

Marriage Dispute Resolution Through Judge Mediators and Its Implications for Child Development in the Religious Court of the Jurisdiction of the Banjarmasin Religious High Court

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ABSTRAK

Keharusan untuk mediasi dilatarbelakangi oleh adanya penumpukan jumlah perkara di tingkat kasasi. Setiap tahun perkara yang masuk di Pengadilan bukannya berkurang, namun semakin meningkat. Sementara hakim yang harus menyelesaikan perkara tersebut daya kerjanya terbatas, sehingga perkara yang masuk tidak dapat diselesaikan dengan cepat. Hal ini terjadi di Pengadilan Agama pada wilayah PTA Banjarmasin. Oleh karena itu diperlukan konsep mediasi untuk mengurangi masalah penumpukan perkara yang terjadi di tingkat pengadilan agama, dalam hal kemaslahatan terhadap tumbuh kembang anak. Pendekatan penelitian yang dipilih menggunakan pendekatan yuridis empiris dengan metode penelitian deskriptif analisis terhadap teori-teori mediasi dan perlindungan anak dan implementasinya dalam putusan hakim tentang perceraian di Pengadilan Agama pada wilayah PTA Banjarmasin. Perceraian mempunyai dampak negatif terhadap perkembangan psikologi anak, karena pada umumnya perkembangan psikologi anak yang orang tuanya bercerai sangat terganggu, selain itu faktor negatif akibat dari perceraian ialah kurangnya kasih sayang dan perhatian dari ke 2 orang tuanya. Secara psikologis, perceraian orang tua tersebut mengakibatkan terhadap perubahan perilaku, tanggung jawab serta stabilitas emosional.

Kata kunci: Sengketa Perkawinan, Mediator, Perlembangan Anak.

ABSTRACT

The need for mediation is motivated by the accumulation of cases at the cassation level. Every year the cases that come to court are not decreasing, but are increasing. Meanwhile, the judge who has to resolve the case has limited capacity, so the cases that come in cannot be resolved quickly. This happened at the Religious Court in the Banjarmasin PTA area. Therefore, the concept of mediation is needed to reduce the problem of the accumulation of cases that occur at the religious court level, in terms of the benefit of children's growth and development. The research approach chosen uses an empirical juridical approach with a descriptive research method of analysis of theories of mediation and child protection and their implementation in judges' decisions regarding divorce in the Religious Courts in the Banjarmasin PTA area. Divorce has a negative impact on children's psychological development, because in general the psychological development of children whose parents are divorced is very disturbed, apart from that, the negative factor resulting from divorce is the lack of love and attention from both parents. Psychologically, parental divorce results in changes in behavior, responsibility and emotional stability.

Keywords: Marital Disputes, Mediator, Child Development.

Article History

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1. Introduction

Juridically, the practice of mediation in judicial institutions is reconstructed from Article 130 of the HIR/Article 154 of the Criminal Code which recognizes peaceful efforts or *dading*. In addition to HIR/RBg, it is also regulated in Law No. 1 of 1974 Article 39, Law No. 3 of 2006 Article 65, KHI Articles 115, 131 (2), 143 (1-2), 144, and Government Regulation No. 9 of 1975 Article 32. Mediation arrangements are reregulated through Perma Number 1 of 2008 concerning Mediation. (Sururie, 2012)

The provisions contained in these articles require judges to try to reconcile the parties before their case is decided. Peace efforts are not only made by the judge at the beginning of the trial, but also at each trial. Judges are required to always offer peaceful efforts in every trial process, because the settlement of cases through peaceful agreements is much better, when compared to the judge's verdict. (Abbas, 2017)

The necessity for mediation is motivated by the accumulation of cases at the cassation level. Every year the number of cases entering the Court does not decrease, but increases. Meanwhile, the judge who has to resolve the case has limited workability, so the incoming case cannot be resolved quickly. It is hoped that the implementation of mediation can reduce the problem of case accumulation that occurs at the cassation level, realize faster and cheaper case resolution and wider access to justice to the community.

