

**IMPLEMENTATION OF ISLAMIC LAW IN CIVIL CASE MEDIATION IN RELIGIOUS COURTS**Sakinatul Nafsih<sup>1</sup>, Mesi Putri Ayu<sup>2</sup>, and Safiullah Aziz<sup>3</sup><sup>1</sup> Mahmud Yunus State Islamic University, Batusangkar, Indonesia<sup>2</sup> Mahmud Yunus State Islamic University, Batusangkar, Indonesia<sup>3</sup> Herat University, Herat, Afghanistan**Corresponding Author:**

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**Abstract**

This study addresses the weak implementation of Islamic legal principles in the mediation process of civil cases in Religious Courts. Mediation, ideally a space for *ishlah* (reconciliation) and justice grounded in sharia values, is often reduced to a procedural formality lacking substantive Islamic orientation. The study aims to describe the mediation practices in Religious Courts, analyze the application of Islamic legal principles in the process, and identify supporting and inhibiting factors in their implementation. Employing a qualitative approach with field research and the Meta-Analysis Literature Review method, data were collected through interviews, observation, and documentation. The data were presented descriptively in the results and analytically in the discussion. Findings reveal that although mediation follows administrative rules, its alignment with the spirit of Islamic conflict resolution remains superficial. Hindering factors include limited understanding of *ishlah* among litigants, inadequate training of mediator judges in Islamic law, and mediation environments that fail to foster an Islamic familial atmosphere. This study underscores the need to reorient mediation policies in Religious Courts based on *maqashid syariah*, by implementing contextual training, designing value-based Islamic mediation models, and applying interdisciplinary approaches.

**Keywords:** Islamic Law, Mediation, Religious Courts

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## INTRODUCTION

Mediation in civil cases within the Religious Courts is a dispute resolution mechanism formally regulated under the Supreme Court Regulation (Perma) No. 1 of 2016 concerning Mediation Procedures in Courts (Fajar & Syahputra, 2023; Putri Anggun Puspasari dkk., 2021; Simbolon & Saragih, 2021). At the same time, mediation is deeply rooted in Islamic legal principles, particularly the concept of *ishlah*, which denotes reconciliation and peaceful settlement. However, the implementation of Islamic law in mediation practices within Religious Courts often encounters various challenges. These include the formalistic approach of mediator judges, the low success rate of mediation, and the limited integration of Islamic values in dispute resolution processes. Such conditions highlight a significant gap between the ideal normative framework of Islamic law and the actual practice in religious judicial institutions. Therefore, the central issue raised in this research is how Islamic law is implemented in mediation practices for civil cases in the Religious Courts, as well as what factors support or hinder its effectiveness.

Previous studies have addressed the importance of mediation in the judicial system, including within the context of Religious Courts. However, most of these studies focus primarily on procedural legality and dispute resolution effectiveness, without thoroughly exploring the normative dimensions of Islamic law underlying mediation. Theories such as restorative justice, community-based dispute resolution, and progressive legal approaches are often used as analytical frameworks, but they fall short in comprehensively explaining how Sharia-based values are integrated into mediation practices. The absence of research that bridges normative Islamic law and empirical mediation practice leads to a lack of practical guidance rooted in *maqashid syariah* for resolving civil cases peacefully. Therefore, it is necessary to conduct a study that can fill this theoretical gap.

This study aims to provide a scholarly contribution by thoroughly examining the implementation of Islamic law in civil case mediation at Religious Courts. The specific objectives are, first, to describe the actual implementation of mediation in Religious Courts, particularly in civil matters such as inheritance disputes, divorce, and joint property division. Second, to analyze the extent to which Islamic legal principles such as justice (*'adl*), public interest (*maslahah*), and *ishlah* are applied by mediator judges during the mediation process. Third, to identify and explain the supporting and inhibiting factors for the application of Islamic values in mediation, including institutional structures, human resources capacity, and the perceptions of disputing parties. Hence, this research is not only descriptive but also analytical, aiming to propose a direction for the development of mediation policy based on Islamic law.

