

Integrating Hakam and Court-Annexed Mediation: Strengthening Divorce Dispute Resolution in Indonesia's Religious Courts

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Abstract: Mediation in the settlement of divorce disputes in Indonesian Religious Court has been institutionalized through Supreme Court Regulation (PERMA) Number 1 of 2016. However, there are still significant challenges in the implementation as mediation tends to be a procedural requirement rather than an effective mechanism for reconciliation. This study aims to find out the normative basis of mediation in Islamic family law, evaluate the implementation of court annexed mediation in the Religious Courts in Indonesia, and find the institutional and normative gaps that affect the effectiveness of mediation. This research is normative legal research with a statutory, conceptual and doctrinal approach. Legal materials were collected by means of systematic review of primary, secondary and tertiary legal sources and analysed by the means of qualitative content analysis and normative legal interpretation. The results show that Islamic family law provides a comprehensive normative system through the principles of *islah*, *hakam*, and *maqashid al-shariah*, while court-annexed mediation remains largely procedural, resulting in a significant institutional gap between family-based reconciliation and judicial mediation. Following this, this study presents an Integrated Mediation Framework, which systematically integrates Islamic legal principles with court-annexed mediation to enhance divorce dispute resolution. The proposed model integrates Islamic legal principles, family participation, judicial supervision and professional mediation into a comprehensive model of dispute resolution. The framework is the main contribution of the study as it bridges classical Islamic family law with contemporary judicial mediation and provides practical guidance to improve mediation practice and judicial policy in Indonesia's Religious Courts.

Keywords: Court-annexed mediation, Divorce dispute resolution, Hakam, Islamic family law.

Introduction

Family disputes, especially divorce cases, are becoming a growing concern to judicial systems around the world due to serious legal, social and psychological consequences. While litigation is the main mode of resolving marital disputes in many legal systems, protracted adversarial processes often exacerbates disputes, ruptures family ties and hurts children and society. Therefore, many legal systems have strengthened alternative dispute resolution (ADR) methods, especially court-annexed mediation, as an important part of family justice. Court-annexed mediation is no longer viewed merely as a procedural requirement to reduce court congestion but as a judicial mechanism that promotes consensual dispute resolution, preserves family relationships, and supports access to substantive justice ([Hoque., 2022](#)). Comparative experiences in several jurisdictions demonstrate that mediation becomes more effective when legal procedures are harmonized with the social, cultural, and religious values embraced by disputing parties ([Ebner & Greenberg., 2020](#); [Hakam & Benfriha., 2025](#)).

Indonesia has adopted this global development in the form of Supreme Court Regulation (PERMA) No. 1 of 2016 on Mediation Procedures in Courts, which requires judges to bring the parties in almost all civil disputes, including divorce cases in front of the Religious Courts, to undergo mediation before the litigation process ([Rosalina & Zulfikar, 2024](#); [Sanclimenti et al., 2017](#)). This policy is a manifestation of the judiciary's commitment to encouraging peaceful dispute resolution and minimizing unnecessary litigation. However, despite the mandatory nature of mediation, divorce cases remain the most frequent case load in Religious Courts. National judicial statistics reveal that hundreds of thousands of divorce petitions are submitted annually, whereas the success rate of mediation stays low consistently in many Religious Courts. These conditions suggest that the institutionalization of mediation has not automatically implied that reconciliation between disputing spouses is also effective ([Habib & Supriyatna, 2024](#); [Himayasari et al., 2022](#)). The limited effectiveness of mediation has generated increasing scholarly attention. Previous studies have identified numerous institutional constraints, including procedural formalism, inadequate mediator competence, excessive judicial workloads, and insufficient attention to the emotional and cultural dimensions of marital conflicts. Moreover, research has shown that mediation sessions often turn out to be procedural formalities to be completed before litigation, rather than real opportunities for reconciliation ([Leersen et al., 2026](#); [Thesnaar, 2017](#)). Hence the main purpose of mediation, i.e. preserving marital relationship when reconciliation is still possible, is often not achieved. In Islamic legal tradition, however, the main purpose of family law has always been reconciliation (islah). The Qur'an clearly promotes peace-making through the appointment of hakam (family representatives) to resolve serious marital conflict (shiqaq). Unlike modern court-annexed mediation, the institution of hakam is deeply embedded in

family structures and community values, allowing mediators to understand the historical, emotional and cultural context of marital disputes. The ultimate purpose of this is not only procedural settlement, but also the preservation of family integrity (hifz al-nasl) and social harmony in accordance with the objectives of Islamic law (maqashid al-shariah). Consequently, reconciliation is a central aspect of Islamic family jurisprudence, rather than being an optional procedural step ([Al-Mansoori., 2026](#); [Hanafi et al., 2026](#)). Despite this normative foundation, the implementation of mediation in Indonesia's Religious Courts is still largely divorced from the traditional concept of hakam. Article 76 of Law No. 3 of 2006 on Religious Courts that recognizes the possibility of appointing hakam in cases of severe marital disputes, but this mechanism is rarely used judicially ([Desimaliati., 2022](#); [Sandberg & Doe., 2007](#)). Mediation is mostly conducted by certified court mediators under procedural requirements set by PERMA No. 1 of 2016. Therefore, contemporary mediation is institutionally standardized but increasingly alienated from the family-based reconciliation model envisioned in classical Islamic jurisprudence. This institutional gap raises important questions about the extent to which contemporary mediation practices adequately reflect both the procedural aims of judicial reform and the substantive values of Islamic family law.

