

Counseling and Training on Mediation in Family Disputes as an Alternative to Dispute Resolution for Members of The Muhammadiyah Branch Leadership (PCM) Ulujami, Pemalang District

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ABSTRACT

Community service activities carried out by a team from the Faculty of Law, Muhammadiyah Purwokerto University which was held on February 3, 2023, located in Ulujami District, Pemalang Regency. The implementation of counseling activities and mediation training is one way to prevent divorce. Based on statistical data that Pemalang Regency is the district with the second highest divorce rate in Central Java. Both divorces are caused by divorce that is done by the husband or divorce that is done by the wife. There are factors that cause divorce filed at the Pemalang Religious Court. The purpose of this service, to reduce the divorce rate in Pemalang Regency, especially for members of the Muhammadiyah Branch Leadership (PCM) Ulujami with the need for counseling and mediation training as an effort to prevent the breakdown of marriage due to divorce if one of the two husbands and wives sues for divorce, and between husband and wife can get along again to become a complete family. Thus conducting counseling and mediation training as an alternative to family dispute resolution is very necessary for districts / cities with high divorce rates. Some of the supporting factors for this service activity include the very high enthusiasm of the members to gain knowledge and training with the presence of 35 members from each family representative under PCM Ulujami Pemalang Regency. Some of the obstacles faced during the service were limitations in supporting facilities including limited space and limited time.

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I. INTRODUCTION

Law regulates all aspects of human life. One of the several aspects of the law that regulates the lives of Indonesian people in terms of regulating marriage. In Indonesia, the rules regarding marriage are regulated in positive law, namely listed in Law No.1 of 1974 concerning Marriage and in their respective religious laws. In Islam, the law governing marriage is contained in the Compilation of Islamic Law. The definition of marriage in the law and Islamic Law differs in explanation but has the same meaning.

The definition of marriage in Article 1 of Marriage Law Number 1 of 1974 states that marriage is a physical and mental bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family based on God Almighty. Meanwhile, marriage according to the Compilation of Islamic Law explains that

marriage according to Islamic Law is marriage, which is a very strong contract or *mitssaqan ghalidzan* to obey Allah's commands and carrying it out is an act of worship.

The elements that exist in marriage itself can be summarized as follows¹:

1. A sacred covenant between a man and a woman.
2. Forming a happy family.
3. Happiness that lasts forever.

Building a household is a basic human need, because humans cannot live alone and always need love from the closest person, namely the family, so that life becomes more meaningful, and can continue offspring to achieve happiness. However, the reality is that not all households built through marriage become intact households in accordance with expectations. Not a few marriages that are carried out end in divorce². The divorce rate in Indonesia has increased every year. In fact, the number of divorces in Indonesia reaches an average of a quarter of the number of marriage events each year. The government's efforts to reduce the divorce rate through mediation procedures in the courts do not appear to be optimal because the success rate for resolving civil disputes through court mediation only reaches an average of 5%³.

In 2021 cases received/entered at the Pemalang Religious Court from January 2021 to January 2021 were 4,986 cases, 4,110 lawsuit cases and 876 petition cases, and the cases were dominated by marriage cases with the following details:

Table 1. Incoming Cases In Pemalang Religious Court In 2021

No	Case Type	Amount
1.	Polygamy permit	5 cases
2.	Divorce	908 cases
3.	Contested divorce	3.175 cases
4.	Joint property	3 cases
5.	Guardianship of children	26 cases
6.	Origin of children	10 cases
7.	Marriage license	0 cases
8.	Marriage dispensation	729 cases
9.	Guardian adhol	8 cases
10.	Isbath marriage	83 cases
11.	Inheritance	10 cases
12.	Sharia economy	1 cases
13.	P3 HP	17 cases
14.	Grant	2 cases
15.	Hadhonah	4 cases
16.	Other	5 cases
Total		4. 986 cases

Source: Pemalang Religious Court 2021

Cases received/entered during 2021 amounted to 4,986 cases, not including the remaining cases in 2020, which amounted to 342 cases. so that the total number of cases in 2021 was 5,328 cases, while the cases that were decided or resolved during 2021 were 4,855 cases. Therefore, it can be calculated that the remaining cases in 2021 are 473 cases.