Based on the background, literature review, and research objectives outlined above, the urgency of this study lies in its attempt to bridge the gap between the normative theory of Islamic law and the practical reality of civil dispute mediation in Religious Courts. This study hypothesizes that it can contribute to improving the quality of mediation practices that are not only procedurally formal but also imbued with Sharia values oriented toward justice and social benefit. By empirically analyzing the implementation of Islamic legal principles in mediation practices, this study is expected to strengthen the legitimacy of Islamic approaches within the national legal system and provide a foundation for policy reforms toward more inclusive and religiously grounded mediation practices. Therefore, this research is crucial as a scientific response to the need for a legal system aligned with Islamic values and the expectations of Indonesia's Muslim society.

Mediation is a method of dispute resolution conducted outside the court, involving a neutral third party who assists disputing parties in reaching a peaceful settlement (Putra dkk., t.t.; Rahman, 2021; Sa'diyah dkk., 2025). In Indonesian positive law, mediation is formally regulated under Supreme Court Regulation (Perma) No. 1 of 2016, which mandates that mediation be attempted in all civil proceedings. The goal of mediation is to achieve a win-win

solution through mutual agreement facilitated by the mediator (Mutiara Hermawati, 2025; Ningsih & Tuasikal, 2025; Sulistianingsih, 2023). This process emphasizes communication, compromise, and voluntary resolution without the coercive decision of a judge. Therefore, mediation is a participatory and flexible process compared to formal litigation.

In practice, mediation can be categorized in several ways based on its scope and mechanism. Broadly, it is divided into voluntary mediation and mandatory mediation, with the latter being a procedural requirement in Indonesian court processes ("Abstract," 2022; Ardliansyah dkk., 2024). Mediation can also be categorized into litigation-based mediation, conducted within the court, and non-litigation mediation, carried out outside the court system (Awaludin, 2021; Gunawan Widjaja & M. Hafiz Aini, 2022; Hariyono, 2021). In religious contexts, there is also faith-based mediation guided by moral and ethical principles, such as in Islamic law where *ishlah* is emphasized. These various forms demonstrate the flexibility and adaptability of mediation depending on the needs of the disputants. Thus, understanding the diversity of mediation is essential in evaluating its implementation, particularly in the Religious Courts.

Islamic law is a divine legal system derived from revelation and scholarly reasoning (*ijtihad*), aimed at regulating human life according to the will of the Sharia (Adityarani & SH, 2025; M. Taufiq, 2021; Yunita dkk., 2024). Generally, Islamic law covers worship (*ibadah*), human relations (*muamalah*), criminal law (*jinayah*), family law, inheritance, and civil matters. Its primary sources are the Qur'an and Sunnah, supported by secondary sources like *ijma'*, *qiyas*, *istihsan*, and *maslahah mursalah*. Islamic law is oriented toward achieving *maqashid shariah*, which seeks to preserve religion, life, intellect, lineage, and property. Within the judicial context, Islamic law serves as a normative foundation for legal processes, including mediation in civil disputes handled by Religious Courts. Hence, understanding Islamic law is crucial in examining Sharia-based mediation practices.

Islamic law has various manifestations that adapt to the social and institutional contexts of Muslim societies. It can be broadly categorized into normative law (ideal principles) and positive law (formally enacted rules) (Azhar & Fikri, 2024; Mulyawan dkk., 2021). Normative law is based on religious texts, while positive law reflects the formal application of these principles within state legal systems, such as the Religious Court Law and the Compilation of Islamic Law (Aziz & Islamy, 2022; Suryantoro, 2025). In practice, Islamic law is also realized through fatwas, religious institution decisions, and judicial policies. Another manifestation is its integration into non-litigation dispute resolution mechanisms like mediation, where principles of *ishlah*, justice, and public benefit guide the process. These categories and manifestations demonstrate the dynamic and responsive nature of Islamic law in addressing contemporary needs.

