

Analysis of the Function of Religious Courts in Resolving Family Conflicts in Indonesia

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Abstract

The Religious Court as a court of first instance is a court that acts to receive, examine and decide every application or lawsuit at the earliest and lowest stage. The Religious Court serves as a primary court, receiving and adjudicating cases submitted by the public at the initial stage of legal proceedings. The researcher aims to examine this discussion to find out how religious justice works in resolving conflicts in Indonesia and what the function of religious justice itself is. Qualitative research methods with an analytical descriptive approach allow researchers to gain an in-depth understanding of the phenomenon being studied. By using sources such as books, journals and articles, this research can gain rich insight into relevant theories and then analyze them carefully. From this research it can be concluded that religious justice has the function of upholding the true truth of what is expressed and demanded by the parties without exceeding or reducing it, especially in relation to civil cases, whereas in criminal cases the search for the real truth is absolutely not limited to what the defendant has done. , " but from that it must be investigated from the background of the defendant's actions. This means that the judge is pursuing the material truth absolutely and completely.

Keywords: *Religious Court, Conflict, Family, Indonesia*

1. Introduction

The Religious Court is the power of the state in receiving, examining, adjudicating, deciding, and resolving matters of marriage, inheritance, will, hibah, waqf, and shadaqah among Muslims to uphold law and justice. The implementation of the Religious Court is carried out by the Religious Court at the first level and the High Court of Religion at the appellate level. Meanwhile, at the cassation level, it is carried out by the Supreme Court. As the highest state court. The Religious Court is one of the judicial environments whose existence is recognized in Law No. 14

1970 concerning the Principles of Judicial Power and the last one has been replaced by Law Number 4 of 2004 concerning judicial power, is a special judicial institution that is shown to Muslims with a special scope of authority, both the case and the justice-seekers (justiciabel) (Sudikno Mertokusumo, 1996)

A family that is sakinah, mawaddah, and rahmah is the dream of every married couple. However, to make such a thing happen is not as easy as imagined. Building a sakinah family is a tough process. A sakinah family does not imply a household free from conflict, but rather one that can manage challenges with resilience and understanding. However, the sakinah family is formed by many internal and external shocks and temptations of each party, which

is called conflict. Conflict is so familiar and inevitable in the intertwining of human life. Including married couples, they definitely do not want conflicts to occur in their household. However, it is not uncommon for marital conflicts to end in divorce in the Religious Court (Uswatun Hasanah, 2022).

Conflict is a characteristic of the life of creatures, both human and non-human, which has been in effect since the creature was created until finally the extinction of the creature itself (Surwandono, 2011). Regarding this, we can take an example when Allah wants to create a creature called human, then there is a conflict or debate between the Angel and Allah. And finally, on the explanation given by Allah, the Angels accepted it, but it was only Satan who opposed this creature created by Allah, so he refused to prostrate to the first man created by Allah, namely Adam.

Conflict is also a social phenomenon that is ubiquitous in social life, so that conflict is inherent, the essence is that conflict will always exist in every space and time, anywhere and anytime. Therefore, conflict is a symptom that always fills every social life, including in the family. What encourages the existence of this conflict is because of the difference in interests and conflicts of each party. In this life, no human being has exactly the same, there must be more or less differences (Abdul Jamil Wahab, 2014).

From the introduction that has been presented, the researcher aims to research this discussion to find out how the religious courts in conflict resolution in Indonesia and what is the function of the religious courts themselves, Therefore, based on the stated objectives and issues, the researcher is motivated to explore and analyze this topic further.

2. Methods

Qualitative research methods with an analytical descriptive approach allow researchers to gain a deep understanding of the phenomenon being studied. Using sources such as books, journals, and articles, the research can gain rich insights into relevant theories and then analyze them carefully. This approach enables researchers to construct a comprehensive understanding of the topic and present detailed findings. As such, this approach is very useful in generating a deeper understanding and broader perspective on complex research topics.