Peace is a probation system that is mutually beneficial between the parties. No one feels defeated because in peace, the principle of brotherhood and kinship is prioritized, not by the imposition of the will so that both parties feel benefited. The main feature of the mediation process is negotiation whose essence is the same as the deliberation or consensus process. (Al-Husyn, 2016)

Divorce has a significant psychological impact on both parties, especially if there are children in it. In developed countries such as the United States, the interests of children are prioritized in handling divorce cases, and the security of children's lives is the main concern. Divorce has a great psychological impact on both parties, especially if they have children. In an effort to reconcile disputing parties in the household, deliberation, reconciliation, and mediation methods are often used as part of Alternative Dispute Resolution that is developing in the Western world. However, in Islam, the concept of *shulh* has been applied to resolve conflicts between husband and wife. (Arto, 2001)

Peace is part of the culture and traditions of the community, in the Qur'an Surah Al Baqarah 2:182 and 224, Al Hujurat 49:9 and 10 about peace for believers who are at war, Surah An Nisa' 4:128 for peace between husband and wife, and An Nisa' 4:114 about the encouragement to make peace among fellow human beings (Al-Jauziyyah, 1996). Mediation has also existed in the Indonesian State Constitution, namely Pancasila where in its philosophy that the principle of dispute resolution is deliberation for consensus, and is also implied in the 1945 Constitution (Andri, 2021). According to Satjipto Rahardjo (2002), many people use judicial institutions as a means to sue their opponents because traditional

institutions that were once used by the community to resolve disputes through deliberation have been destroyed by modernization.

The settlement of cases through the courts often leaves a lasting impact, especially in the non-material aspects for human beings who have emotions and feelings. In the case of divorce, one of the most obvious impacts is on the growth and development and future of children. Children who are involved in their parents' divorce are likely to experience emotional instability, psychological disorders, and social problems that can affect their overall development. This impact is not only limited to childhood, but can continue into adulthood, affecting their education, career, and interpersonal relationships.

Competent human resources are needed to carry out a job in any field effectively, especially those who act as mediators in the mediation process. In the mediation process, there are procedures that must be passed as mandated by Perma RI Number 1 of 2016 in CHAPTER IV and CHAPTER V, mentioning two stages in mediation, including pre-mediation and the mediation process. (Adhamhaq & Hartono, 2019)

The mediation process is an urgency as the spearhead in dealing with divorce cases, therefore there needs to be an update in the way of using concepts, techniques and materials that can later provide justice, certainty and benefits for the development of children after divorce.

The Banjarmasin Religious High Court covers 13 Religious Court Work Units (PA), namely 1). PA Banjarmasin, 2). PA Martapura, 3). PA Banjarbaru, 4). PA Rantau, 5). PA Kandangan, 6). PA Marabahan, 7). PA Barabai, 8). PA Amuntai, 9). PA Negara, 10). Tanjung District, 11) Pelaihari District, 12) Batulicin District Court and 13). PA Kotabaru. The following is data on divorce cases decided in 2023 at 5 (five) Religious Courts in the jurisdiction of the Banjarmasin Religious High Court as explained in the table below.

Table 1.1
Data on Divorce Cases Decided in 2023
In 5 (five) Religious Courts
In the Banjarmasin Religious Tiggi Court Area

No.	Verdict/ Case	Work Unit					Sum
		PA Martapura	PA Pelaihari	PA Amuntai	PA Kandangan	PA Negara	
1.	Divorce Decision	879	615	501	288	141	2424
2.	Mediated matters	169	79	107	29	26	410
3.	Mediation successful	20	7	18	5	7	57
4.	Mediation is unsuccessful	125	64	79	22	19	309

5	Divorce Decision for Having Children	84	53	26	11	16	190
6.	Divorce Decision with custody and child support	26	23	14	6	8	76
7.	Divorce Decision without Child Custody	36	27	10	5	3	81
8.	Divorce Decision with custody without child support	48	26	12	6	13	105

Source: Processed from mediation report, case accepted and decided in 2023

Based on the table above, the number of divorce decisions in 5 (five) Religious Courts in the Banjarmasin Religious High Court Region in 2023 is 2424 cases, while the mediated cases of the number of divorce decisions are 410 cases or 17%. Cases in which mediation succeeded in reaching a peace agreement amounted to 57 of the number of cases mediated or 14%, while cases in which mediation was unsuccessful amounted to 309 cases or 75%, the remaining 16% consisted of other decisions that were rejected, unacceptable and dropped.