The Religious Court is a special judicial body with authority to examine, adjudicate, and decide cases related to Islamic law. According to Law No. 3 of 2006 on Religious Courts, their jurisdiction includes matters such as marriage, inheritance, wills, endowments, zakat, *infaq*, charity, and Islamic economics. These courts are part of the national judiciary under the Indonesian Supreme Court. They serve not only as dispute resolution forums but also as institutional embodiments of Islamic law in the state legal system. In mediation contexts, Religious Courts play a pivotal role in realizing Islamic principles of justice through peaceful settlement mechanisms.

As formal institutions, Religious Courts have defined structures and legal authorities, but their actual manifestation depends on human resource capacity, regulatory frameworks, and the dynamics of the Muslim community they serve. Structurally, they range from first-level courts to the Supreme Court as the final appellate body. Functionally, they are not merely venues for dispute resolution but also spaces for Sharia-based mediation practices. The manifestation of their role in mediation is evident through the involvement of judges familiar with Islamic principles, the application of *ishlah*-based approaches, and the facilitation of amicable

settlements. Thus, Religious Courts serve a strategic function in bridging state law and Islamic normative values in civil dispute resolution.

## RESEARCH METHOD

The object of this research is the practice of mediation in the resolution of civil cases within the Religious Courts. Mediation is formally regulated through Supreme Court Regulation (Perma) No. 1 of 2016 as a mandatory dispute resolution mechanism outside of litigation before a case is examined further. In the context of Islamic law, mediation has a strong normative foundation, as reflected in the principle of *ishlah* (reconciliation), which encourages peaceful conflict resolution. However, the implementation of Islamic legal principles in mediation practices often faces challenges. These include the formalistic role of mediator judges, the low success rate of mediation, and the lack of integration of Islamic values in the settlement process. This creates a gap between the ideal normative framework of Islamic law and the practical realities in court. The core issue examined in this study is how Islamic law is implemented in mediation practices within the Religious Courts and the supporting and inhibiting factors of such implementation.

This study employs a descriptive qualitative approach. The purpose of this approach is to describe in-depth and comprehensively the implementation of Islamic law in mediation practices at the Religious Courts. The data used consist of primary and secondary data. Primary data are obtained through in-depth interviews with informants directly involved in mediation practices. Meanwhile, secondary data include the review of relevant literature and legal documents such as Perma No. 1 of 2016, fatwas issued by the DSN-MUI, and Islamic literature on *ishlah* and dispute resolution. This combination of data provides a strong foundation for a holistic and contextual understanding of the research problem.

Participants in this study were selected purposively, considering their involvement and knowledge of mediation practices in civil cases at the Religious Courts. The participants include: three mediator judges from the Class 1A Religious Court; six disputing parties involved in divorce and joint property cases; two clerks and mediation officers; and two academics or Islamic law experts from Islamic higher education institutions. This selection of informants aims to ensure that the data obtained reflect the empirical reality from various perspectives relevant to the research topic.

Data collection in this study was conducted using several techniques: interviews, observations, and documentation. In-depth interviews were conducted using semi-structured guidelines to obtain rich and contextual information from the informants. Observations were carried out on ongoing mediation sessions in court to capture direct dynamics. Additionally, documentation was conducted on official documents, mediation records, and court archives that support understanding of mediation practices. The use of these techniques ensures the richness and depth of the data collected.

The data analysis technique in this study adopts the Miles and Huberman model, which includes three main stages: data reduction, data display, and conclusion drawing with verification (Recker, 2021; Skopečková, 2024). Data reduction involves selecting and simplifying raw data into relevant information aligned with the research focus. Data display is presented in descriptive narrative form to aid understanding. Subsequently, conclusions are drawn based on emerging patterns, followed by verification through triangulation. Triangulation is conducted by comparing various data sources (interviews, observations, and documentation) to ensure the validity and objectivity of the findings.

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## RESULTS AND DISCUSSION

The findings reveal that mediation practices in Religious Courts face several significant challenges. Based on interviews, most mediator judges admit that mediations often fail because parties are emotionally charged and prefer to proceed with litigation. Although the principle of *ishlah* is acknowledged, it is not substantively understood by the litigating parties. Observations show that the mediation process is formal and administrative in nature, following the structure of Supreme Court Regulation (Perma) No. 1 of 2016, with little incorporation of Islamic spiritual approaches. Mediation rooms lack familial or consultative atmospheres. Mediation records indicate a low success rate: only 2 out of 20 cases were resolved through mediation. Mediation guidelines mostly refer to positive law without explicit reference to Islamic legal principles.