3. Results and Discussion

3.1 Religious Justice

A court according to language is a council or assembly that adjudicates cases, courts, the process of adjudicating judges' decisions when adjudicating cases (buildings where cases are adjudicated). Meanwhile, religious courts are a translation of *Godsdienstige Rechtspraak* which means Religious Courts. The Religious Court is an effort to seek justice or resolve legal disputes carried out according to the regulations in religion (KBBI, 1990).

A religious court is the official designation (*titelateur*) for one of the four state judicial environments or legal judicial powers in Indonesia. The Religious Court is also one of the three special courts in Indonesia; the other two special courts are the Military Court and the State Administrative Court. It is said that the judiciary, especially because the Religious Court adjudicates certain cases or about certain groups of people (who are Muslims).

In this case, the Religious Court is only authorized to handle specific civil matters, not in the criminal field and also only for Muslims in Indonesia. And also, in certain Islamic civil cases only. In Law Number 3 of 2006 concerning Religious Justice in Article 1 paragraph (1) which reads: "Religious Justice is a court for people who are Muslim. It can be concluded that the Religious Court is one of Indonesia's legitimate state courts, with specialized authority in specific types of Islamic civil cases of Islamic civil cases, only for people who are Muslims.

The Religious Court as a court of first instance is a court that acts to receive, examine, and decide every application or lawsuit at the earliest and lowest level. The Religious Court functions as a primary institution that receives, accommodates, and adjudicates cases at the earliest stage of legal proceedings. It is not allowed to submit an application for a lawsuit directly to the High Court of Religion. All kinds of matters must first go through the Religious Court in a hierarchical position as a court of equalization. Against all applications or lawsuits filed to him in his position as an institution of the court of first instance, must receive, examine, and decide it, it is forbidden to refuse to receive, examine, and decide the case submitted to him under any pretext. This is emphasized in Article 56 which reads "The Court may not refuse to examine and decide a case submitted on the pretext that the law is not clear or unclear, but is obliged to examine and is obliged to decide it"

The power and authority to adjudicate the Religious Court is to examine, decide, and settle cases at the first level between Muslims in the field of marriage, inheritance, will, grants, waqf, and sadaqah based on Islamic law. Regarding marriage cases, it is a matter regulated in Law Number 1 of 1974 concerning Marriage. For inheritance cases that are the authority of the Religious Court, it is about determining who can become an heir, the determination of the power of the Religious Court environment in its position as one of the judicial powers is regulated in the provisions of the articles contained in Chapter III which in Chapter III specifically regulates matters related to the power of the Court contained in the Religious Court. Based on the discussion of Chapter III, there are five duties and authorities that are mandated, including, the function of the authority to adjudicate, provide information, considerations, and advice on Islamic law to government agencies, other authorities by law or based on the law, the authority of the High Court of Religion to adjudicate at the appellate level, and adjudicate disputes of relative competence and supervise the conduct of the judiciary" (M Idris Ramulyo, 1999).

Power or commonly called judicial competence concerns 2 things, namely relative power and absolute power. Absolute power, also called power attribution, is all the provisions about what cases are included in the power of a judicial institution. This power is usually regulated in the Law that regulates the case and the power of the judicial institution concerned. Meanwhile, relative competence is the division of authority or power to adjudicate between Religious Courts.

3.2 Conflict

Stephen P. Robbins in his book *Organizational Behavior* explains that there are many definitions of conflict. Although the meanings of the definitions vary, some common themes underlie much of the conflict. Conflict must be suggested by the parties involved, whether the conflict exists or does not exist is a matter of perception. If no one is aware of the existence of conflict, it is generally agreed that there is no conflict. Other similarities between these definitions are the contradiction or inconsistency and the forms of interaction. Some of these factors are conditions that are the starting point of the conflict process.

Conflict can be defined as a process that begins when one party perceives that another party has negatively affected something of concern to them. So, we can define. Conflict is a process that begins when one party has the perception that the other party has negatively influenced something that is the concern or interest of the first party. This definition includes the various conflicts that people experience in the organization, misalignment of goals, differences in interpretation of facts, misunderstandings caused by behavioral expectations, and so on. In addition, other definitions are flexible enough to cover various levels of conflict from overt and violent actions to invisible forms of disagreement (Wirawan, 2010).