The literature available has helped to understand mediation in religious courts. Previous research has discussed mediation effectiveness, mediator professionalism, procedural implementation of PERMA No. 1 of 2016, family violence within mediation processes, and institutional challenges facing Religious Courts. Other studies have been conducted on the Islamic perspective on reconciliation and the legal status of hakam in the Islamic family law. However, these studies usually treat procedural mediation and Islamic reconciliation as separate issues. There has been little attempt to systematically incorporate the traditional institution of hakam into the current court-annexed mediation framework in Indonesia to develop a culturally responsive mediation model that could improve the reconciliation outcomes ([Colbran., 2010](#); [Muniroh & Nasution., 2021](#)). Accordingly, this study contributes to the current discourse on Islamic family dispute resolution by proposing a more holistic conceptual framework that bridges normative Islamic jurisprudence and contemporary judicial practice. This study seeks to: (1) revisit the normative basis of mediation in Islamic family law through the concepts of *islah*, *hakam* and *maqashid al-shariah*; (2) assess the practice of mandatory mediation under PERMA No. 1 of 2016 in Indonesia's Religious Courts; (3) identify the institutional and normative gaps causing the limited effectiveness of mediation; and (4) propose an integrated mediation framework that integrates Islamic family-based reconciliation with court-annexed mediation to enhance the resolution of divorce disputes. The study's contribution is three-fold. Firstly, it contributes to the theoretical discussion on Islamic family law by bridging classical notions of *hakam* with modern

mediation theory. Secondly, it contributes to judicial reform by providing a conceptual model that strengthens the link between religious values and procedural justice in Religious Courts. Thirdly, the proposed model provides practical suggestions to policymakers, judges, and certified mediators who want to increase the effectiveness of mediation while preserving the goals of Islamic family law. Therefore, this research contributes to the development of the Islamic legal scholarship and contributes to the wider discussion on culturally sensitive forms of dispute resolution in plural legal systems.

Research Method

This research uses a normative legal research design, i.e. research on the implementation of the mediation process in resolving divorce at Religious Courts in Indonesia, seen from the perspective of Islamic family law and national legal regulations. The discussion includes the normative basis of *islah* and *hakam* in the Fiqh of Islam and the mediation guidelines contained in the Supreme Court Regulation (PERMA) No. 1 of 2016. To achieve a thorough comprehension of the legal issues faced, this research employs a combination of statutory analysis and conceptual legal analysis, and a systematic review of relevant legal documents and academic literature. This research seeks to identify the institutional and normative gap existing between the principles of Islamic law and modern court-annexed mediation and to offer an integrated mediation model designed to improve the resolution of divorce disputes in Indonesia.

Research Design

This research uses a normative legal research design to study the implementation of mediation in divorce cases in the Religious Courts of Indonesia viewed from the perspective of Islamic family law and national legal regulations (Bilalu et al., 2022; Butt., 2010). The analysis of legal norms in mediation is done by combining statutory provisions, Islamic legal doctrines and relevant scholarly literature. This study is not empiric, but it systematically reviews the legal materials to find the institutional and normative lacunae between the conventional concept of *hakam* and the court-annexed mediation mechanism that is provided by Supreme Court Regulation (PERMA) No. 1 of 2016. Figure 1 presents the overall research design, illustrating the sequential phases of the study, beginning with the identification of the research problem, followed by the selection of legal approaches and materials, the analytical process and the development of an integrated mediation framework.