Marriage dispute resolution through the mediation process at the Religious Court is an important instrument in an effort to reduce the negative impact of divorce, especially for children. In the jurisdiction of the Banjarmasin Religious High Court, mediators are expected to be able to be an effective and fair solution for all parties. (Nurnaningsih, 2012)

The data in table 1.1 also shows that among the 190 divorce cases involving children of childbearing age, only 40% or 76 cases are accompanied by the determination of custody and child support. On the other hand, 43% or 81 cases were not accompanied by the determination of child custody, and 55% or 105 cases were only accompanied by the determination of custody without child support. This means that from this data, not all divorce decisions involving children of childbearing age end without the determination of custody and child support. Some divorce decisions are also accompanied by the determination of custody and child support. The number is even almost balanced between divorce decisions that are accompanied by custody and child support and those that are not accompanied at all.

When custody and child support are not clearly defined, children may feel neglected and not get the support they need. The existence of a competent mediator in the mediation

process is very important to ensure that the best interests of the child are a priority. The mediator must be able to help both parties reach a fair agreement and pay proper attention to the needs of the child.

Improving the quality and quantity of determination of custody and child support in the mediation process is expected to have a positive impact on children's welfare. Children who gain clarity about who is responsible for their care and financial needs will feel safer and supported. This can help them cope with the negative impact of divorce and thrive well in the future. (Bintania, 2012)

Mediators play a strategic role through agreements built to help parties to resolve their marital disputes peacefully and fairly by considering the best interests of the children and aiming to protect their welfare. With the right approach, it can reduce the negative impact of divorce and ensure that children still get the support they need to thrive. The data in the table also shows that the success rate of mediation in marriage disputes is still low when compared to the number of unsuccessful ones, which means that most of the marriage disputes brought to the Religious Court end in divorce. In fact, this figure is from the number of cases mediated, which is 410 cases out of 2424 cases or 17%.

This condition certainly requires maximum handling, this is a challenge for judge mediators to further maximize their role, because the success of mediation in marriage disputes is not just to reduce the divorce rate, more than that to save problematic households so that they can live in harmony again and protect the best interests of children.

Divorce is sometimes inevitable, especially if disputes and quarrels in the household are severe and prolonged, as required in the Supreme Court Circular Letter Number 1 of 2022 letter C number 1b.2. However, through mediation, an agreement can be formulated by taking into account the status of custody and child maintenance guarantees, especially for families with children who are still in parenting age, in order to provide legal protection for children. This is in line with the provisions of Article 31 of the Supreme Court of the Republic of Indonesia Regulation Number 1 of 2016 concerning Mediation Procedures in Court. The judgment in table 1.2 can be classified into 2 forms, namely:

- 1) Amar divorce decision without the determination of custody and child support.
This first form in marriage has children who are still of parenting age, but in mediation there is no discussion about the status of custody and child support, or in the application/lawsuit there is no demand for the determination of child custody.
- 2) The divorce decision was accompanied by the determination of custody, but without child support.

This second form is in addition to the divorce decree accompanied by the determination of custody, but the alimony is not determined, even though the custody has been assigned to the mother. This happens because in mediation it is only talked about the agreement to take care of the child, but not about the burden of alimony on the father.

The two forms of divorce decrees are closely related to the results of mediation which of course can have different implications for child development. Regulations on the handling of case settlement and mediation continue to be rolled out both by issuing Regulations of the Supreme Court of the Republic of Indonesia, Circular Letters of the Supreme Court of the Republic of Indonesia, Supreme Court Decisions, and Regulations of the Director General, but the divorce rate continues to increase every year and the success rate of mediation is still low. This condition is because it is influenced by several things as the results of the researcher's interview with 5 (five) judges as informants from the five Religious Courts, namely:

One of the obstacles faced by the Kandangan Religious Court (PA) is related to the low resolution of divorce cases through mediation due to the limited number of judges, namely only 3 judges including the chairman and vice chairman and from that limitation the judge also doubles as a mediator, because there are no non-judge mediators practicing at the Kandangan Religious Court. The absence of non-judge mediators is possible because the number of divorce cases is not much, for 2023 there are only 288 cases and around 30 cases are mediated, so there is less interest in becoming a non-judge mediator. (Nur Izzah, judge of PA Kandangan, December 28, 2023)

The same thing also happened in the State Court, the number of judges was 3 including the chairman and vice chairman, there were no non-judge mediators with judge mediators, the number of divorce cases decided was 141 cases and the cases were mediated 26 cases. During his tenure, there has never been a non-judge mediator. (Abdul Wahid, State Court judge, January 5, 2024)