According to (Nurdjana, 1994) defines conflict as a result of a situation where desires or desires are different or opposite to each other, so that one or both of them are disturbed by

each other. According to (Kilman and Thomas, 1978), conflict is a condition of incompatibility between values or goals to be achieved, both in individuals and in relation to others. The conditions that have been stated can interfere and even inhibit the achievement of emotions or stress that affect work efficiency and productivity.

According to (Wood, et., al 1998) what is meant by conflict (in the scope of organization) is: *"Conflict is a situation in which two or more people disagree over issue of organizational substance and/or experience some emotional antagonism with one other"*. Which more or less means that conflict is a situation where two or many people disagree with each other on a problem that concerns the interests of the organization and/or with the emergence of feelings of hostility to each other. According to Stoner, organizational conflicts include disagreements about scarce resource allocation or disputes over goals and status. values, perceptions, or personality. Meanwhile Daniel Webster defines conflict as: Competition or opposition. between parties who are not compatible with each other (Wirawan, 2010).

3.3 Conflict Analysis- Family Conflict in Religious Courts

The Courts in general and especially the Religious Courts are not a fully autonomous body, but are constantly interchanging with their larger environment. In the Law on Judicial Power, it is stated that: "The State Judiciary applies and enforces law and justice based on Pancasila" (the exchange of courts with Pancasila), and "Judges as law enforcers and justice are obliged to explore, follow and understand the values of law that live in society" (the exchange between the court and the dynamics of society). Based on the above explanation, it can be said that the court is a dynamic institution. This dynamic can also be read as an institution that reorganizes society and interprets legal texts in the context of society and its changes.

Likewise, the Religious Court can not only be seen as a building and a legal institution, but can also be seen and understood as a social institution. As such a social institution, the Religious Court cannot be seen as an institution that stands and works autonomously, but is always in the process of exchange with its environment. With the desecration of the religious court, it is in no way separated from the discussion of the relationship and exchange between the courts, the judiciary, and other processes in other fields that take place in society. The court is hoed into its society. The court has its own sociological structure. The sociological structure of the Religious Court opens up a wider horizon, it cannot only be seen as a juridical building but related to all existing sociological components. Paying attention to the sociological structure is accepting the fact that there is no equal court in the world, even though its functions can be said to be the same, namely examining and prosecuting, but because it is like other institutions (Khisni, 2011).

In daily life in the family, we are often faced with a condition that can lead us to involve emotions that are within us. These emotions vary, too. Being in the midst of a family makes us feel calm and comfortable. The emotions that are felt also tend to be positive emotions, such as happy and happy. However, sometimes the expectations we "demand" of each other and our families cause us to experience negative emotions, such as anger, sadness and worry. For example, in our marriage, we expect a partner who is faithful, loving, and secure. However, in reality, infidelity, violence and even divorce can occur in the household. These things can create conflicts between family members. So that it makes the atmosphere of the house uncomfortable anymore.

Similar to how a minor burden becomes heavier over time, unresolved family conflicts can gradually impact mental and emotional well-being. At first, we may not feel any meaningful burden. But what if we lift it up for 10 minutes, 30 minutes or 1 hour? Gradually, we will feel the burden. If this atmosphere continues to be left unchecked, we will be

physically and mentally disturbed. So are the conflicts that exist in our families. At first, there was a harmonious relationship, however, over time there were problems that colored the domestic life of a couple. So, the attitude that must be taken when problems arise is to be resolved immediately so that it does not become a burden that can disturb a person's mentality.

Basically, conflicts in the household will always arise, whether they are small or large. It is important to know that repeated problems will arise in a family due to the "trivial" and "indifferent" attitude of the husband and wife. They don't want to sit together to solve the existing problems (Abdul Jamil Wahab, 2014).

However, regarding these conflicts, the basic things that cause conflict in the family are incompatibility in each other's needs and expectations, difficulty accepting real differences (habits, needs, opinions, and values). Financial problems (how to acquire and spend), Child problems, Feelings of jealousy and excessive possession so that the spouse lacks freedom., Unfair division of duties, Incompetence. communicate, the spouse is not in line with the initial interests and goals other factors that can be the cause of conflict in the husband-wife relationship, include:

1. Personality Factor Issues

This factor is a factor that often appears to color the domestic life of a couple. This personality can be taken from each party, both wife and husband, because they have different personalities. These personality differences can trigger the emergence of a conflict.