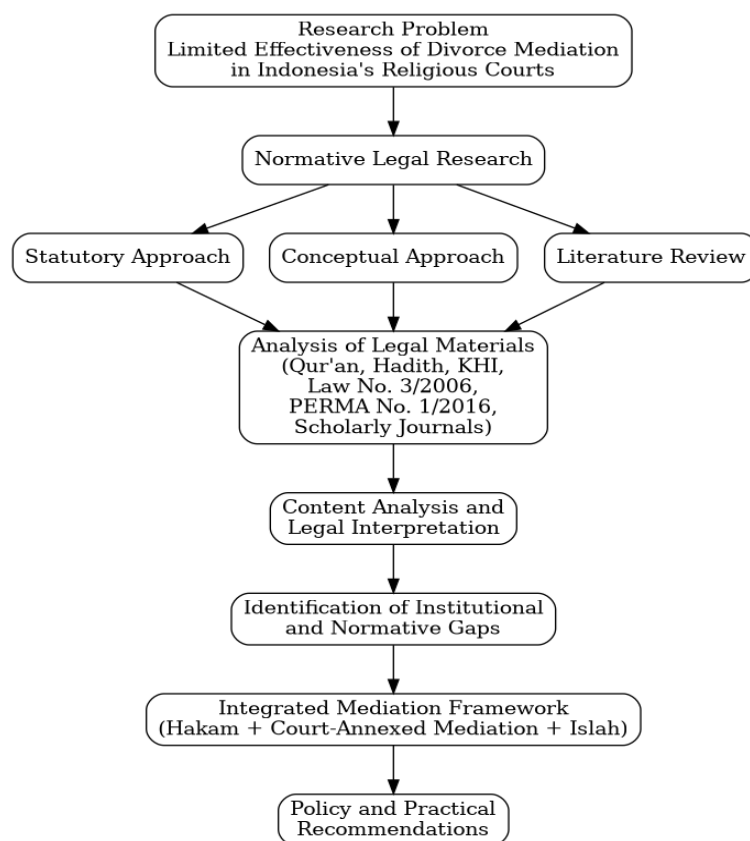


Figure 1 research design framework

Figure 1 illustrates the general research design of this study. The research starts by identifying the legal issues related to the limited success of mediation in divorce cases in the Religious Courts of Indonesia. Thereafter, the research applies a normative legal research design, by combining the statutory and conceptual approaches, supported by a comprehensive review of relevant legal materials, including Islamic legal sources, national legislation, judicial regulations, and scholarly literature. These legal materials are analyzed systematically using content analysis and legal interpretation to identify the institutional and normative gaps between the traditional concept of hakam and the current court-annexed mediation system. The analytical results then form the basis for proposing an integrated mediation framework that synthesizes the principles of Islamic family law and formal mediation procedures to improve the effectiveness of divorce dispute resolution and to provide practical recommendations for judicial policy and practice (Cammack & Feener., 2012; Hududillah et al., 2025).

Legal Research Approach

This research applies three complementary legal research approaches in analyzing the implementation of mediation in divorce disputes at Indonesia's Religious Courts. Each approach has different analytical purpose and provides a complete understanding of the relationship between Islamic legal principles and the contemporary judicial mediation (McCrudden., 2017). The legal research approaches used in this research are summarized in Table 1.

Table 1 Legal Research Approaches Employed in the Study

Research Approach	Purpose	Application in the Study
Statutory Approach	To examine the legal framework governing mediation.	Analysis of Law No. 3 of 2006, PERMA No. 1 of 2016, the Compilation of Islamic Law (KHI), and other relevant regulations governing divorce mediation.
Conceptual Approach	To explore the theoretical foundations of mediation in Islamic family law.	Analysis of the concepts of <i>islah</i> , <i>hakam</i> , <i>shiqaq</i> , and <i>maqashid al-shariah</i> as normative principles for dispute resolution.
Doctrinal Legal Approach	To evaluate legal doctrines and scholarly interpretations.	Review of academic literature, judicial interpretations, and previous studies concerning mediation, Islamic family law, and alternative dispute resolution.

These three approaches of legal research as reflected in Table 1 are mutually supportive in analyzing mediation from the perspectives of law, concept and doctrine. The integration of these approaches enables a complete legal analysis of the institutional and normative aspects of divorce mediation, and at the same time provides a basis for the development of the proposed integrated mediation framework.

Sources of Legal Materials

This research is conducted using legal materials solely to examine the implementation of mediation in divorce disputes in the Religious Courts of Indonesia. In line with the normative research design, legal materials are categorized into primary, secondary, and tertiary legal materials, which have various roles in supporting the legal analysis and interpretation (Fathan., 2023; Wibowo & Astagiri., 2026). The categorization of legal materials used in this research is shown in Table 2.

Table 2 Classification of Legal Materials

Type of Legal Material	Sources	Purpose in the Study
Primary Legal Materials	The Qur'an (QS. An-Nisa: 35; QS. Al-Hujurat: 9–10), Hadith, Law No. 3 of 2006 concerning Religious Courts, Supreme Court Regulation (PERMA) No. 1 of 2016, Compilation of Islamic Law (KHI)	To establish the normative legal framework governing mediation and divorce dispute resolution.
Secondary Legal Materials	Peer-reviewed journal articles, academic books, legal commentaries, and previous studies on Islamic family law, mediation, and alternative dispute resolution	To support legal interpretation, theoretical discussion, and comparative analysis.
Tertiary Legal Materials	Legal dictionaries, encyclopedias, official legal databases, and other reference materials	To clarify legal terminology and strengthen the interpretation of legal concepts used throughout the study.

As presented in Table 2, each category of legal material plays a different role in the analysis. Primary legal materials are the main legal basis on which to analyze mediation in divorce disputes. Secondary legal materials provide academic views to support the interpretation of legal norms and judicial practices. Tertiary legal materials supplement the analysis by explicating legal concepts and terminology, thus reinforcing the consistency of the legal interpretation throughout the study.

Legal Material Collection Procedures

Legal materials for this study were collected through a systematic library-based research procedure. The collection of legal materials involved the identification of relevant legal instruments, Islamic legal sources, judicial regulations and scholarly publications that deal with mediation, divorce dispute resolution, Islamic family law and alternative dispute resolution. To guarantee the relevance and credibility of the legal materials, the analysis only included authoritative legal sources and peer-reviewed academic publications closely related to the research objectives. After the identification stage, the legal materials were classified according to the legal authority and analytical relevance (Lewulis., 2022). Primary legal materials were examined in an effort to determine the normative legal framework, whereas secondary legal materials were analyzed to provide doctrinal opinions and scholarly interpretation. Tertiary legal materials were then consulted to clarify legal terminology and to ensure conceptual consistency throughout the analysis. The collected legal materials were then organized, scrutinized and systematically documented before the start of the analytical phase. This well-structured process guaranteed that all pertinent legal sources had been properly

investigated and that the following legal analysis was performed in a uniform and open way. The general process of gathering legal material applied in this study is illustrated in Figure 2.