The program to accelerate the settlement of cases in the religious justice environment also affects the success rate of mediation, although in fact the mediation implementation period is not counted as the case examination period. So that the implementation of mediation follows the rhythm of accelerating case resolution and the time space provided by Supreme Court Regulation Number 1 of 2016 is not utilized optimally. (Muhammad Radhia Wardana, Judge of PA Martapura, October 6, 2023)

Most of the parties who came to file a lawsuit/divorce application to the Amuntai Religious Court because they already had a unanimous determination to divorce, they did not have good intentions to maintain their household. The problems experienced by the parties are indeed very severe on average and occur for a long time which results in the separation of houses. The influencing factors are various, but at least the dominant ones are due to economic factors such as less or no maintenance at all, no responsibility for the burden of the family then leaving until its whereabouts are unknown, third-party interference such as WIL / PIL, and domestic violence. (Bahrul Maji, Judge of PA Amuntai, October 20, 2023).

The existence of non-judge mediators in the Pelaihari Religious Court cannot help to increase the success of mediation in resolving divorce cases. This is because the litigants prefer to use judge mediators rather than non-judge mediators, because they are not paid,

whereas if they use the services of non-judge mediators, they have to pay, so that non-judge mediators are passive and sometimes even do not come to Court for several months. (Mawardi, Judge of the Pelaihari Court, October 11, 2023). The same thing was also explained by the Judges from PA Martapura and PA Amuntai).

The judges in the Kandangan and State Religious Courts each amounted to 3 (three) people, including the chairman and vice chairman, for the judges in the Martapura, Pelaihari and Amuntai Religious Courts each amounted to 4 (four) people, including the chairman and vice chairman. (vide: Report on the activities of the Religious Court judge under the jurisdiction of PTA Banjarmasin, December 2023).

The objective condition that occurs in the Religious Court is related to the absence of non-judge mediators in the Kandangan and State Courts and the existence of non-judge mediators in the Martapura, Pelaihari and Amuntai Courts, but this inactivity is the background in the title of the author's research using the term judge mediator not non-judge mediator, because the judge mediator actively plays a role in resolving marriage disputes in 5 (five) Religious Courts in the jurisdiction of the Religious High Court Banjarmasin.

The results of the initial study also show that, in the mediation process, there are those that focus more on the reasons for divorce, there are also other reasons for divorce that include an agreement regarding the holder of custody and maintenance for the child. The mediation process in it has discussed an agreement on child custody, but there is no discussion about the guarantee of maintenance, this condition can also have implications for the development of children, both regarding education and welfare.

Based on the background of the above problem, juridically, the practice of mediation in judicial institutions in Indonesia is rooted in the provisions of Article 130 HIR/Article 154 RBg which requires peaceful efforts or *dading* before a case is decided. In addition, regulations regarding mediation are also listed in various regulations, such as Law No. 1 of 1974 Article 39, Law No. 3 of 2006 Article 65, KHI Articles 115, 131 (2), 143 (1-2), and 144, and Government Regulation No. 9 of 1975 Article 32. In 2008, the Supreme Court of the Republic of Indonesia issued Supreme Court Regulation (Perma) Number 1 of 2008 concerning Mediation Procedures in Court which was later updated with Perma Number 1 of 2016 which provides a formal basis for integrating mediation into the judicial process. This provision aims to encourage judges to seek peace at every stage of the trial, not just at the beginning of the trial.

Mediation as an alternative dispute resolution (ADR) in Indonesia is increasingly relevant considering the increasing number of cases that go to court, especially divorce cases, which often weigh on the performance of judges. Mediation is considered to be able to provide fast, cheap case resolution, and expand access to justice for the community. In the context of the Religious Court, mediation aims to encourage peace between the parties to the dispute, so that it can reduce the psychological impact, especially for children involved in their parents' divorce cases.

Efforts to increase the success of mediation still face challenges, namely the limited number of judges, the lack of involvement of non-judge mediators, and the program to accelerate case resolution. The urgency of reform in the implementation of mediation in the Religious Court is becoming increasingly important, especially in handling divorce cases involving children. An effective mediation process must be able to produce an agreement that includes custody and child support to ensure legal protection and child welfare after divorce. In Islam, the concept of mediation has been recognized through *shulh*, which emphasizes the values of deliberation and brotherhood. This concept is relevant to the principle of Pancasila and the principle of deliberation for consensus as mandated by the 1945 Constitution.

