Vol. 7, No. 2, 2019, 70.

solutions or common ground together. The solution is sometimes the result of an agreement between the two parties during the negotiation or mediation process. However, if the right solution is not found, the family that has been built will be destroyed (divorce) and have implications for other things.

1. Mediation as the First Attempt to Resolve Disputes

Mediation in terms of language comes from English which means resolving disputes by mediating. In terms, this mediation is a way of resolving disputes through a negotiation process to obtain an agreement between the parties assisted by a mediator.⁷Mediation is a problem-solving negotiation process, where an impartial outside party works with the disputing parties to find a mutual agreement. The mediator does not have the right to decide the dispute, but only to help the parties resolve the issues that are authorized to him.

The definition of mediation can also be found in several versions and literature, including the following: Christopher W Moore "Intervention in a dispute or negotiation by an acceptable, impartial and neutral third party who does not have the authority to make decisions in helping the disputing parties to reach a voluntary agreement in resolving the disputed problem"⁸

According to Retnowulan Sutanto, "Mediation is the provision of services in the form of advice to resolve disputes between parties by an expert or several experts appointed by the parties as mediators."⁹

According to Law No. 30 of 1999 concerning Alternative Dispute Resolution, "an institution for resolving disputes or differences of opinion through procedures agreed upon by the parties, namely settlement outside the court by means of consultation, negotiation, mediation, conciliation or expert assessment."¹⁰

According to Article 1 Paragraph (7) of Perma No. 1 of 2008, "Mediation is a method of resolving disputes through a negotiation process to reach an agreement between the parties with the assistance of a mediator."¹¹

Technically, according to the mandate of Law No. 30 of 1999 concerning Alternative Dispute Resolution, this Mediation is a forum for solving problems that are carried out outside the court (out of court settlement). This provision is also the same as what is usually done in other countries that make this mediation an alternative dispute resolution outside the court. However, since the issuance of Perma No. 1 of 2016 concerning Mediation Procedures in Court, this mediation

⁷Aris Prio Agus Santoso, et al., *Alternative Dispute Resolution*, (Yogyakarta: Pustaka Baru Press, 2023), 57.

⁸Herri Swantoro, *Mediation Strategy & Tactics Based on Supreme Court Regulation No. 1 of 2016 concerning Mediation Procedures in Court*, (Jakarta: Kharisma Putra Utama, 2016), 52.

⁹Retnowulan Sutanto, *Mediation and Dading*, material at a limited workshop on arbitration and mediation organized by the MA-RI Education and Training Center together with the Legal Research Center at the Graha Niaga Building, Financial Club Jakarta on October 8-9, 2022.

¹⁰Law No. 30 of 1999 concerning Alternative Dispute Resolution

¹¹Supreme Court Regulation Number 1 of 2008 concerning Mediation Procedures in Court.

can not only be found outside the court. This provision accommodates the procedures, methods and tools for implementing mediation in court.

The inclusion of mediation in the judicial system in accordance with the mandate of Perma No. 1 of 2016, is not without benefits and objectives. One of the objectives is to reduce cases in court. The existence of mediation in the judicial system is also useful in maximizing the function of the court institution in resolving disputes in addition to the adjudicative court process.

As for the mediation decision, a mediator should have an active role in resolving the conflict in a divorce case so that later the divorce is not dropped here in terms of the role of the mediator in the legal structure which is institutional in the existence of law. The legal structure here includes state law enforcement institutions such as the Supreme Court, and judicial bodies under it including religious courts and their apparatus, judges, prosecutors, advocates, and other law enforcement institutions that are specifically regulated by law such as the police and the Corruption Eradication Commission.¹² So in this study, the Mediator Judge is part of the legal structure, the things that need to be considered are the extent to which the Mediator Judge is bound by existing regulations and what his skills are in handling mediation cases.

In reality, none of the Mediator Judges in the Religious Court who carried out the mediator function in 2014 have been certified as mediators, such as in case 0478/Pdt.G/2023/PA.Bi. This is not entirely the fault of the Mediator Judge because the PerMA regulation itself has provided leniency to judges who are not yet certified to conduct mediation. However, it remains a priority because it has been determined that if there are no judges, advocates, legal academics and non-legal professions in the Court who are certified as mediators, judges in the relevant Court environment are authorized to carry out the mediator function. (Article 5 paragraph 2).