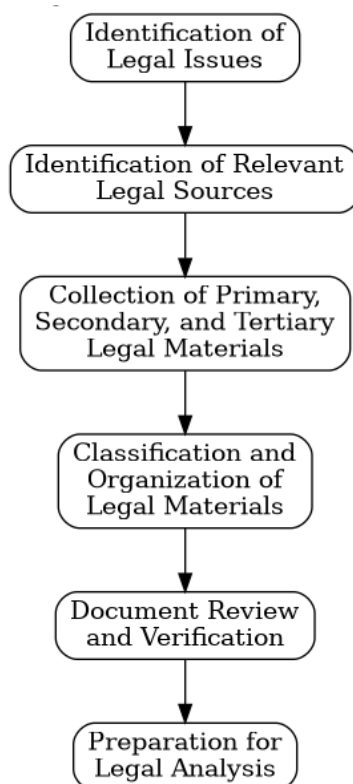


Figure 2 Legal Material Collection Procedure

The first step of this research is the procedure of collecting legal materials as shown in Figure 2. The first step is to identify the legal issues related to divorce mediation in the Religious Courts of Indonesia, and then select and collect the legal materials that are authoritative. Then the legal materials are classified, grouped and reviewed for their relevance to the research objectives and then subjected to legal interpretation and content analysis.

Data Analysis

The legal materials collected were analyzed using a qualitative content analysis technique combined with normative legal interpretation. The analysis was carried out systematically to study the consistency between Islamic legal principles that govern the resolution of family disputes and the statutory provisions that regulate mediation in the Religious Courts of Indonesia. The analysis was not intended to measure empirical relationships, but rather to interpret legal norms, find conceptual relationships, and evaluate the implementation of mediation in the existing legal framework. The analytical process was carried out in stages sequentially. In the first stage, the collected legal materials were reviewed to find legal provisions and Islamic legal doctrines related to mediation in divorce disputes. In the second stage, the legal materials were interpreted by considering the legal context, objectives, and

relationships between them. The findings were then synthesized to find institutional and normative gaps between the traditional concept of hakam and the current court-annexed mediation system established by Supreme Court Regulation (PERMA) No. 1 of 2016. Finally, the results of the legal analysis were integrated to formulate an integrated mediation framework to strengthen the resolution of divorce disputes in Indonesian Religious Courts. The analytical framework of this study is summarized in Table 3.

Table 3 Stages of Legal Material Analysis

Analytical Stage	Description	Expected Output
Identification	Identification of legal issues, statutory provisions, and Islamic legal principles relevant to divorce mediation.	Identification of key legal concepts and issues.
Legal Interpretation	Interpretation of legal norms contained in the Qur'an, Hadith, KHI, Law No. 3 of 2006, and PERMA No. 1 of 2016.	Comprehensive understanding of the legal framework governing mediation.
Content Analysis	Systematic examination of legal documents and scholarly literature to identify recurring themes and institutional issues.	Identification of patterns, similarities, and legal inconsistencies.
Normative Synthesis	Integration of statutory regulations, Islamic legal principles, and previous scholarly findings.	Identification of institutional and normative gaps.
Framework Development	Formulation of an integrated mediation framework based on the analytical findings.	Proposed Integrated Mediation Framework for divorce dispute resolution.

The analytical process is sequential and interlinked as shown in Table 3 that employs legal interpretation and qualitative content analysis. This approach allows for a holistic analysis of mediation from the Islamic legal and statutory perspectives and provides a systematic basis for the development of the proposed integrated mediation framework. Therefore, the analytical framework ensures that the results are logically derived from authoritative legal sources and are consistent with the research objectives.

Result and Discussion

This research reports its findings through a systematic analysis of the collected legal materials, which include Islamic legal sources, statutory regulations, judicial provisions, and relevant scholarly literature. The analysis studies the normative bases for the implementation of mediation in Islamic family law and its practice in the Religious Courts of Indonesia under Supreme Court Regulation (PERMA) No. 1 of 2016. The study employs legal interpretation and qualitative content analysis and identifies the institutional and normative factors affecting

the effectiveness of mediation, as well as discusses the relationship between Islamic legal principles and the current court-annexed mediation system. The findings are explained in four interconnected sections, namely the normative bases of mediation; the implementation of court-annexed mediation; the institutional gap between Islamic and formal mediation; and the proposed integrated mediation framework to improve the resolution of divorce disputes.

Normative Foundations of Mediation in Islamic Family Law

The legal analysis indicates that mediation is important in Islamic family law and is the first step to deal with marital disputes before resort to divorce as the last legal option. As opposed to contemporary statutory provisions for judicial mediation, which are predominantly driven by procedural provisions, Islamic jurisprudence regards mediation as based on the principles of *islah* (reconciliation) and *hakam* (family-based arbitration), stressing that reconciliation is not merely a procedural step but a legal and moral obligation designed to sustain family unity, avoid unwarranted divorce, and promote social cohesion. The Qur'an, Hadith and Islamic legal doctrines, when examined, reveal that the notion of *islah* forms the normative basis for family dispute resolution. The Qur'anic provisions, especially Surah An-Nisa (4:35), provide for the appointment of *hakam* from the families of both spouses as an institutional mechanism to address grave marital discord (*shiqaq*). Instead of depending solely on judicial intervention, Islamic family law endorses the active involvement of family representatives who have a holistic knowledge of the social, emotional and cultural context of the dispute. This family-oriented approach emphasizes the preventive nature of Islamic dispute resolution, where reconciliation is preferred to litigation or divorce proceedings. Moreover, the findings show that the role of *hakam* is fundamentally different from that of certified mediators in today's court-annexed mediation. Certified mediators are required to be procedurally neutral in judicial proceedings, whereas *hakam* plays a more holistic reconciliatory role by incorporating legal, ethical, familial and religious aspects throughout the mediation process. Therefore, the effectiveness of *hakam* is not only in mediating communication but also in reestablishing mutual trust and family relations under the principles of Islamic family law.