Based on the data above, divorce cases are the highest cases entered and decided by the Religious Court among other cases. The factors that cause divorce in Pemalang Regency are either divorce caused by divorce filed by the husband or a contested divorce filed by the wife. The following is data on the factors causing divorce in the Pemalang Religious Court:

¹ Ahmad Azhar Basyir, *Hukum Perkawinan Islam* (Yogyakarta: Perpustakaan Fak. Hukum UII, 1995).

² Al Fadili and Mahfudz Sidiq, 'Upaya Perdamaian Proses Perceraian Melalui Mediasi Oleh Pengadilan Agama Sebagai Family Counseling', *An-Nisa' : Jurnal Kajian Perempuan Dan Keislaman*, 12.1 (2019), 1-21.

³ Pinastika Prajna Paramita Ahmad Bastomi, 'PENYELESAIAN SENGKETA PERCERAIAN MELALUI MEDIASI PROGRAM PUSAKA SAKINAH', *JURNAL HUKUM Dan KENOTARIATAN*, 5 (2021), 490-500.

Table 2. Report on Factors Causing Divorce at The Pemalang Religious Court Year 2022

No	Month	Fornication	Drugs abuse	Gambling	Leaving One of the Parties	Jail	Polygamy	KDRT	Disability	Disability	For-ced Marriage	Apos-tate	Eco-nomy	Amount
1	January	-	-	-	45	1	-	-	-	126	1	-	166	339
2	February	-	-	-	43	1	-	2	1	126	-	-	134	307
3	March	-	1	1	52	-	-	-	-	180	2	-	157	393
4	April	-	-	-	52	-	-	1	-	138	-	-	177	368
5	May	-	-	1	42	-	-	1	-	95	2	-	109	250
6	June	-	-	-	31	-	-	-	-	79	-	1	167	278
7	July	-	-	-	23	-	-	3	-	135	-	1	177	229
Amount		-	1	2	288	2	-	7	1	879	5	2	1.087	2.274

Source: Pemalang Religious Court 2021

Based on the data above, the most common cause of divorce is due to quarrels. The quarrel arises because of a dispute between husband and wife which results in a dispute in the family. According to the Big Indonesian Dictionary, a dispute is anything that causes a difference of opinion, dispute or argument⁴. A dispute is also defined as anything that causes a difference of opinion between two or more disputing parties⁵. A dispute is often referred to as a case when someone faces a problem that cannot be resolved between the parties⁶. Every dispute that occurs in society must be resolved so that order and tranquility can be restored. Civil dispute resolution has a fairly broad scope, covering the dimensions of family law, inheritance law, property law, contract law, business and others. While the scope of family law includes: marriage, divorce, property in marriage, parental authority, guardianship and guardianship⁷. From the definition of dispute above, it can be concluded that a family dispute is something that causes disputes within a family.

II. RESEARCH PROBLEMS

Based on the background description above, the following problems can be formulated:

1. What are the factors that cause discord in a family in members of the Muhammadiyah Branch (PCM) Ulujami, Pemalang Regency?
2. How is the role of members of the Muhammadiyah Branch (PCM) Ulujami Pemalang Regency in resolving family disputes?