The duties of a mediator carried out in court are based on Article 15 paragraph (1), (2), (3), (4). Overall, they have been followed by the Mediator Judge in the Religious Court, namely: (1) The mediator is obliged to prepare a proposed mediation meeting schedule for the parties to be discussed and agreed upon. (2) The mediator is obliged to encourage the parties to play a direct role in the mediation process. (3) If deemed necessary, the mediator can hold a caucus. (4) The mediator is obliged to encourage the parties to explore and explore their interests and seek various options for the best resolution for the parties.

Here, the researcher assesses that the Mediator Judge who mediated Decision 0478/Pdt.G/2023/PA.Bi was quite good, the Mediator Judge has followed the rules set by PerMA procedurally, the efforts made by the Mediator

¹²Andi Akbar Muzfa, [Http://tenagasosial.blogspot.com/2013/08/struktur-hukum.html](http://tenagasosial.blogspot.com/2013/08/struktur-hukum.html), accessed on July 9, 2014 at 08.00 WIB. See also: Syafrudin Kalo, Law Enforcement That Guarantees Legal Certainty and a Sense of Justice in Society, a Contribution of Thought, Paper presented on Friday, April 27, 2007, at the Gayo Room Garuda Plaza Hotel, Jl. Sisingamangaraja No. 18 Medan.

Judge in tracing and exploring the interests of the parties are by delivering the mediator's opening, conveying the parties' complaints, finding the root of the problem, negotiating by offering options and reminding them of the consequences that arise after a divorce. even though they do not have a certificate, the implementation of mediation is carried out based on experience and training.

The inhibiting factors in the implementation of mediation in terms of the role of the mediator are: Lack of Knowledge of Judges in Carrying Out the Function of Mediators and None Have Been Certified, the research informants agreed that mediators need to be equipped with mediation skills when asked about the urgency of mediation training. The reasons given were to gain theoretical and practical knowledge of mediating in a case. Specifically for handling family disputes, whether divorce cases, domestic violence or neglect of wife's obligations, the informant added the need for additional knowledge about sociology, anthropology, psychology, family dynamics, and various other approaches. Lack of Role of Non-Judge Mediators, the involvement of non-judge professional mediators is actually a breakthrough in the mediation process, the problem of limited certified mediators in PerMA actually opens up opportunities to be overcome by involving non-judge professionals to become mediators, such as the role of community leaders, religious leaders/clerics, psychiatrists, family law experts, and other experts. There are no incentives for judges who carry out the function of mediators, from the statement of the Judge Mediator it can be seen that Article 25 paragraph (1) has not been implemented by the Government to provide incentives for mediators in resolving mediation disputes. Mediators who carry out their duties should be given incentives, either in financial or non-financial form.

2. The Judge's Consideration Regarding Decision Number 0478/Pdt.G/2023/PA.Bi

The panel of judges in resolving and deciding certain cases must be based on facts and applicable legal arguments accompanied by reasons. The judge must carefully examine the case that occurred as submitted by the parties to then be decided with a fair and balanced decision. In relation to the divorce case decision number 0478/Pdt.G/2023/PA.Bi, the author first describes the case process that was resolved at the Boyolali Religious Court.

Decision number 0478/Pdt.G/2023/PA.Bi has been examined and tried and has been legally binding on August 1, 2023 at the first instance court of the Boyolali Religious Court. This case is included in the divorce case filed by the wife which was then grouped into a divorce lawsuit case. Furthermore, the wife became a plaintiff and the husband as a defendant in the case. This case was registered by the wife on February 10, 2023 at the Boyolali Religious Court Clerk's Office with registration number 0478/Pdt.G/2023/PA.Bi.

It is explained that the plaintiff and defendant have been married on June 10, 2022 at 16.00 WIB legally both religiously and stately as recorded in the marriage book extract number: 372/22/VI/2022 located at the Surakarta Religious Affairs Office. The result of the marriage between the plaintiff and defendant, has been blessed with a daughter who was born on March 1, 2023 WIB.

At the beginning of the marriage, life between the plaintiff and the defendant was going well and was classified as harmonious and full of love. The two lived together in a rented house located at Masaran Regency Housing No. B6, RT 29 RW 10 Masaran Sragen and they had had sexual intercourse (after *dhukul*). In July 2022, the plaintiff was pregnant and vomiting, then she asked the defendant for permission to temporarily live with the plaintiff's parents in Boyolali, Central Java. Since then, the relationship and communication between the plaintiff and the defendant have been strained, disharmonious and difficult to communicate. The peak of the dispute was when the plaintiff gave birth to her daughter without being accompanied by the defendant and could not even be contacted. This continued, the defendant did not show good faith in being responsible for her child to meet, care for or raise her child like parents in general.