The personality in question can be in the form of a wife's attitude towards her husband. Things that can happen include hatred towards the husband, and vice versa, always having a bad prejudice against the partner, being closed and not willing to open up to each other to whatever happens both within the household and not, not understanding the character and behavior of their respective partners. actors related to personality as described above. It can potentially become a big conflict, when each spouse underestimates it and does not resolve it immediately. So that it will disturb the harmony of their household.

2. Financial Problems or Family Finances

This is one of the biggest conflicts triggering problems that generally plague married couples in their married lives. Husbands are unemployed or laid off, wives complain because husbands have a small salary so they cannot meet all the needs of their family, have many debts that have not been paid for a long time, the wife's salary is larger than her husband's, the wife is not responsive to her husband's economic difficulties, or the husband who is offended by the wife who never thanks her for giving money from her husband and other problems related to finances are the source of the trigger The first conflict that became. Tensions between married couples.

Married couples who are not prepared for this condition will usually always fight and blame each other, maybe it will lead to divorce, or one of the couples runs away from home and leaves their family just like that. Thus, this financial problem can be a factor in the emergence of conflicts that will affect harmony and disturb the peace of their families.

3. Sex and Heredity Issues

The trigger for domestic violence is when one partner is unable or lacking in meeting his or her sexual needs. Husband and wife should not underestimate this issue. There are a lot of conflicts that occur as a result of this problem. An impotent husband, a husband or wife who is barren, or conversely his wife who is hyper sex and always feels inadequate, and there are many other sex problems that can trigger conflicts in the household.

So, the effect of this problem is the occurrence of infidelity, seeking satisfaction with "snacks" outside, bed separation and even a lot of divorce. This problem does not look at

rich and poor, when one of the partners cannot provide the satisfaction as it should, it is certain that there will be a cold war in the household. Another opinion is that the problem of the sex factor is also referred to as an external factor in domestic conflict.

Thus, this problem must be overcome immediately and not underestimated. Because when we underestimate this problem, bigger problems will arise, so conflicts are inevitable. It can even destroy the integrity of the household that has been built by the couple (Mariam, 2018).

4. Problems of Kinkinan

Usually, couples who have vowed to be united for life do not have a problem with different beliefs between them. However, problems will usually arise when they start living a married life. They just realized that these differences are difficult to reconcile. Each justifies his beliefs and seeks to attract his partner to follow him.

Although not always, this often happens to married couples with different beliefs, so commotion is inevitable. Thus, these couples who differ in their beliefs are bound to encounter a conflict. We all know that this couple has different visions, while a couple must have the same vision, especially regarding religion. Religion is a foundation for couples to live their household. So that when religion is different, then in addition to that there will be many differences. Religion is one of the elements of conflict in the household.

5. In-Laws' Problems

The presence of in-laws who interfere too much in the domestic affairs of their children and daughters-in-law is often a source of conflict. Mother-in-law and daughter-in-law conflicts usually occur if the daughter-in-law lives together in the same house or one neighborhood. Indeed, living with a large family has its advantages and disadvantages. The definite advantage is that you don't have to bother to contract or buy a house in the early stages of marriage. The support of family and mothers-in-law to help raise children is also beneficial for the new family to work together. Therefore, it is very necessary for husband and wife to unite the two families of husband and wife (Nurul Atieka, 2011).

The cause could be because the mother-in-law who sees her daughter-in-law is not as expected such as waking up at noon, not being able to do household chores, and not paying attention to her children. (Mother's granddaughter in-laws) and various other reasons. Meanwhile, the son-in-law could not understand the wishes and expectations of the mother-in-law. Another source of conflict can be triggered by the presence of children or grandchildren of mothers-in-law. Especially if it is the first grandchild. The mother-in-law's tendency to spoil her grandchildren often offends the son-in-law. Grandparents and grandfathers (in-laws) do have a tendency to overindulge and even become the main protector of the grandchild.