2. Method

The chosen research approach uses an empirical juridical approach with a descriptive research method, analysis of theories of mediation and child protection and their implementation in judges' decisions on divorce in religious courts. Empirical juridical research is legal research regarding the enforcement or implementation of normative legal provisions in action in every specific legal event that occurs in society. The research was conducted at the Religious Court of the Banjarmasin Religious High Court to reveal the implementation dimension of laws and regulations related to the effectiveness of mediation in divorce cases associated with its impact on children.

3. Result & Discussion

Mediation is one of the dispute resolution efforts where the parties to a dispute or dispute agree to present an independent third party to act as a mediator. Mediation as one of the dispute resolution processes outside the court, today is used by the court as a dispute resolution process. The form of dispute resolution by mediation that is now practiced is integrated with the judicial process. Dispute resolution by mediation, which is currently practiced in court, has a peculiarity, which is carried out when the case has been registered in the court (*connected to the court*). Its juridical basis began in 2002 and continues to experience improvements both in the process and its implementation with the Regulation of the Supreme Court of the Republic of Indonesia Number 2 of 2003 and the Supreme Court Regulation No. 1 of 2008 concerning Mediation Procedures in the Court then amended by Supreme Court Regulation Number 1 of 2016.

The religious court as one of the executors of judicial power has practiced mediation in the process of resolving cases. Theoretically, dispute resolution through mediation in religious courts brings a number of advantages, including cases can be resolved quickly and at low costs and reduce the accumulation of cases (*court congestion*) in court.

The mediation process is divided into three stages, namely the pre-mediation stage, the mediation implementation stage and the final mediation stage. In the pre-mediation stage, the mediator takes several steps, including building confidence, contacting the parties, exploring and providing initial information on mediation, focusing on the future,

coordinating the warring parties, being aware of cultural differences, determining who is present, determining the purpose of the meeting, agreeing on the time and place and creating a sense of security for both parties to meet and discuss their disputes. (Kraybill et al., 2002)

The mediation implementation stage is the stage where the warring parties have faced each other and started the mediation process. In this stage, there are several important steps, including the mediator's introductory remarks, presentation and presentation of the stories of the parties, sorting and clarifying problems, discussing and negotiating agreed issues, creating options, finding points of agreement and formulating decisions, recording and retelling decisions and closing mediation. The final stage of mediation results. This stage is the stage where the parties only carry out the results of the agreement, which they have poured together in a written agreement. (Makarao, 2013)

Paying attention to several regulations (Marriage Law, Compilation of Islamic Law/KHI, and Guidelines for the Implementation of Duties and Administration of Religious Courts), it does not recognize a peaceful agreement between husband and wife for divorce. Marriage Law No. 1 of 1974 article 39 states: (1) Divorce can only be done in front of a court session after the court concerned has tried and failed to reconcile the two parties, (2) In order to carry out a divorce, there must be sufficient reasons, that between the husband and wife will not be able to live in harmony as husband and wife.

Marriage is a matter related to the heart and feelings, as well as the issue of divorce. The difficulty of mediating divorce cases is often caused by physical violence (domestic violence), infidelity, and economics which have an impact on heartache. Domestic conflicts related to heartache are generally difficult to resolve because it is like a person who is sick, he is in the midst of sakarat al-maut (the peak of death). In general, almost all plaintiffs who file their lawsuits in court are the culmination of failed peace efforts. So if mediated in the sense of reconciliation (marriage becomes whole), it is certainly difficult to do, because in general they insist (insist) to divorce. (Kartini & Kartono, 1995)

The concept of talaq in Islam is something that is halal but hated by Allah. Divorce is allowed by religion because it is seen as a good conflict resolution solution, and will stop deeper and more prolonged conflicts. So that divorce is not seen as damage (*mafsadah*), but as a benefit (for the parties). If divorce is better (*maslahah*), then divorce must be taken so as not to fall into damage, such as constant quarrels and the emergence of acts of violence, as well as disturbing the psychological well-being of their children. (Muda et al., 2017)