In addition to the above circumstances, the defendant also did not pay attention to his wife, with evidence of not providing maintenance within a certain period of time and amount. This also applies to his child, where the defendant did not pay attention to the child's material needs. The need for a wedding reception, they had also stated a previous agreement by dividing the two materials needed for the celebration, but the defendant did not fulfill this obligation. Based on the violations committed by the defendant above, the plaintiff expects the fulfillment of the obligations that the defendant must fulfill, including; a). *madliyah* maintenance with details: wife's maintenance of IDR 1,000,000 since September 2022 until this case produces permanent legal force, costs during and giving birth of IDR 3,635,675, child needs of IDR 5,490,634, b). *iddah* maintenance of IDR 3,000,000 and *mut'ah* maintenance of IDR 1,000,000, c). wedding reception costs of IDR 26,205,500, d). mediation costs with details; mediation at Hotel Alila Solo Rp. 1,461,410, mediation at the defendant's residence 7 times amounting to Rp. 3,500,000, legal costs Rp. 12,000,000, e). the child's *hadhanah* rights are given to the plaintiff with consideration of the child not yet *mumayyiz*, but the costs of *hadhanah* and maintenance are borne by the defendant in detail; monthly child support Rp. 2,500,000 and child education costs according to the child's education level.

In response to the lawsuit material submitted and written in the lawsuit letter by the plaintiff, the defendant then submitted a defense and wrote it in response to the plaintiff's material. The defendant made a defense including: initially the defendant invited the plaintiff to live together in the defendant's private house (September 3, 2022), but the plaintiff refused, which finally both of

them agreed to live in a rented house that was close to the plaintiff's workplace. The plaintiff's refusal was even followed by the following words "I want to go to Sragen as long as your salary is tripled, I work to prepare for labor/delivery" and followed by comparing the defendant's salary with the plaintiff. The second invitation of the defendant to the defendant's house was witnessed by the defendant's mother and the plaintiff's parents to live together after giving birth (September 23, 2022), but again it was rejected on the pretext that the plaintiff was working to prepare for childbirth, even with the intervention of the plaintiff's parents. The defendant's third invitation was made at KFC Slamet Riyadi Solo (October 31, 2022), but again it was rejected on the pretext that apart from her job, the plaintiff argued that she would study with her mother after giving birth. The defendant's fourth invitation was also made (January 15, 2023), but again it was rejected. Based on the attitude and behavior obtained by the defendant, the defendant considered that the plaintiff had committed *nusyuz* as a wife plus the plaintiff's parents were too involved in the defendant's family.

Initially, the defendant did allow the plaintiff to temporarily live with her parents in Boyolali during the early stages of pregnancy because the plaintiff's physical condition was getting weaker. The defendant's plan after the plaintiff gave birth was to invite her back to live in the same house, but was always rejected as explained above. The defendant felt that since July, his relationship with the plaintiff was still harmonious and the defendant also still provided a certain amount of maintenance on several occasions, including; paying for the cost of an ultrasound check-up and giving cash of 300,000 (July 21, 2022), buying the plaintiff's favorite brownies and giving cash of 300,000 (August 24, 2022), buying clothes (skirts) because the plaintiff's stomach was getting bigger (September 11, 2022), delivering mangoes to the plaintiff's workplace (September 16, 2022), transferring money of 1,000,000 (October 15, 2022), purchasing medicines (January 24, 2023), ultrasound check-up at the Budi Sehat Clinic and shopping for baby supplies (February 8, 2022), paying PDAM tax for rented accommodation (February 16, 2023), transferring money of 3,000,000 and paying the plaintiff's and child's BPJS (March 2, 2023), transferring money to the plaintiff of 500,000 for the child's needs (March 15, 2023).

Next, what the plaintiff stated that the defendant was difficult to contact when she was about to give birth is not true. In fact, the defendant had communicated with the plaintiff's mother at that time, that the defendant would be able to follow her to the hospital in the afternoon because she still had responsibilities at school. During the trip to the hospital, the weather happened to be very unfavorable because of heavy rain, strong winds and flooding in several places, which hampered the trip. When they arrived at the hospital, the defendant did not get a pleasant response from either the plaintiff or the defendant's parents.