III. RESEARCH METHODS

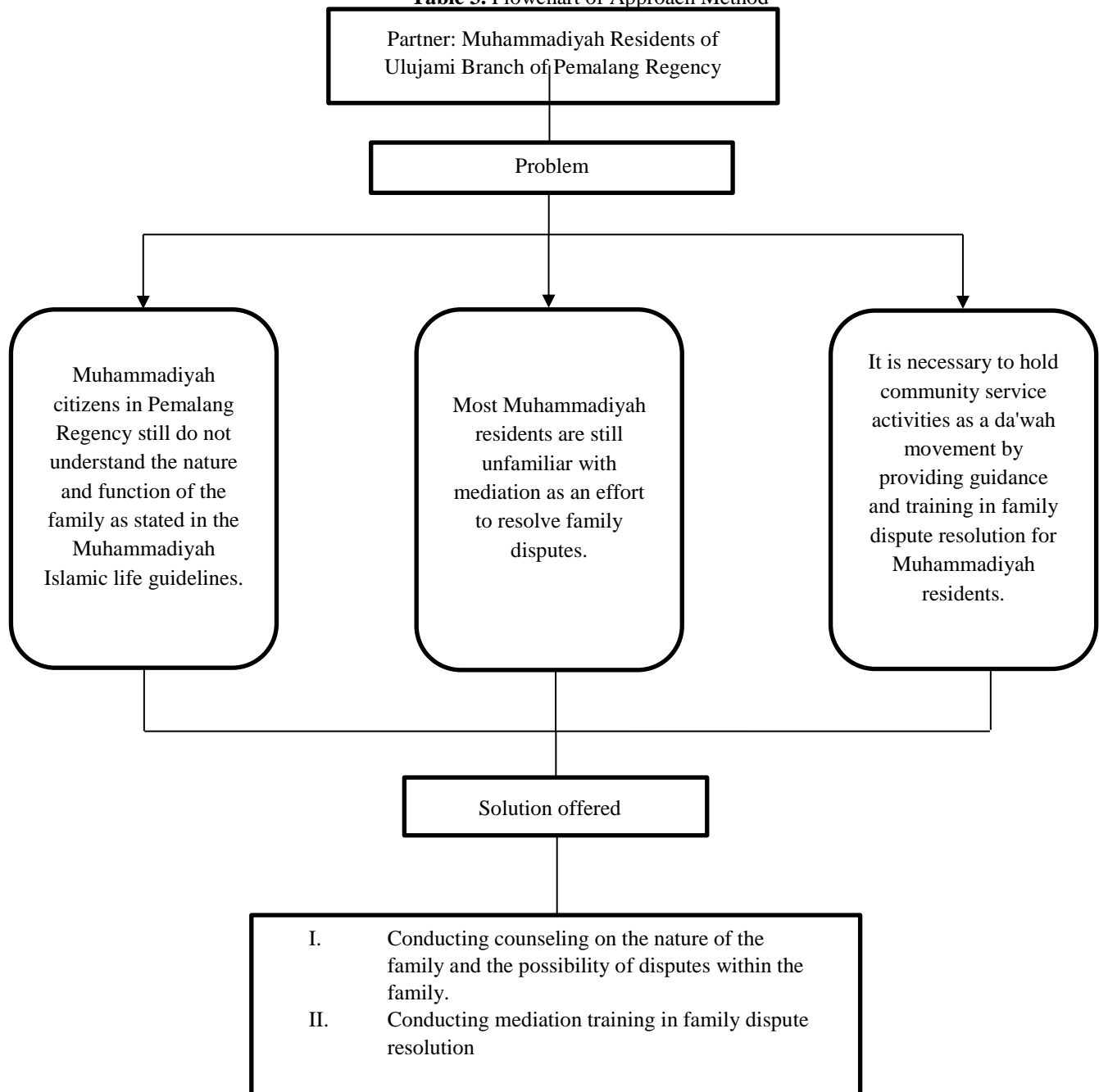
The approach method used in solving this problem is a qualitative method with a sociological juridical approach (*social legal approach*). This approach is sustainable with the principles contained in mediation. Thus conducting counseling and training on mediation as an alternative to family dispute resolution.

⁴ Departemen Pendidikan dan Kebudayaan, *Kamus Besar Bahasa Indonesia* (Jakarta: Balai Pustaka, 1990).

⁵ Sudarsono, *Kamus Hukum* (Jakarta: Rineka Cipta, 2002).

⁶ Abdulkadir Muhammad, *Hukum Acara Perdata Indonesia* (Bandung: PT. Citra Aditya Bakti, 2008).

⁷ Mustofa Hasan, *Pengantar Hukum Keluarga* (Bandung: CV. Pustaka Setia, 2011).

Table 3. Flowchart of Approach Method

This activity is carried out as follows:

- a. Coordination of the preparation of counseling and training on family disputes as an alternative to dispute resolution for members of PCM Ulujami in Pemalang Regency.
- b. Conducting counseling on the nature of the family and the possibility of disputes within the family.
- c. Coordination of mediation training and resolution of family disputes through mediation with the principle of win-win solution.
- d. Preparation of mediation training for members of PCM Ulujami, Pemalang Regency as an alternative way of resolving family disputes.
- e. Implementation of mediation training for members of PCM Ulujami, Pemalang Regency as an alternative way of resolving family disputes.
- f. Program evaluation Partners actively participate in every activity plan. Before this proposal was made, an initial survey and interview were conducted to find out the conditions of the partners and what needs to be addressed or done to empower the partner group. Training activities and mediated family dispute resolution are activities that are mutually agreed upon as activities to be carried out at the partner's place.