The analysis also reveals that the *maqashid al-shariah*, especially the preservation of family (*hifz al-nasl*), is the normative basis for the importance of mediation in divorce cases. Mediation is then regarded as a means to maintain the integrity of family life and to reduce the social and psychological impact of divorce. Therefore, the importance of mediation is not only a procedural requirement, but also a legal instrument that aims to achieve substantive justice through reconciliation and family preservation. The findings of this research indicate that the Islamic family law offers a broad normative framework that integrates legal duties with ethical and social duties. Hence, the ideas of *islah*, *hakam*, and *maqashid al-shariah*

together constitute a coherent legal foundation for mediation and offer useful principles to enhance the contemporary mediation practices in the Religious Courts of Indonesia. To facilitate a clearer understanding of the normative foundations underlying mediation in Islamic family law, the principal legal principles identified through the analysis are summarized in Table 4.

Table 4 Normative Principles of Mediation in Islamic Family Law

Islamic Legal Principle	Legal Foundation	Role in Divorce Mediation
Islah (Reconciliation)	Qur'an and Hadith	Encourages peaceful settlement before divorce proceedings.
Hakam (Family Arbitration)	Surah An-Nisa (4:35)	Involves trusted family representatives in resolving marital disputes.
Maqashid al-Shariah	Islamic Jurisprudence	Protects family integrity (hifz al-nasl) and promotes social welfare.
Family Preservation	Islamic Family Law	Prioritizes reconciliation as the preferred outcome of dispute resolution.

The synthesis of Table 4 shows that the mediation in Islamic family law is supported by a comprehensive normative framework that encompasses legal, ethical and social aspects. The principles of *islah*, *hakam* and *maqashid al-shariah* together provide the foundation for reconciliation to be the preferred approach to resolve marital problems before divorce. These principles focus on family engagement, ethical accountability and the preservation of family unity as important goals for dispute resolution, instead of the procedural mediation found in the judicial system. Consequently, the findings suggest that Islamic family law provides normative basis that extends beyond procedural compliance and serves as an important reference for evaluating the practice of mediation in Indonesia's Religious Courts. Building upon these normative foundations, the following section examines how these principles have been implemented within the contemporary court-annexed mediation system established under Supreme Court Regulation (PERMA) No. 1 of 2016 and identifies the practical challenges affecting its effectiveness.

Implementation of Court-Annexed Mediation in Indonesia's Religious Courts

Legal analysis indicates issuance of Supreme Court Regulation (PERMA) No. 1 of 2016 is an important judicial reform to improve alternative dispute resolution in the Indonesian court system. Mandating mediation as a compulsory step before proceeding to litigation, the regulation seeks to promote amicable settlement, decrease unwarranted litigation, and maintain family ties when reconciliation is still feasible. Given the setting of the Religious Courts, this policy demonstrates the judiciary's resolve to embed consensual dispute resolution into family justice and improve judicial efficiency. However, the findings suggest

that the implementation of court-annexed mediation has not yet managed to fulfill its objectives. The mandatory nature of mediation has resulted in an increase in the procedural use of mediation; however, the results of mediation are still relatively ineffective in preventing divorce. Based on the available judicial reports, the success rate of mediation is still relatively low in many Religious Courts, indicating that mediation has often been a procedural requirement rather than an effective tool for restoring marital relationships. Therefore, the compliance with procedural obligations has not necessarily led to substantive reconciliation between the disputing spouses. The analysis also identifies some institutional factors that constrain the effectiveness of mediation. First, judges are generally overburdened, and conduct mediation sessions within limited time frames, lessening the potential for meaningful dialogue between the parties. Second, the role of certified mediators is mostly limited to facilitating communication in the judicial process, with little involvement in the broader emotional, cultural and familial aspects of marital dispute. Third, many parties in dispute come to mediation after long-standing conflict, which makes reconciliation more difficult even where formal mediation processes are in place. It is also important to note that there is no substantial integration between the procedural framework developed under PERMA No. 1 of 2016 and the traditional Islamic institution of hakam. Although Article 76 of Law No. 3 of 2006 (2006) allows the appointment of hakam in serious marital disputes, this mechanism is not widely used in judicial practice. Mediation in the Religious Courts thus heavily relies on procedural mediation by certified mediators, whilst the family-based reconciliation approach advocated in Islamic family law is under-utilized. The findings suggest that the efficiency of mediation cannot be solely measured by the compliance to the legal procedural standards, but effective mediation of family disputes requires institutional arrangements that are able to integrate the legal process with the social, cultural, and religious aspects of family disputes. The improvement of mediation in the Religious Courts of Indonesia should not only be procedural improvements, but also the development of a more comprehensive reconciliation framework that is sensitive to the normative principles of Islamic family law. To summarize the principal findings regarding the implementation of court-annexed mediation in Indonesia's Religious Courts, the key institutional objectives, practical challenges, and legal implications identified through the analysis are presented in Table 5.