The plaintiff is also indicated to have committed nusyuz acts which are depicted on several occasions, including: a). The plaintiff's sister came home at 10 pm and was then given advice by the defendant, but repeated the mistake the next day. On that day, the plaintiff lied to her husband by meeting his friend at 22.17 while still on the way (July 27, 2022), b). when the plaintiff asked to meet at the Alila Solo Hotel, to discuss their relationship, what happened was an argument between the two parties and the plaintiff ordered separate beds and refused the husband and wife relationship invited by the defendant (July 31, 2022), c). the plaintiff left the rented house and went to the plaintiff's parents' house without the defendant's permission which the defendant realized after returning home from work without finding the plaintiff's work uniform (August 2, 2022), d). the plaintiff's sister together with her father and mother returned to the rented house to express anger at the defendant by pointing at the defendant with their index fingers. The defendant considered what the defendant did to be an act of disobedience to her husband and was included in the act of nusyuz.

The point of the lawsuit filed by the plaintiff is related to the defendant's actions in neglecting his obligations not to care for or look after his child, the defendant objects to the statement, this is based on the attitude of the plaintiff and his parents, including: a). the plaintiff who does not want to live in the same house as the defendant, b). the plaintiff's parents who interfere too much, c). the plaintiff made a letter of demand for a criminal case of neglect of wife and child which was submitted to the Sragen Police. When finally the plaintiff and defendant were brought together for mediation aimed at improving the relationship led by the Criminal Investigation Unit, when the defendant agreed to be referred back but the plaintiff refused. Then when the defendant intended to visit his child who was in the car with the plaintiff's parents, the defendant received a response in the form of being prevented from meeting his child (March 29, 2022). On March 15, 2023, when the defendant transferred Rp. 1,000,000 for the child's needs, the money was returned by the plaintiff. The plaintiff also blocked the defendant's number with the aim of limiting contact with the child. Based on the attitude of limiting the relationship between the child by the plaintiff and his parents, the defendant is willing to take full responsibility for the child's upbringing if the right of hadlanah is given to the defendant.

In response to the plaintiff's demands requiring a certain amount of maintenance to be provided by the defendant for the time that has passed until now and other costs (legal costs) which are very large, the defendant refused to meet the very large nominal amount. Considering the defendant's salary which is not much and has received various deductions, the details are as follows: a). January is Rp. 1,115,000, b). February pay slip was not found, c). March is Rp. 1,045,000, d). April is Rp. 1,045,000, e). May is Rp. 1,045,000. The defendant also has the status of an only child whose parents are no longer working, the needs of the parents' family are met by the plaintiff.

The divorce case filed by the plaintiff has gone through a mediation stage in court, which was also carried out once. The mediation stage resulted in the decision of the plaintiff and defendant agreeing to continue the case if they want to continue the divorce (separation) and agreeing that child custody rights be given to the plaintiff. Because it resulted in a decision to continue the case, it was continued at the question and answer stage, evidence (plaintiff's witnesses) accompanied by collecting evidence related to this case. The trial process carried out to resolve the divorce case resulted in a decision based on the judge's considerations as follows:

- a. Based on Article 39 of Law Number 1 of 1974 concerning Marriage, divorce can be carried out if there are reasons why the husband and wife will not live harmoniously again and the court makes efforts to unite the two parties.¹³. Then it is also based on Article 19 letter (f) of PP Number 9 of 1975 in conjunction with Article 116 letter (f) of KHI which states that one of the reasons for divorce can be if there are incessant disputes and quarrels between husband and wife and they cannot get along again.¹⁴.
- b. Referring to the Circular Letter of the Supreme Court Number 3 of 2018 concerning the Implementation of the Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber in 2018 as a Guideline for the Implementation of Court Duties, the formulation of the religious chamber number 1 letter a, there it is explained that the judge must carefully consider the case that occurred and divorce can only be granted if the marriage bond has been broken (broken marriage) with certain indicators.¹⁵.
- c. Based on the Supreme Court Circular Letter Number 1 of 2022 concerning the Implementation of the Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber in 2018 as a Guideline for the Implementation of Court Duties, the formulation of the religious chamber number 1 letter b point 2, explains that in principle making divorce difficult, divorce can be carried out if the husband and wife have been in constant dispute and have been living apart for six months.¹⁶. In the two provisions of the room formulation above, there are 2 alternative elements that must be met and this case has met, including there being a dispute, endless quarrels and separate residences for 6 months. This is based on the fact that the plaintiff and defendant have been at odds since July 2022 to April 12, 2023

¹³Article 39 of Law Number 1 of 1974 concerning Marriage.