Partners are also involved in program evaluation to assess the extent to which the program has been implemented, what impact arises after various program activities are carried out, and what needs to be improved or developed in the coming year. Of course, it is hoped that the series of activities carried out can help increase public legal awareness, especially members of PCM Ulujami Pemalang Regency.

IV. RESULT AND DISCUSSION

1. Factors causing discord in a family among members of the Muhammadiyah Branch (PCM) Ulujami, Pemalang Regency.

The problems found based on our interviews by looking at the situation analysis of the member partners of PCM Ulujami, Pemalang Regency, namely disputes that cause quarrels between married couples to involve family members are still often found. The dispute is in the form of arguments about each married couple demanding their rights and obligations. Disputes over rights and obligations arise due to economic factors, where the wife demands more income as household needs are increasing and expensive, but seeing the condition of the husband, most of whose income only has income from one source. As a result of the dispute, it caused a dispute that resulted in the husband and wife leaving the house so that in the end they could not find a solution from the families of each of the couples who could not help find a solution to the problem and led to a divorce suit in the religious court.

This condition shows the weakening of family resilience to conflict in Indonesia. There are strong indications that husbands and wives are unable to manage and resolve conflicts in the family. The data also shows that people prefer to resolve family problems in court rather than using family methods.⁸

These problems experienced by couples require the role of other family members who should be able to play a role in helping to find solutions to problems. Mediation efforts as an alternative effort to resolve family disputes, especially the relationship between husband and wife who are bound in marriage, most of the members of PCM Ulujami, Pemalang Regency are still unfamiliar with and have never made these mediation efforts. Mediation is an effort that should be made in family disputes where these marital problems can still be tried to remain intact and mediation efforts to prevent the breakdown of marriage due to divorce.

Families in the Muhammadiyah environment are required to be able to truly realize a *sakinah* family which is related to the formation of the congregational movement and the *da'wah* of the congregation towards the realization of a truly Islamic society. This mediation effort is continuous as mentioned that Muhammadiyah citizens can familiarize themselves with deliberation in resolving affairs (Q.S Al-Baqarah/2: 228 At-thalaq/65: 6).

In the Muhammadiyah Islamic life guidelines, it is mentioned that the function of the family in the Muhammadiyah environment needs to function in addition to socializing the values of Islamic teachings as well as carrying out the function of regeneration, so that it can become a generation of Muhammadiyah Muslims who can continue and complete the *da'wah* movement in the future. Therefore, it is necessary to hold this service activity as a *da'wah* movement by providing guidance and training in family dispute resolution for Muhammadiyah residents, especially in the Muhammadiyah Branch Leadership (PCM) Ulujami, Pemalang Regency.

⁸ SEPTI WULAN SARI, 'Mediasi Dalam Peraturan Mahkamah Agung Nomor 1 Tahun 2016', *Ahkam: Jurnal Hukum Islam*, 5.1 (2017), 1-16.

2. The role of members of the Muhammadiyah Ulujami Branch of Pemalang Regency in resolving family disputes

Partners are Muhammadiyah residents under the Muhammadiyah Branch Leadership (PCM) Ulujami Pemalang Regency which is located at Ds. Rowosari street, Rowosari, Kec. Ulujami, Kab. Pemalang, Central Java Prov. Central Java, so far there has been no activity for residents of PCM Ulujami Pemalang Regency about counseling and training in family dispute mediation through mediation efforts. Seeing the existing problems and the possible risk of disputes in the family, mediation is a good alternative in finding solutions to family disputes. Mediation is a way of resolving a dispute through a negotiation process to obtain an agreement between the parties with the assistance of a third party or commonly referred to as a neutral mediator.