Divorce has many impacts on the families of the parties involved. The impact of the divorce is: First, the impact of the divorce on the laws and regulations. If a marriage decision made because of a divorce has legal consequences for children, ex-spouses and common property, then the consequences of the divorce in the legislation are based on Law Number 1 of 1974. The legal impact on children is that in the event of divorce, the father / mother is still obliged to take care of and educate the child solely based on the interests of

the child. The legal impact on the ex-husband, the Court may ask him to provide living expenses or determine his obligations to the ex-wife. The legal impact on common property is regulated by each law, namely religious law, customary law or other laws. Second, the impact of divorce on customary law. The impact of separation from customary law is that in general according to ideal customary law, whether the marriage is dissolved due to death or divorce, the status of husband and wife, custody, education, the status of children, and joint property of family and relatives. Inheriting property, gifts, or inheritances, all based on their respective customary laws, and there is no similarity between one custom and another. Third, the impact of divorce on religious law. (Sukmawati & Oktora, 2021)

The impact of divorce from religious law is that if there is a divorce according to Islamic religious law, the clear legal consequences are that the husband is obliged to his wife and children, namely: (1) Giving appropriate mut'ah in the form of money or in the form of goods or both; (2) Providing a living allowance, clothes and shelter while the ex-wife undergoes the iddah period; (3) Providing maintenance to maintain and educate their children until they reach adulthood or age 21 years; (4) Pay off the dowry if it is still owed. (Zulkifli, 1986)

From the impact of divorce, it can be understood that divorce is something that married couples do not like, and divorce is the last way for couples to solve their problems. Any form of divorce is very detrimental to married couples and also sacrifices children. Article 39 of the Marriage Law explains that the divorce must have certain reasons, and must be carried out in front of the court, after the Court has failed to reconcile. Efforts to resolve domestic disputes so that divorce does not occur are as follows: (1) increasing the practice of Islamic religious teachings; (2) Removing the will/intention of divorce from each other's hearts; (3) Asking for guidance from Allah SWT; (4) resolving disputes using a quiet, open-minded and honest heart; (5) Ask for advice from parents or BP-4. (Jamal, 2017)

Divorce is a big problem for children, especially those who are still in elementary school. Children at this age really need the affection and full attention of their parents. Divorce can create an uncomfortable learning atmosphere, negatively impacting a child's educational and psychological development. Children of divorced parents tend to have difficulties in education and financial condition. Family integrity is essential in supporting children's psychological and educational development. (Jumadiyah, 2012)

A whole family provides children with an environment full of direction, guidance, care, and attention that supports them in achieving the future. On the other hand, parental separation can change a child's attitude, make it difficult for them to educate and grow, and foster hatred, resentment, and anger. When families break up, children often go from obedient to rebellious, and experience inner conflict, pressure, insecurity, and shame in the environment in which they live.

Divorce has a negative impact on the psychological development of children, because in general the psychological development of children whose parents are divorced is very disturbed, besides that the negative factor of the impact of divorce is the lack of affection and attention from both parents. (Azizah, 2017)

According to Rosdiana in Adhamhaq, et.all (2019), there are 10 negative impacts felt by children after their parent divorce, namely:

a. Health problems

On average, the problem is not far from mental health or related to psychology. Children who are broken at home become emotional, stressed, often feel headaches, and even asthma. If it interferes with activities, of course the doctor's assistance must be deployed immediately.

b. Shame

The confidence and comfort in socializing is immediately disturbed once the parents divorce. For some people, the separation of parents is a very drastic tragic moment. Feelings of shame and the desire to hide in a house or room arise, making interaction with others very difficult.

c. Not confident

Due to his excessive shyness, his confidence also decreased. This condition is certainly not pleasant. You seem to blame yourself for your parents' divorce and feel that something is wrong with your family. As a result, you feel different and not confident enough to be active in school, participate in competitions, or perform on stage.

d. Excessive fear and anxiety

Feeling excessively (sometimes irrational) afraid and anxious, feeling anxious and afraid of everything, even those that are considered trivial, is certainly very torturous. Others, who clearly don't feel it, may see it as something outrageous. However, this condition is real and has an impact on a person's life. If you feel that it is severe, you may need therapy or counselling.

e. Depression

One of these mental health disorders cannot be ignored. Depression can cloudy moods, feelings, thoughts, and even daily activities. This can be seen from the way they interact, negative thinking, hiding many things, etc., which continue to be a time bomb and can explode at any time.

f. Academic achievement/development

When a child is still in school, it is not impossible that his concentration on learning will be disturbed. However, too many things come to mind. As a result, academic achievement decreases, compliance decreases, it is easy to ignite anger so that there are often disputes using partners, etc. On the one hand, this shaky situation is indeed understandable, but on the other hand, it still takes effort to restore the inner atmosphere through consultation or making friends with a figure who supports each other.