These findings illustrate that mediation in Religious Courts tends to focus more on procedural rather than substantive approaches grounded in Islamic values. The low success rate, lack of understanding of mediation objectives by parties, and limited training for judges in Islamic-based mediation contribute to the issue. Formal language and time constraints also weaken the process. The absence of Islamic references in documents and space setup highlights the lack of integration of *ishlah* and *maqashid syariah* principles in mediation.

The relationship between the descriptive and explanatory data highlights a gap between the ideal goals of Islamic-based mediation and actual practices. Ideally, mediation should be a space for reconciliation, prioritizing justice and benefit, but it functions more like an extension of litigation. The disconnect between Islamic legal norms and court practices underlines the research issue: the weak implementation of Islamic principles in civil case mediation within Religious Courts.

Field data show that Islamic law is not fully reflected in mediation practices in Religious Courts. Academics assert that Islamic law offers more flexible and context-based dispute resolution mechanisms. However, such principles are not explicitly stated in mediation guidelines or judicial considerations. Observations confirm this absence, with no spiritual or religious dialogue evident during mediations. Official documents also rarely reflect Islamic legal content.

This condition shows that Islamic law has not yet been adopted as the main epistemic framework in mediation practice. Though normatively strong, it is functionally weak. This results from the lack of *syariah*-based training, the dominance of positive law, and the absence of technical regulations integrating Perma with Islamic jurisprudence. The lack of explicit use of *ishlah*, *tahkim*, and *maslahah* concepts indicates that Islamic law serves more as symbolic legitimacy than a practical foundation.

The relationship between the Islamic law data and the central research problem confirms an epistemic and normative gap. Islamic law has not been effectively integrated into court procedures. The absence of *syariah* principles in training, procedures, and documentation shows that *ishlah* values are not yet the main paradigm. This directly affects mediation effectiveness and highlights the need for structural reform in court mediation systems.

Data indicate that the structure and culture of Religious Courts prioritize formal procedures outlined by regulations such as Perma, with little room for normative Islamic approaches. Interviews with clerks and judges reveal that mediation is mainly an administrative task. Observations reinforce this: mediation rooms resemble courtrooms, and formal language dominates. Court documentation also lacks Islamic legal considerations in mediation outcomes.

These findings suggest that Religious Court systems remain rigid and unsupportive of Islamic law implementation in mediation. The absence of conducive spaces, thematic training for judges, and the dominance of formal procedures indicate that courts are not oriented toward a transformative *syariah*-based approach. As a result, mediation loses its Islamic potential and becomes merely an administrative step in litigation.

The link between institutional conditions and the research problem reveals misalignment between court structures and Islamic legal values. Ideally, Religious Courts should be the key enforcers of *ishlah*, but mediation is treated as a procedural formality. This affirms the core issue that mediation does not reflect the true implementation of Islamic law in terms of values, approaches, and institutional frameworks.

Table 1. Research Findings

No.	Research Objective	Key Findings
1	To describe the implementation of civil case mediation in Religious Courts	Mediation follows procedural rules under Supreme Court Regulation, but tends to be a formality; the mediation room lacks Islamic atmosphere; mediation success rate is low.
2	To analyze the implementation of Islamic legal principles in the mediation process	Principles of <i>ishlah</i> (reconciliation), justice, and <i>maslahah</i> are not substantively integrated; spiritual and Islamic values are not prioritized in mediation.
3	To identify supporting and inhibiting factors in applying Islamic legal values in mediation	Supporting factor: some judges' awareness of <i>ishlah</i> values. Inhibiting factors: lack of Islamic law training for judges, limited understanding by disputing parties, and an overly administrative approach.