Table 5 Implementation of Court-Annexed Mediation in Indonesia's Religious Courts

Implementation Aspect	Expected Objective	Findings	Implications
Mandatory Mediation	Promote peaceful dispute resolution	Implemented in all divorce proceedings	Procedural compliance has increased.
Role of Certified Mediators	Facilitate communication and negotiation	Primarily procedural and court-oriented	Limited attention to family and cultural dimensions.
Mediation Outcomes	Achieve reconciliation between spouses	Success rates remain relatively low	Limited effectiveness in preventing divorce.
Institutional Integration	Harmonize legal procedures with Islamic principles	Hakam is rarely appointed despite legal recognition	Normative gap between Islamic family law and judicial practice.

Table 5 summarizes the findings of the synthesis and shows that court annexed mediation has been successful in institutionalizing mediation as a compulsory judicial process, but its implementation is still predominantly procedural and has not yet fully achieved its substantive goal of promoting reconciliation between disputing spouses. The narrow use of Islamic family-based reconciliation, especially the hakam institution, signals an institutional gap between statutory mediation processes and the normative principles of Islamic family law. These results constitute the basis for the comparative analysis of the next section.

Institutional Gap between Islamic Family-Based Mediation and Court-Annexed Mediation

The legal analysis indicates that there is a significant institutional gap between the legal principles of mediation in the Islamic family law and the practice of court-annexed mediation in the Religious Courts in Indonesia. Although they have the same goal to reconcile the parties, they differ significantly in terms of legal basis, institutional arrangement, procedural mechanisms, and dispute resolution approaches. This gap causes the limited effectiveness of mediation in divorce disputes, despite the existence of comprehensive legal regulations on the mediation procedure. One of the most significant differences is the role of third-party intervention in resolving marital disputes. Islamic family law emphasizes the important role of hakam, who is selected from trusted family representatives who understand the social, emotional and cultural background of the spouses. The role of the hakam is an indication of the collective responsibility of the family to maintain the marriage relationship through reconciliation. Court-annexed mediation under Supreme Court Regulation (PERMA) No. 1 of 2016 is based on certified mediators who are appointed through judicial procedures. While

these mediators are doing an important facilitative function, their role is generally limited to procedural mediation undertaken in formal judicial settings. The analysis also shows that Islamic family law is proactive in encouraging reconciliation before the commencement of judicial proceedings for marital conflict. In contrast, modern court annexed mediation is typically initiated after the commencement of litigation, often when the disputes are more complex and emotionally charged. The prospects for effective reconciliation may, therefore, be significantly diminished as the parties have already formed firm intentions to secure a divorce through judicial determination.

A further institutional divergence pertains to the aims of mediation itself. In Islamic family law, mediation is pursued for broader religious, ethical and social purposes by protecting family integrity (*hifz al-nasl*) and promoting social harmony in line with the objectives of *maqashid al-shariah*. By contrast, court annexed mediation is mainly concerned with procedural justice, judicial efficiency and dispute resolution within the formal legal system. While these objectives are not mutually exclusive, the limited incorporation of Islamic family values into current mediation practices diminishes the potential of mediation to contribute to the preservation of marital relationships. The limited success of mediation in Indonesia's Religious Courts is not solely a matter of procedural implementation. But it suggests a broader institutional disconnect between Islamic family-based mechanisms of reconciliation and the current system of judicial mediation. To bridge this institutional gap, we need a more inclusive approach that takes advantage of the strengths of both systems by incorporating family involvement, religious principles and formal judicial processes into a cohesive mediation model capable of producing better reconciliation results. To facilitate a clearer comparison between the two mediation systems, the principal differences identified through the legal analysis are summarized in Table 6.

Table 5 Comparative Analysis of Islamic Family-Based Mediation and Court-Annexed Mediation

Dimension	Islamic Family-Based Mediation (Hakam)	Court-Annexed Mediation
Legal Foundation	Qur'an, Hadith, Islamic jurisprudence	PERMA No. 1 of 2016 and national procedural law
Mediator	Family representatives (<i>hakam</i>)	Certified court mediator
Primary Objective	Family reconciliation and preservation	Procedural dispute settlement
Approach	Family-centered and value-based	Court-centered and procedural
Timing	Before judicial proceedings whenever possible	After litigation has commenced
Main Orientation	Religious, ethical, and social values	Judicial efficiency and procedural justice
Expected Outcome	Preservation of marital relationships	Settlement of legal disputes

Table 6 shows that Islamic family-based mediation and court-annexed mediation are not competing but complementary mechanisms. Islamic mediation has strong religious, ethical and family-oriented values, while court-annexed mediation has procedural certainty in the judicial system. However, the lack of significant institutional integration between these two approaches has inhibited the overall effectiveness of mediation in divorce disputes. Therefore, the integration of the strengths of both systems presents a promising basis for the development of a more comprehensive mediation framework that can enhance reconciliation outcomes in Indonesian Religious Courts. Building on the institutional gap identified above, the next section proposes an integrated mediation framework that combines the normative principles of Islamic family law with the procedural mechanisms of court-annexed mediation as an alternative model for strengthening divorce dispute resolution in Indonesian Religious Courts.