¹⁴Article 19 letter (f) of PP Number 9 of 1975 in conjunction with Article 116 letter (f) of the KHI.

¹⁵Circular Letter of the Supreme Court Number 3 of 2018 concerning the Implementation of the Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber in 2018.

¹⁶Supreme Court Circular Letter Number 1 of 2022 concerning the Implementation of the Formulation of the Results of the 2018 Supreme Court Chamber Plenary Meeting as a Guideline for the Implementation of Court Duties.

- (the case was filed), counting 10 months without any communication, the plaintiff even made a report to the Sragen Police (neglect of wife and child).
- d. Considering the definition of disputes and quarrels which do not always take the form of verbal arguments, shouting at each other, or even beatings, but attitudes of mutual silence, not caring about each other and trying to distance and avoid each other are also the cause of quarrels or disputes.
 - e. Considering communication is very important in realizing a lasting and happy family. If there is no communication between the plaintiff and the defendant, it can be called a quarrel or disagreement. This is in accordance with the Supreme Court Jurisprudence Number 379.K/AG/1995 dated March 26, 1997, "if in a household between husband and wife no longer live in one house and there is no communication within a certain period of time, it must be considered that there has been a continuous quarrel."
 - f. Considering that the plaintiff and defendant could be reconciled even though the Panel of Judges, Mediator and family members had repeatedly attempted to reconcile the two parties.
 - g. Considering that marriage is a physical and spiritual bond between husband and wife which aims to form a harmonious family (Article 1 of Law No. 1 of 1974), then if one of the husband or wife asks for a divorce, it can be ascertained that there is no physical and spiritual bond.
 - h. Considering the conditions of the dispute between the plaintiff and the defendant above, it is predicted that the rights and obligations of husband and wife will not be implemented and that an eternally happy family based on the Almighty God will not be realized in accordance with Article 1 of Law No. 1 of 1974 and fostering a household that is *sakinah, mawaddah, warahmah* based on Article 3 of the KHI and the Qur'an verse 21.
 - i. Considering the principle of Law No. 1 of 1974 complicating divorce followed by the hadith of the Prophet which states "if a wife sues her husband for divorce, then the throne of Allah SWT will be shaken", then for the plaintiff, maintaining the marriage will not bring benefits, but instead will bring long-term suffering to one or both parties. So the conclusion is that divorce is more beneficial to avoid harm/disadvantage according to the rule of Islamic jurisprudence, "rejecting damage is prioritized over achieving benefits".
 - j. Considering the plaintiff's attitude of insisting on wanting a divorce from the defendant, it shows that the plaintiff no longer accepts and does not want to acknowledge the defendant as her husband, based on the book *Ghoyatul Maram* which states: "when the wife's hatred for her husband has reached its peak, the judge can issue a divorce to the husband with one divorce."
 - k. Considering that because the lawsuit was filed by the wife (plaintiff), if it is granted, the divorce is *ba'in sughra* in accordance with article 119 number (2) letter c KHI.