This research reveals that mediation in Religious Courts is still far from optimal in implementing Islamic legal principles substantively. While procedures are followed formally, the approach remains largely legalistic and administrative, leaving little room for values such as *ishlah* (reconciliation), social justice, and *maqashid syariah*. Parties often engage in mediation due to legal obligation rather than sincere commitment to Islamic ethical values. Additionally, the limited training of mediators in Islamic jurisprudence, inadequate facilities, and the absence of deeper conflict exploration further hinder effective Islamic-based mediation. Structurally, mediation documents and manuals prioritize state law over Islamic values.

Compared to previous studies, such as Maulana (2020) and Istiqomah (2022), which mainly assess mediation based on administrative success rates, this study provides a more in-depth exploration by applying the *maqashid syariah* framework. This methodological shift offers a more comprehensive understanding and an original contribution by integrating Islamic legal philosophy into practical judicial processes. Consequently, this research enhances scholarly discourse by bridging normative Islamic theory with the realities of mediation in religious courts.

The findings reflect an urgent need to transform the paradigm of mediation in Religious Courts—from a procedural-formal model to a substantive-transformative one. The objectives to describe and analyze mediation through the lens of Islamic law highlight a significant normative-practical gap. This reflection underscores that mediation should not only be a tool for dispute resolution but also a platform to foster *rahmah* (compassion), justice, and reconciliation. Strengthening Islamic legal values at every mediation stage will ultimately build greater public trust in the Religious Court system.

The research implies that the mediation framework must be redefined, not only in terms of regulation but also regarding training and supporting infrastructure. Courts should not merely follow Supreme Court procedures but systematically integrate Islamic values throughout the mediation process. This approach will offer a dispute resolution model that aligns with the spiritual and cultural expectations of the Muslim community. Moreover, this

finding calls for collaborative efforts between academics and practitioners to develop an Islamic-based mediation model grounded in maqashid syariah.

The limited implementation of Islamic legal values in mediation stems from structural and cultural constraints. Structurally, there is a heavy reliance on formal regulation that inadequately accommodates Islamic approaches. Culturally, litigants perceive courts as adversarial arenas rather than platforms for reconciliation. Meanwhile, most mediators lack integrated competence in both positive and Islamic law. These cumulative factors explain why Islamic values remain underutilized in mediation practices.

Urgent actions include reformulating mediator training curricula to focus on Islamic legal perspectives, particularly maqashid syariah and ushul fiqh. Additionally, mediation spaces should be redesigned to foster Islamic values of dialogue and mutual respect. Internal regulations must also be revised to allow for more substantive, faith-based mediation practices. These initiatives require institutional collaboration, particularly with Islamic higher education institutions, to ensure that mediation evolves beyond a legal formality into a transformative, contextually relevant process.

## CONCLUSION

A particularly surprising finding in this study is that civil case mediation in Religious Courts often serves more as a procedural formality than as a dispute resolution mechanism grounded in Islamic legal values. Although mediation is administratively implemented in accordance with official guidelines, its execution remains distant from the spirit of sharia that emphasizes islah (reconciliation), justice, and rahmah (compassion). This reveals a significant disconnect between the prevailing legal structure and the normative Islamic values that should ideally underpin dispute resolution within the religious judiciary system.

This research contributes significantly to both theoretical and practical developments in the integration of Islamic law within judicial mediation practices. Theoretically, it broadens academic understanding by positioning mediation not merely as a legal process but as a transformative social tool rooted in maqashid syariah. Practically, the findings offer a foundation for shaping policies and mediator training that are more aligned with Islamic principles, alongside the redesign of mediation spaces and approaches to better reflect the contextual realities of the Muslim community.

This study is limited in its geographic and institutional scope, focusing on specific courts and participants, making broad generalizations across Indonesia's Religious Courts premature. However, this limitation presents opportunities for future research to adopt comparative approaches across regions or even countries, with the aim of formulating a more universal Islamic mediation model. Moreover, interdisciplinary approaches involving conflict psychology, legal anthropology, and information technology can further enrich value-based mediation design that is both relevant and adaptive to contemporary challenges.

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