Proposed Integrated Mediation Framework for Divorce Dispute Resolution

As discussed in the previous sections, the results of this study revealed that the complex nature of divorce disputes in Indonesia's Religious Courts cannot be solved by only Islamic family-based mediation or court-annexed mediation. The normative and ethical basis of Islamic family law is well grounded on the principles of *islah*, *hakam* and *maqashid al-shariah*, while the contemporary judicial mediation system provides procedural certainty and institutional legitimacy. However, the limited interaction between the two mechanisms has undermined the effectiveness of mediation as a tool to enable meaningful reconciliation. The result suggests the need for an integrated mediation framework that makes use of the strengths inherent in both approaches. The proposed framework considers mediation as a joint process of the judiciary, certified mediators, family representatives (*hakam*) and the parties. The framework is designed to complement, not replace, the existing mediation process under Supreme Court Regulation (PERMA) No. 1 of 2016, by integrating family participation and Islamic legal principles into the formal judicial process. This incorporation creates a space for mediation to function both as a pre-litigation procedural requirement and a holistic reconciliation process that addresses the legal, emotional, social and religious aspects of marital conflict. The proposed model enables judges to keep their supervision on the mediation process after the judicial procedures, whereas the certified mediators ensure smooth communication between the disputing parties. In the meantime, *hakam* provides a family perspective by identifying the root of the conflict, improving communication between family members, and promoting reconciliation based on mutual trust and shared responsibility. This collaborative mechanism is an indication of the preventive orientation of the Islamic family law while adhering to the

procedural safeguards of the judicial system. In addition, the framework includes the objectives of *maqashid al-shariah* as a normative reference throughout the mediation process. Mediation is not only to resolve legal conflicts, but also to protect family integrity (*hifz al-nasl*), the well-being of spouses and children, and social cohesion in the long run. Consequently, mediation is interpreted as an integrated dispute resolution mechanism that balances legal certainty with substantive justice. The analysis suggests that the introduction of such an integrated mediation framework could make mediation more effective in Indonesia's Religious Courts by increasing family participation, improving communication between the disputing spouses and aligning judicial mediation with the normative principles of Islamic family law. Based on the findings of the legal analysis, the proposed integrated mediation framework developed in this study is illustrated in Figure 3. Although the proposed framework requires further empirical validation, it provides a conceptual foundation for future judicial reforms aimed at improving mediation practices in family dispute resolution.

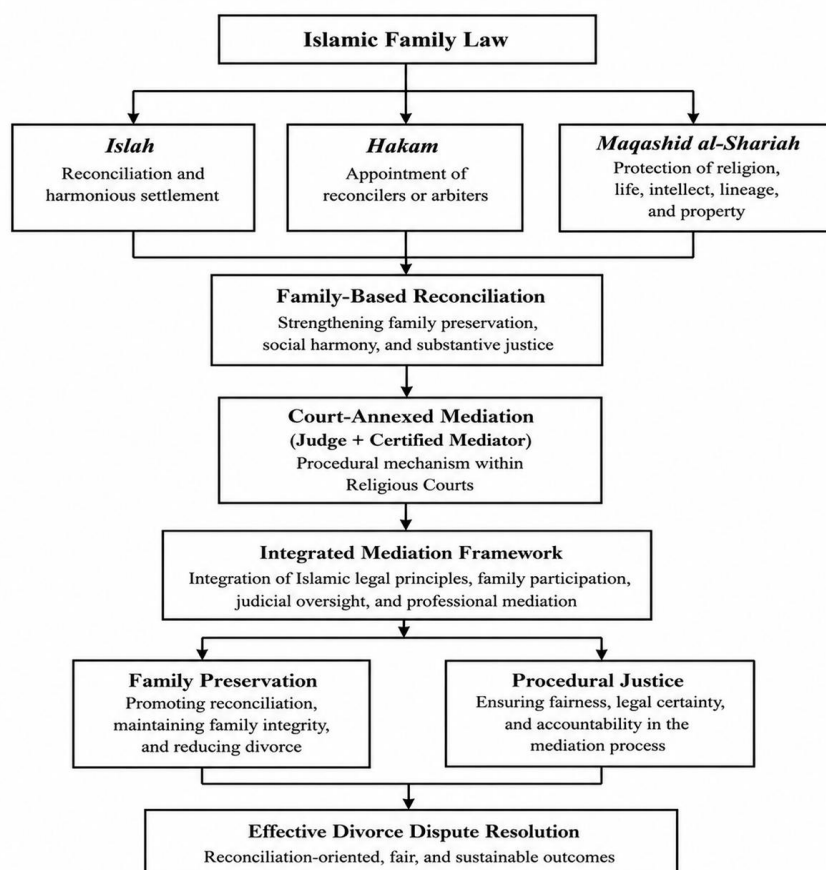


Figure 3 Proposed Integrated Mediation Framework

Figure 3 shows the proposed integrated mediation framework based on this study. This framework integrates the normative principles of Islamic family law i.e. *islah*, *hakam* and *maqashid al-shariah* with the procedural mechanisms of court-annexed mediation applied in the Religious Courts of Indonesia. These elements are supposed to synergize each other to

achieve family reconciliation rather than work independently, while maintaining procedural fairness throughout the mediation process. Instead of procedural mediation only, it offers a more holistic strategy to divorce dispute resolution by including family participation, judicial oversight and Islamic legal values. The main contribution of this study is the framework that it proposes, which is a conceptual model to connect Islamic legal principles and modern judicial mediation. The framework, although developed through normative legal analysis, has practical implications for policymakers, judges and mediators who seek to improve the effectiveness of mediation in Religious Courts. It is recommended that future empirical research is conducted to assess the implementation and effectiveness of the proposed framework in different judicial settings.