- l. Considering that a divorce of one ba'in sughra is a divorce proposed by the wife, the legal consequence of which is that the husband and wife cannot live together again, except with a new marriage contract.
- m. Considering that based on the written report from the mediator on May 23, 2023, the plaintiff and defendant have reached an agreement that child custody rights will be assigned to the plaintiff as the biological mother, and the plaintiff will not prevent the defendant from meeting and expressing his affection.
- n. Considering the plaintiff's invitation to mediate with the defendant at the Alila Solo Hotel, but the plaintiff refused the defendant's invitation to have sexual intercourse. Then when they met at KFC Slamet Riyadi Solo, the defendant invited the plaintiff to live together after 6 months since giving birth, but was still rejected and wanted to stay in Boyolali to study with his mother and adapt to work again. So based on the two events above, the Panel of Judges concluded that the plaintiff had committed nusyuz.
- o. Considering that because the plaintiff was proven to have committed nusyuz, the Panel of Judges agreed that the plaintiff's claim regarding idah and mut'ah maintenance was rejected.
- p. Considering the child support included in the plaintiff's lawsuit demanding support of Rp. 2,500,000, the Panel of Judges considered the following:
 - The defendant is willing to provide child support according to his ability without mentioning the exact amount. If the plaintiff still demands according to the amount in his lawsuit, the defendant stated that it would be better for the hadhanah rights to be given to the defendant and he would be fully responsible.
 - Considering, Article 41 letters (a and b) of Law No. 1 of 1974 concerning Marriage in conjunction with Articles 105 letters c and 156 letters (d) of the KHI explain that in relation to divorce, the ex-husband is obliged to provide all costs for the maintenance and living of children who are borne by the father according to his ability. at least until the child is an adult or 21 years old. This is also in line with Imam Syafi'i's opinion in the book al-Umm Juz V page 81 which reads: "fathers are obliged to guarantee everything for the benefit of their children, both in terms of breast-feeding, living, clothing and care."
- q. Considering that the a quo case is included in the field of marriage, then based on Article 89 paragraph (1) of Law No. 7 of 1989 as amended by Law No. 3 of 2006 and the second amendment by Law No. 50 of 2009 concerning Religious Courts, court costs must be borne by the plaintiff.

Based on the considerations set by the Panel of Judges regarding the incident that occurred between the plaintiff and the defendant, examine, process, resolve and try until deciding the following decision:

- a. Granting the plaintiff's claim in part;
- b. Imposing one *ba'in sughro* divorce on the defendant (Budi) against the plaintiff (Ratna).
- c. Determining the plaintiff as the holder of custody (*hadlanah*) of the child with the obligation to give the defendant access to meet and express affection for the child;
- d. Ordering the defendant to pay the plaintiff child support;
- e. For the past (*madliyah*) for 5 (five) months in the amount of Rp. 3,000,000 (three million rupiah);
- f. For the future since the divorce between the plaintiff and defendant until the child is an adult or 21 years old, an amount of Rp. 600,000 (six hundred thousand rupiah) excluding education and health costs with an increase of 10% (ten percent) every year;
- g. Reject the plaintiff's claim for other than and beyond;
- h. Charge the plaintiff to pay court costs amounting to Rp. 362,000 (three hundred and sixty two thousand rupiah).

3. Efforts to Restore Relationships (Mediation) Decision Number 0478/Pdt.G/2023/PA.Bi Reviewed with Relationship Maintenance Theory.

Decision Number Case Number 0478/Pdt.G/2023/PA.Bi concerning Divorce involving the plaintiff (Ratna) and the Defendant (Budi) has been determined by the Boyolali Religious Court through a long process. The decision explains the trigger and description of the conflict accompanied by efforts to restore relations (mediation). Even though it has gone through negotiation and peace efforts, the husband and wife relationship between Ratna and Budi must still end with a decision to declare divorce.

Peace efforts between the two parties between the plaintiff (Ratna) and the defendant (Budi) have been carried out on several occasions. The total number of peace efforts (mediation) carried out was eight times outside the court and one time in court. The opportunity to carry out mediation was carried out at the Alila Solo Hotel once, the defendant's domicile seven times and at the Boyolali Religious Court once. The several mediations carried out did not show significant results. An agreement to establish communication and a harmonious family-like relationship was not reached. The only decision made in the mediation process was the agreement on child custody (*hadhanah*) which was given to the plaintiff.

If the mediation process that occurred between the plaintiff and the defendant based on decision number 0478/Pdt.G/2023/PA.Bi is analyzed using relationship maintenance theory, it will at least produce the following explanation:

- a. There is no positive relationship. This aspect is also an important part to give appreciation, recognition and a form of expression of affection shown

to the partner.¹⁷ However, what happened between the plaintiff and the defendant was that communication was not intensive (rarely) for some time since July 2022 until the lawsuit was filed in court. Likewise, in the mediation process, there were often disagreements and anger.