6. Difference Issues

Opinion Uniting two hearts means uniting two different personalities and tastes. For example, the husband is a quiet person, while the wife is chatty and explosive in her emotions. Husbands like sweet foods, wives like spicy food. Well, these two individuals when put together are usually not connected, not to mention hobbies or pleasures. Husbands like to vacation to the beach, while wives prefer to vacation in crowded places. Each of them doesn't want to make a fuss, eventually there will be a fuss too. This difference of opinion is common among couples, so conflicts that occur are natural. Disputes and differences of opinion will not be inevitable in marriage (Rivika Sakti Karel, et., al, 2014).

7. Limited Communication issues

Married couples who are both busy usually have little time to communicate. At most they meet when they are about to go to bed, breakfast or on weekends. Sometimes, to have dinner together is just missed. This lack or absence of time to share and communicate with each other often leads to misunderstandings. The husband does not know the problems that the wife faces, and vice versa. Finally, when they met, instead of pouring out affection for each other, they quarreled. Conditions like this will give rise to the nature of not reprimanding each other, usually this happens because of unacceptance of one party's decision.

Thus, the conflicts that befall married couples are considered as a process in building a harmonious household. A couple to realize a peaceful family is not as easy as turning the palm of your hand. It takes sacrifice and struggle, even the conflict that occurs can be a lesson for the married couple. Various factors that cause the emergence of conflicts as explained by the author above, one of which is due to the lack of mutual understanding between them, both mutual understanding and mutual trust.

It is very rare to find in every couple. In fact, this should be nurtured from the beginning of fostering family relationships. So, when it fades Uniting two hearts, it means uniting two personalities and tastes that are also different. For example, the husband is a quiet person, while the wife is chatty and explosive in her emotions. Husbands like sweet foods, wives like spicy food. Well, these two individuals, when put together, are usually not connected. Not to mention hobbies or pleasures. Husbands like to vacation to the beach, while wives prefer to vacation in crowded places. Each of them doesn't want to make a fuss, eventually there will be a fuss too. This difference of opinion is common among couples, so conflicts that occur are natural. Disputes and differences of opinion will not be inevitable in marriage.

8. Limited Communication Issues

Married couples who are both busy usually have little time to communicate. At best, they meet when they are about to sleep. breakfast or on weekends. Sometimes, to have dinner together is just missed. This lack or absence of time to share and communicate with each other often leads to misunderstandings. The husband does not know the problems that the wife faces, and vice versa. Finally, when they met, instead of pouring out affection for each other, they quarreled. Conditions like this will give rise to the nature of not reprimanding each other, usually this happens because of unacceptance of one party's decision (Sofia Gussevi, 2020).

Thus, the conflicts that befall married couples are considered as a process in building a harmonious household. A couple to realize a peaceful family is not as easy as turning the palm of your hand. It takes sacrifice and struggle, even the conflict that occurs can be a lesson for the married couple. Various factors that cause the emergence of conflicts as explained by the author above, one of which is due to the lack of mutual understanding between them, both mutual understanding and mutual trust. It is very rare to find in every couple. In fact, this should be nurtured from the beginning of fostering family relationships. So, when it fades away

3.4 Analysis of the Function of Religious Courts in Resolving Family Conflicts in Indonesia

In resolving a problem in the family or conflict in the family cannot always be resolved peacefully, there must be a law that regulates as taught in Islam, but for a larger conflict it must be resolved with the applicable law so that it can be fair and there is no debate.

The influence of the judiciary, the function of the religious court is to maintain the legal system, determine what is determined by the law in a case. Thus, his main task is to receive, examine, and adjudicate and resolve every case submitted to him. Of the many problems that

exist, not all of them have laws and regulations that regulate these problems. To overcome this problem, judges do not need to always adhere to written rules, in such circumstances it is appropriate if judges are given the freedom to fill legal gaps (Edi Gunawan, 2016).