Discussion

The results of this research give important insight into the relationship between the principles of Islamic family law and contemporary court-annexed mediation in the Religious Courts in Indonesia. There have been many discussions on the implementation of court-annexed mediation or normative principles of *hakam* and *islah* in the previous studies but mostly in isolation. The present study contributes to the literature by integrating both perspectives into a single conceptual framework comprising procedural justice and Islamic family-based reconciliation. This integration helps to bridge the institutional divide identified in the legal analysis and provides a more holistic understanding of mediation in plural legal systems. The proposed Integrated Mediation Framework differs from previous studies in several important ways. The previous studies only discussed the procedural compliance of Supreme Court Regulation (PERMA) No. 1 of 2016 and the role of certified mediators in the process of judicial dispute resolution. However, studies based on Islamic family law have mostly been concerned with the normative functions of *hakam*, *islah* and *maqashid al-shariah* and have not been able to show how this principle can be systematically integrated into the present-day judicial mediation procedures. This study contributes to the previous studies by offering a more holistic approach to resolving divorce disputes by combining judicial supervision, professional mediation, family participation through *hakam*, and the objectives of *maqashid al-shariah* in one conceptual model. From a theoretical perspective, this study adds to the growing literature on alternative dispute resolution (ADR) by demonstrating that religious legal principles and formal judicial procedures need not be perceived as competing mechanisms but rather as complementary institutional arrangements. The proposed framework contributes to the existing mediation theory by demonstrating how reconciliation mechanisms embedded in culture can improve procedural justice without compromising judicial accountability. The study, therefore, contributes to the theoretical discourse on mediation by incorporating Islamic legal values in contemporary ADR scholarship.

The findings have also significant practical implications. For judges, the framework offers a conceptual foundation for bolstering reconciliation efforts and safeguarding procedural fairness across the mediation process. The framework encourages certified mediators to pay more attention to the social, cultural and religious aspects of marital disputes beyond procedural facilitation. Moreover, the framework can be a reference for policymakers to improve mediation policies, judicial guidelines, and mediator capacity-building programmes to improve the effectiveness of dispute resolution in Religious Courts. Although the present study is set specifically in the context of the Religious Court system in Indonesia, its conceptual implications go beyond the national context. Many jurisdictions with plural legal systems experience similar difficulties in reconciling formal judicial processes with religious or customary modes of dispute resolution. Hence, the proposed Integrated Mediation Framework could provide a valuable conceptual reference for subsequent comparative studies of mediation practices in other Muslim-majority countries or jurisdictions where religious norms still have an influence on family dispute resolution. Finally, the findings need to be interpreted in the methodological context of the research. Since this research is a normative legal study, the developed framework is conceptual and has not been empirically tested in real mediation practice. Therefore, future empirical and socio-legal studies are required to assess the implementation, effectiveness and institutional feasibility of the proposed framework in different Religious Courts and legal contexts.

Conclusions

This study demonstrates the underlying importance of mediation in Islamic family law to resolve marital conflicts through reconciliation, prior to divorce as the ultimate legal recourse. The normative legal analysis reaffirms the principles of *islah*, *hakam* and *maqashid al-shariah* as creating a comprehensive framework emphasizing family preservation, social harmony and substantive justice. Yet, the implementation of court-annexed mediation in Indonesia's Religious Courts as regulated under the Supreme Court Regulation (PERMA) No. 1 of 2016 has been largely procedural and has yet to fully integrate the family-oriented reconciliation model embedded in Islamic legal tradition. This institutional disconnect has contributed to the limited effectiveness of mediation in effecting a meaningful reconciliation between disputing spouses. The findings further show that the lack of any meaningful integration of Islamic family-based mediation into the formal judicial system of mediation represents an important institutional and normative gap. Court-annexed mediation provides procedural certainty through judicial oversight and certified mediators; however, it rarely takes into account the broader social, familial and religious dimensions of *hakam*. Mediation thus often only serves procedural ends but does not deliver on its promise to rescue marital relationships and prevent unnecessary divorces. The findings of this study contribute to the formulation of

the proposed Integrated Mediation Framework, which integrates the normative principles of Islamic family law with the procedural mechanisms of court annexed mediation. The proposed framework is intended to improve mediation by combining family involvement, Islamic legal values, judicial oversight, and professional mediation in a holistic model of dispute resolution. The framework constitutes the study's main theoretical contribution by bridging classical Islamic legal concepts with contemporary judicial practice, while providing practical implications for policymakers, judges, and certified mediators who seek to improve the effectiveness of divorce mediation in Indonesia's Religious Courts. This study proposes an Integrated Mediation Framework that connects the principles of *islah*, *hakam* and *maqashid al-shariah* to the mediation procedures that are currently implemented in the Religious Courts of Indonesia. Instead of considering these elements separately, the framework shows how they can be integrated within the same dispute resolution process, to facilitate reconciliation without abandoning judicial procedures. This perspective may assist judges, mediators and policymakers in thinking about future improvements to mediation practice. Even though this framework was developed from the Indonesian legal context, the issues discussed in this study are also applicable to other legal systems where religious values continue to dominate the resolution of family disputes. The study is limited by its reliance on normative legal analysis and documentary sources without empirical validation of mediation practices across different Religious Courts. Thus, future research is recommended to employ empirical or socio-legal approaches to evaluate the practical implementation, effectiveness and adaptability of the proposed Integrated Mediation Framework in diverse judicial settings. These studies would provide invaluable evidence to support future reforms in family dispute resolution and to further enhance the integration of Islamic legal principles into Indonesia's judicial mediation system.

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