The mediator is tasked with helping the parties to the dispute to find a settlement. Being a mediator does not need to have a background in legal science so that Muhammadiyah citizens, especially under the leadership of PCM Ulujami Pemalang Regency, can help anyone to resolve disputes as the mediator's function is in line with the role of Muhammadiyah citizens in accordance with Q.S Al-Baqarah/2: 228 At-thalaq/65: 6 about deliberating in resolving affairs.

The characteristic of mediation is dispute resolution through negotiation with the principle of win-win solution. Thus, between the parties to the dispute, no one feels the most disadvantaged or benefited. If the mediation has reached a peace agreement, that is where the final settlement occurs. Mediation in the view of progressive law is one of the strategies in solving all the complexities of the problems faced to ensure human happiness and welfare which is full of desires and hopes in resolving conflicts for humans and humanity.⁹

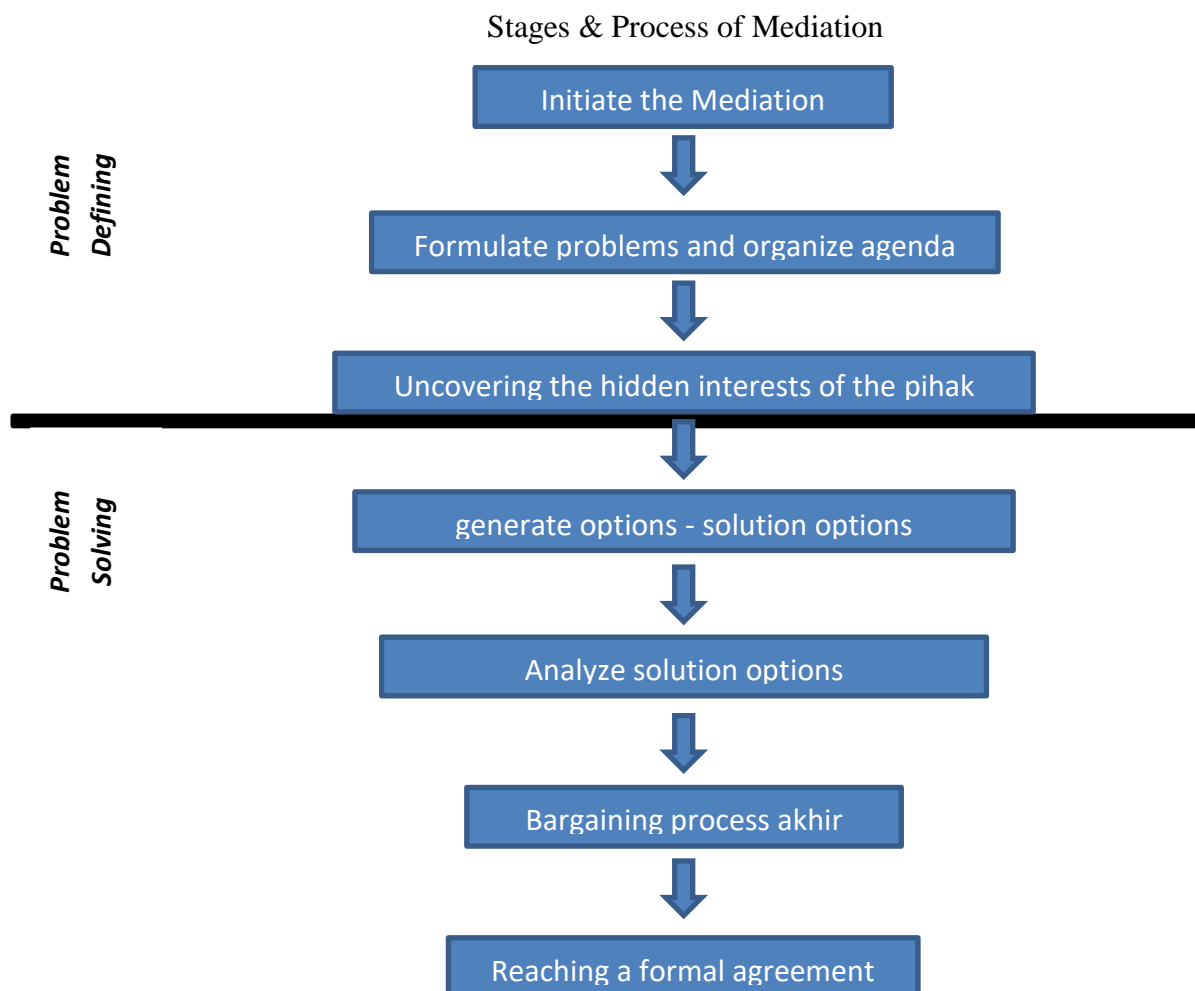
Mediation in relation to its integration in the judicial system as stated in Article 1 point 1 of Supreme Court Regulation (PERMA) No. 1 of 2016 concerning Mediation Procedures in Court is a way of resolving disputes through a negotiation process to obtain agreement between the parties with the assistance of a Mediator. Mediation must be pursued as an instrument to reduce the accumulation of civil case load in the Court.¹⁰ It is argued that, in the family-law system, justice and ADR are inextricably linked. In support of this contention, the growth, development and evaluation of family dispute resolution is considered; access to justice issues that arise are highlighted. Finally, it reviews ramifications for the future considering recommendations from the recent inquiry into the family-law system.¹¹