- b. Being open. An open attitude is very important to have and do in everyday life with a partner. This is because by being open to your partner, you will avoid negative assumptions that are thought by one party of the partner. The action taken by the plaintiff in the form of leaving the rented house secretly by bringing her personal belongings without informing the defendant (husband) of her intentions and goals is a form of being open to your partner.
- c. Assurance action. This aspect is very important as an effort to improve the relationship of a couple who are in conflict. The attitude of commitment or invitation to improve the relationship and provide trust is thought to be a form of serious action on the agreement that has been built together.¹⁸ The mediation process carried out between the plaintiff and the defendant, this action has been attempted by the defendant. The effort is in the form of an invitation from the defendant to the plaintiff to return to the rented house/private house owned by the defendant. However, the form of the defendant's assurance did not run smoothly. The plaintiff repeatedly rejected the defendant's invitation for various reasons.
- d. Task sharing action. The decision to share tasks in a household is often made so that completing the tasks and responsibilities of family life will be lighter. One example of a form of task sharing in modern family life is in terms of fulfilling the family's financial needs. Sharing roles in fulfilling the family's financial needs is also carried out by the plaintiff and defendant. The plaintiff works as a clinic employee in Surakarta (MDC Banjarsari Clinic) and the defendant works as a teacher at a school in Sragen (SMK Sukawati Sragen). However, sharing the role of fulfilling the family's finances stopped when a conflict occurred between the plaintiff and the defendant. The defendant for some time did not provide for his wife and children.
- e. Networking action. This action is often done to build connections/relationships with people around you other than your partner.¹⁹ Regarding the mediation process between the plaintiff and the

¹⁷Bernadetha Nadeak, et al., "Coaching Marital Resilience and Family Harmony with the Theme "The Family Relationship and Intimacy", Jurnal Comunita Servizio, Vol. 1, No. 2, 2019, 179-185.

¹⁸Adelia Septiani Restanti Tania, "Self Disclosure of Interpersonal Communication of Long-Distance Couples in Maintaining Relationships During Physical Distancing in the Covid-19 Pandemic Era", Jurnal Komuniti, Vol. 13, No. 1, 2021, 1-15.

¹⁹Anusiata Vanda Sanderiana, et al., "Maintaining Relationships in Romantic Relationships During the Covid-19 Pandemic", Jurnal Aktifitas Online, Vol. 10, No. 2, 2022, 4.

defendant, there has been networking action carried out by the defendant with the plaintiff's family (father and mother-in-law). This action can be seen from the defendant's efforts several times trying to communicate with the plaintiff's parents during mediation at the plaintiff's parents' house to help persuade the plaintiff to live in harmony with the defendant again. In addition to these efforts, while at the Sragen Police, the defendant tried to meet the child who was under the supervision of the plaintiff's parents in the car. Both of these efforts, instead of getting a good and supportive response, the defendant did not get support from the plaintiff's parents.

The success of relationship repair, based on the theory of relationship maintenance, should be the same actions taken by both parties. Based on the five theories of relationship maintenance presented above, almost all of them are only done by one party. So the goal of repairing the relationship between the plaintiff (Ratna) and the defendant (Budi) did not find a positive agreement that led to their relationship being harmonious again. However, what happened was the opposite, namely the continuation of the conflict that could not be resolved through the mediation process. The conflict was continued to the settlement stage which depended on the decision of the court judge based on the evidence and statements submitted by each party.

D. CONCLUSION

Marriage is a happy moment that will always be remembered and remembered by every person who does this sacred bond throughout their lives. But who would have thought, in the process of undergoing the marriage is not completely happy. Often in marriage there will be conflicts that must be found solutions or common ground together. One alternative conflict resolution chosen by the disputants is the mediation path. Mediation is a problem-solving negotiation process, where an impartial external party works with the disputing parties to find a mutual agreement.

The conflict that occurred in Decision No. 0478/Pdt.G/2023/PA.Bi concerning Divorce has been attempted to reconcile through mediation. The mediation that has been carried out by both parties is eight times outside the court and once in court. The opportunity to carry out mediation was carried out at the Alila Solo Hotel once, the defendant's domicile seven times and at the Boyolali Religious Court once. However, from all the mediations that have been carried out, only one agreement was reached between the two parties. The agreement is only the agreement on child custody (hadhanah) which is given to the plaintiff.

Based on the five theories of relationship maintenance (positivity, openness, assurance, task sharing, networking), almost all of them are only done by one party. So the goal of improving the relationship between the plaintiff (Ratna) and

the defendant (Budi) did not find a positive agreement that would lead to a harmonious relationship again. However, what happened was the opposite, namely the continuation of the conflict that could not be resolved through the mediation process. The conflict was continued to the settlement stage which depended on the decision of the court judge (litigation) based on evidence and statements submitted by each party.

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