g. Emotional disorders

A chaotic emotional state can be affected by many things. Yes, the age of the child who broke home, his personality, the separation process of his parents, etc. However, the shaky state of the house or family will still affect mental health. You will be very sensitive, often cry secretly, stress, get angry, etc.

h. Not enough

When the family is still complete, all needs feel easy to meet. However, after separation, the family's income is affected, especially if one of the parents does not have an income yet. Even though there is an agreement, sometimes the plan does not go well. As a result, you have to live modestly, learn to be frugal and wise. If this situation is new, it takes extra patience to adapt.

i. Anti-social behavior

Some children in broken homes show their emotions by behaving rudely or disrespectfully. If left unchecked, the attitude can continue to turn into rebellion, violate school rules, lie to the family, etc. If it happens continuously, of course this will cause problems. Social interaction will also tend to be disrupted. (Mistiani, 2018)

Child growth and development is a developmental process that occurs from birth to adulthood. Children's growth and development is an important process and affects the child's future, it is important to understand the process and ensure that the child is provided with the right environment and support to reach their potential. The family is a good place for children's growth and development, and a harmonious family can reduce juvenile delinquency compared to teenagers in a broken home environment, such as divorced parents. Divorce often has a negative impact on children, such as changes in the environment, lifestyle changes, and emotional problems.

Divorce is a legal process that separates a legal married couple. Divorce is undesirable and should be avoided if possible, because in Islam marriage is considered a sacred bond and must be maintained and maintained. However, in unacceptable situations such as domestic violence or unresolved issues, divorce can be a last resort. Although divorce is accepted with certain circumstances, it should be viewed as a last resort after all attempts to mend the marriage have failed. (Yusuf, 2011)

Divorce is not forbidden by Islam, but Allah hates it very much. When a marriage cannot be maintained because one of the husband or wife commits a very fatal thing and the only way is to divorce, as explained in the words of Allah Q.S Ath-Thalaq Verse 1 which reads:

يَا أَيُّهَا النَّبِيُّ إِذَا طَلَّقْتُمُ النِّسَاءَ فَطَلِّقُوهُنَّ لِعَدَّتِهِنَّ وَأَحْصُوا الْعِدَّةَ ۖ وَاتَّقُوا اللَّهَ رَبَّكُمْ ۖ لَا تُخْرِجُوهُنَّ مِنْ بُيُوتِهِنَّ وَلَا يَخْرُجْنَ إِلَّا أَنْ يَأْتِيَنَّ بِفَاحِشَةٍ مُبَيِّنَةٍ ۚ وَتِلْكَ حُدُودُ اللَّهِ ۚ وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَقَدْ ظَلَمَ نَفْسَهُ ۚ لَا تَدْرِي لَعَلَّ اللَّهَ يُحْدِثُ بَعْدَ ذَلِكَ أَمْرًا

"O Prophet, if you want to divorce your wives, do so when they are in a reasonable period of idah, and calculate the length of the period of idah carefully. Also, fear Allah your Lord. Do not drive them out of their homes, unless they are involved in proven heinous deeds. Those are the rules of God. Whoever transgresses the laws of Allah, he has indeed wronged himself. You don't know, maybe after that Allah sets new conditions."

Divorce can be done on the condition that the wife must pay attention to her iddah period and in the provisions of the applicable laws of Allah. From the divorce carried out by the two parents, it will cause an impact on each individual, especially for the child. As

according to Cole who said that there are several negative impacts of the divorce of the two parents felt by the child, namely:

1) Denial

Denial is a psychological defense mechanism in which a person refuses to accept or acknowledge painful or threatening reality. In the context of divorce, denial can occur in children who are unable to accept the fact that their parents are going to divorce. They may refuse to acknowledge the changes that will occur in their family life, hoping that everything will return to the way it was.

2) Shame

Shame is a negative and self-deprecating feeling that can appear in children who have experienced parental divorce. Children may feel ashamed because divorce is considered a family failure or because they are afraid of being judged by others. This shame can affect a child's self-esteem and confidence.

3) Guilt

Guilt is a negative feeling that arises when a child feels responsible for his or her parents' divorce. Children may think that they are the cause of divorce, when in reality it is an adult's decision. This guilt can lead to feelings of regret, worthlessness, and can affect a child's relationship with both parents

4) Fear

Fear is a feeling of anxiety experienced by children in response to parental divorce. They may feel afraid of impending changes, such as the loss of both parents, a change of residence, or instability in their family life. This fear can cause anxiety, tension, and uncertainty in children.