To overcome this problem, the judge can solve it by paying attention to the laws that live in the community or known as customary law. So that thus there will be no term known as legal vacuum. The judge's authority to do so is also in accordance with what has been determined in article 16 paragraph (1) of Law No. 48 of 2009. Looking at the above facts, it is clear that in this case the judge must be active from the beginning to the end of the proceedings, even before the proceedings begin, that is, at the time the plaintiff filed the lawsuit, the court had already provided assistance to him. Meanwhile, after the process ended, the judge led the execution. The active nature of judges can be seen from the efforts of the judge to reconcile the two parties. Another form is the action of the judge to provide appropriate information to the litigants about what legal remedies they can take, or about the submission of evidence, so that the examination can run smoothly.

In addition to being active, judges are also passive, in the sense that the scope or extent of the subject matter of the dispute submitted to the judge for examination is basically determined by the parties to the litigation and not by the judge. Judges only help justice seekers and overcome all obstacles and obstacles to achieve justice. In this case, the parties can freely end the dispute that has been submitted to the court, while the judge cannot obstruct it, this can be done by means of peace or the withdrawal of the lawsuit. Thus, the judge does not determine the scope of the subject matter, which means the judge may not add or subtract it. From this, it can be concluded that judges are active when viewed in terms of the smooth running of the trial, while judges are passive when viewed in terms of the breadth of the charges. The task of religious court judges in realizing justice based on the One Godhead, is not only to play a role in strengthening legal certainty, but also justice.

In the explanation of Law No. 48 of 2009 concerning Judicial Power Article 1, it is explained: Freedom in exercising judicial authority is not absolute because the judge's duty is to uphold law and justice based on Pancasila, so that his decision reflects the sense of justice of the Indonesian people.

The function of the judge is to uphold the true truth of what is stated and demanded by the parties without exceeding or decreasing it, especially in relation to civil cases, whereas in criminal cases seeking the truth is absolutely not limited to what has been done by the defendant," but from that must be investigated from the background of the defendant's actions. This means that the judge pursues the material truth absolutely and completely.

Here it can be seen that the intellect of judges will be tested by the deployment of all their abilities and scientific provisions, all of which will be seen in the process of examining cases whether there are still violations in judicial technicalities or not. The legal reasons that are the basis for consideration are the starting point of the following provisions; certain articles of laws and regulations, customary law, jurisprudence and legal doctrine. As Article 23 of Law No. 14 of 1970, as amended by Law No. 35 of 1999 now in Article 25 paragraph (1) of Law No. 48 of 2009 emphasizes that all court decisions must contain the reasons and bases of the decision and include the articles of Islamic regulations that are religions that uphold harmony and harmony both on a social and family scale, Therefore, Islam does not encourage families to divorce even though it is a matter that is permissible.

If there are two people involved in a dispute or conflict either on a household or social scale, then Islam strongly recommends finding a solution so that the problem that occurs quickly can be resolved, as stated by Allah in Surah Al-Hujarat verse 10 (Khaliluddin, 2023):

إِنَّمَا الْمُؤْمِنُونَ إِخْوَةٌ فَأَصْلِحُوا بَيْنَ أَخَوَيْكُمْ وَاتَّقُوا اللَّهَ لَعَلَّكُمْ تُرْحَمُونَ

Meaning: *Indeed, the believers are brothers and sisters. So, make peace between your two brothers and fear Allah, so that you may receive His mercy.*

In general, it can be understood that peace also needs to be realized on a family scale because each family member is a brother and even closer than a brother who is only a believer.

4. Conclusion

In conclusion, Religious Courts play a pivotal role in resolving family disputes in accordance with Islamic principles, reflecting the dynamic interplay between formal law and community values such as *maslahah mursalah*, providing flexibility in responding to the needs of the *ummah* without neglecting the principles of *sharia*. In the context of Islamic economics, the application of *maslahah mursalah* can be seen in the financing of Islamic banks that use collateral to protect both parties. This implementation helps ensure the sustainability of Islamic financial institutions and encourages the benefit of the *ummah* holistically. *Maslahah mursalah* ensures that Islamic law remains adaptable and beneficial, aligning legal principles with the evolving needs of the *ummah*.

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