The following method/manner of implementing mediation can be used as a solution to family disputes:

⁹ K. Kamaruddin, 'Mediasi Dalam Pandangan Hukum Progresif Suatu Alternatif Penyelesaian Konflik Keluarga', *Jurnal Al-Adl*, 11.2 (2018), 1-18.

¹⁰ Dian Maris Rahmah, 'Optimalisasi Penyelesaian Sengketa Melalui Mediasi Di Pengadilan', *Jurnal Bina Mulia Hukum*, 4.1 (2019), 1.

¹¹ Lola Akin Ojelabi and Judith Gutman, 'Family Dispute Resolution and Access to Justice in Australia', *International Journal of Law in Context*, 16.2 (2020), 197-215.



In general, the public considers that the settlement of civil disputes that cannot be successfully "*deliberated*" can only be resolved in court. The existence of this thought is inseparable from the "*unpopularity*" of various alternative dispute resolution institutions that are actually available in the community. One such institution is mediation. Mediation institutions have advantages and disadvantages compared to judicial institutions in resolving civil disputes. In its development, the function of this mediation institution has changed from its original function as a "*dispute resolver*" to a "*dispute preventer*" with the intervention of legislation¹². The out-of-court mediation settlement process needs to be promoted because the settlement of divorce disputes through out-of-court mediation will certainly reduce the divorce rate in the community. Mediators outside the court are expected to keep systematic and well-scheduled minutes, and if possible mediators or *ninik mamak* can attend training on mediation.¹³

V. CONCLUSION

The science and technology program for the community is in the form of counseling and training on mediation in family disputes as an alternative dispute resolution for members of the Muhammadiyah Branch Leadership (PCM) Ulujami, Pematang Rejang Regency. The counseling and training activities were held on February 5, 2023 and attended by 33 participants. The event began with an introduction to the family, the rights and obligations of husband and wife in marriage, the causes of family disputes, an introduction to mediation, family dispute resolution through mediation and training in family dispute resolution through mediation as an alternative to family dispute resolution. After the presentation of the material by the resource person, it was continued with

¹² Nugraha Pranadita, 'Perubahan Fungsi Mediasi Dalam Praktek Di Pengadilan Negeri Dan Pengadilan Agama Kaitannya Dengan Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2016 Tentang Prosedur Mediasi Di Pengadilan', *Res Nullius Law Journal*, 1.2 (2019), 98-104.

¹³ Rika Lestari, 'Perbandingan Penyelesaian Sengketa Perceraian Secara Mediasi Di Pengadilan Dan Di Luar Pengadilan Di Kabupaten Kampar', *Jurnal Hukum Ius Quia Iustum*, 21.2 (2014), 309-32.

discussion and questions and answers about the nature of the family and the possibility of disputes in the family that often occur in the household, solutions and forms of settlement.

Participants are given skills with mediation training with the role of participants to do a roleplay of the case that has been prepared and there is a role as a mediator and two parties in dispute through mediation as an alternative to family dispute resolution. After attending this training, it is hoped that participants can understand how PCM Ulujami members of Pemalang Regency can understand the nature of the family so that if a dispute occurs it can be resolved peacefully with the principle of win-win solution through mediation.

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