5) Sadness

Sadness is the feeling of grief and loss that children experience when their parents divorce. They feel that they have lost family unity, lost the support and attention of both parents at the same time. This feeling of sadness can lead to feelings of loneliness, loss of interest, and possible depression in the child.

6) Anger/anger

Anger is a feeling of negative emotions that arise in children in response to a parent's divorce. They may be angry at both parents for feeling abandoned, angry at an unfair situation, or angry at themselves for not being able to control or prevent the divorce. This anger can lead to aggressive behavior, frustration, and conflict in relationships with parents and others. (Hurlock, 1978) (Alwiyah et al., 2023)

From the above statement, it can be concluded that the influence of divorce on children is very large, negative things that result in children experiencing mental disorders. It is important to remember that each child's experience in dealing with a parental divorce can vary, and emotional reactions can vary from individual to individual. In a divorce situation, it is important for parents and the environment around the child to provide the support, understanding, and resources necessary to help the child cope with and manage the negative emotions that arise. Family support, peer support, and professional help such as a child psychologist or counselor can also play an important role in helping children cope with the negative effects of divorce. As for the positive side experienced by children due to the divorce of both parents, it is an opportunity for children to see examples of constructive conflict resolution and how parents can still maintain a healthy and positive relationship even though they are no longer together. Children can also learn to be

independent and become a strong person in facing life changes as a provision for their future.

Divorce that occurs in a family can have a significant psychological and emotional impact on children. Children may experience feelings of sadness, confusion, fear, and changes in their life routines (Gultom, 2012). The focus of this research is the settlement of marriage disputes through mediation, therefore based on this description, the theory of *maslahah mursalah* is very suitable if applied in the subject, with the following reasons:

1. Settlement of marital disputes through mediation, in this case by a neutral third party, is highly recommended to resolve the problem peacefully and fairly. This is in line with the principle of *maslahah* with the principle of *maslahah*, which aims to maintain harmony and prevent prolonged conflicts in the family.
2. Resolving marriage disputes by prioritizing the interests of the family and the welfare of children is part of *maslahah*. Mediation can help in ensuring that decisions are taken more attentively to the welfare and welfare of all parties, including children, as well as maintaining good relations between the disputing couple.
3. Mediation applied based on this theory will focus more on resolving problems constructively, rather than just following legal procedures rigidly. This helps to realize reconciliation and balanced settlement.
4. The theory also emphasizes the need to protect individual rights. In the context of mediation for marital dispute resolution, it is important to ensure that the rights of both parties are recognized and respected, as well as to find a middle ground that benefits all parties involved. (Handayani, 2013)

Based on the above reasons, the theory of *maslahah mursalah* will be used by the author in implementing mediation as an effort to resolve marriage disputes which is associated with its implications for child development, because the application of the theory is in line with the efforts taken in mediation, namely to reconcile husband and wife who have a dispute in a religious court so that they can live in harmony again in the household. The efforts taken and the goals to be achieved in mediation to realize the benefits, namely restoring the atmosphere of the household that was originally in dispute to be harmonious and happy, and preventing its negative impacts, such as prolonged conflicts, psychological impacts on children, or damage to family relationships. (Sururie, 2012)

Therefore, in Islam, it is important for divorced parents to understand and pay attention to the impact that may have on their children and seek to safeguard their well-being. In addition, Islam also emphasizes the importance of cooperation and good communication between parents in dealing with divorce.

They must strive to maintain good relationships and support each other in raising their children. In some cases, Islam also encourages the search for a peaceful settlement through mediation or deliberation with the aim of maintaining the stability and welfare of the child. Overall, although the verses of the Qur'an do not directly address divorce and its impact on children, Islamic principles teach the importance of safeguarding children's rights and their well-being in divorce situations.

4. Conclusion

Divorce can have negative and positive implications for children's psychological development, but nevertheless the negative implications are more dominant than the positive ones. Psychologically, the negative implications of parental divorce result in changes in behavior, responsibility and emotional stability. Lack of attention and affection for children towards the divorce of their parents causes feelings of anxiety, lack of confidence, depression, decline in academic achievement, confusion, confusion, shame and sadness. Especially for teenage children, children will experience emotional disorders. The positive side of the implications of divorce is that some children are more independent, more trained in their daily activities, and quickly get up when they experience adversity.

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