

THE PRINCIPLE OF ISLAH IN THE MEDIATION OF DOMESTIC DISPUTES: A COMPARATIVE STUDY OF MEDIATION IN RELIGIOUS COURTS AND DISTRICT COURTS

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Abstract

This article discusses how the principle of islah is applied in domestic dispute mediation, comparing the practice of the Religious Court and the District Court. This study aims to analyze Islamic law's perspective on the concept of islah and how it is applied in mediation in both courts. The method used in this study is normative legal research, with an approach encompassing legislation, conceptual analysis, and comparative analysis. The results show that mediation in the Religious Court, both normatively and practically, applies the principle of islah, focusing on peace, welfare, and restoration of family relationships, using a religious and persuasive approach. Meanwhile, although the term islah is not explicitly mentioned in mediation in the District Court, the values of peace and justice are still implemented indirectly through mediation mechanisms based on positive law. This study concludes that the principle of islah is highly relevant for enriching the practice of domestic dispute mediation in Indonesia and can serve as a bridge to harmonize Islamic law and positive law.

Keywords: Islah, Mediation, Courts

INTRODUCTION

Domestic disputes represent a complex form of legal conflict that extends beyond juridical dimensions and significantly affects the psychological, social, and moral conditions of the individuals involved. In Indonesia, the increasing rate of divorce and family conflicts reflects that litigation alone is insufficient to resolve such disputes effectively. Instead, these conflicts require a more humane, conciliatory, and restorative approach that prioritizes peace and long-term relational harmony. Mediation, therefore, has emerged as a strategic instrument within the judicial system to facilitate dispute resolution in a manner that is peaceful, efficient, and equitable (Rahmadi, 2011; Amriani, 2012).

Within the framework of Islamic law, the concept of *islah* occupies a central role in conflict resolution, particularly in matters concerning family relations. Linguistically, *islah* refers to reconciliation, reform, and the elimination of discord, while terminologically it denotes efforts to restore harmony and improve relationships among disputing parties (Saidah, 2012). In the family context, *islah* is viewed as a vital mechanism to preserve balance, reduce fragmentation, and prevent the breakdown of marriage. The Qur'an strongly emphasizes the importance of reconciliation through dialogue and the involvement of impartial mediators when disputes arise between spouses, underscoring that peaceful settlement is preferable to prolonged conflict (Shihab, 2009).

Importantly, the principle of *islah* is not merely aimed at terminating disputes but also at rebuilding relationships based on justice, compassion, and moral responsibility. From the perspective of *fiqh* and *maqashid al-shariah*, *islah* is regarded as a primary objective in resolving family conflicts before resorting to definitive legal actions such as divorce. Classical Islamic scholars such as Al-Ghazali emphasize that reconciliation aligns with the broader objectives of Islamic law, particularly in safeguarding lineage and family dignity (Al-Ghazali, 2022). Likewise, Ibn Qayyim al-Jawziyyah asserts that the essence of Islamic law lies in achieving justice, mercy, and welfare, making reconciliation a preferred method in dispute resolution (Ibn Qayyim, 2007). Contemporary scholars such as Jasser Auda further interpret *islah* as a flexible instrument aimed at achieving holistic human welfare, including psychological and social well-being (Auda, 2022).

In line with these principles, the Indonesian legal system has formally incorporated mediation into judicial procedures through Supreme Court Regulation (Peraturan Mahkamah Agung) Number 1 of 2016 concerning mediation procedures in court. This regulation mandates mediation as a compulsory initial stage in civil dispute resolution, including domestic disputes, in both Religious Courts (Pengadilan Agama) and District Courts (Pengadilan Negeri). The primary objective of this policy is to promote amicable settlements and reduce the burden of litigation within the judiciary (Mahkamah Agung RI, 2016; Yahya, 2025). However, despite the uniform procedural framework, the implementation of mediation differs significantly between these two judicial institutions due to variations in normative foundations, approaches, and underlying values.

The Religious Courts, which adjudicate cases involving Muslim parties, inherently integrate Islamic values, including *islah*, into their mediation practices. Mediation in this setting tends to adopt a persuasive and religious approach, emphasizing moral guidance, reconciliation, and the preservation of family unity. Conversely, the District Courts operate within a secular legal framework and do not explicitly employ the concept of *islah*. Instead,

mediation in these courts is guided by general principles of neutrality, legal certainty, and procedural fairness, focusing primarily on achieving formal agreements between disputing parties (Harahap, 2021).

Previous studies on mediation in Indonesia have largely focused on specific aspects such as effectiveness, success rates, or the role of mediators within a single judicial institution. For instance, Karmawan (2020) examines mediation practices in Religious Courts but does not provide a comparative analysis with District Courts or position *islah* as a central analytical framework. Similarly, research by Salsabila and Saepullah (2022) emphasizes mediation as a tool for household reconciliation within Religious Courts, yet it remains limited in scope and does not explore broader comparative dimensions. Another study by Prawira (2025) analyzes the integration of *islah* in divorce mediation but is confined to a single institutional setting and lacks a comparative perspective between different court systems.

These existing studies indicate a significant research gap, particularly in positioning *islah* as a normative-substantive principle for evaluating and comparing mediation practices across different judicial environments. In fact, the differing normative foundations between Religious Courts and District Courts may substantially influence how deeply reconciliation values are internalized and practiced in resolving domestic disputes. Without a comprehensive comparative framework, the role of *islah* as a bridge between Islamic law and positive law remains underexplored.

Based on this gap, the novelty of this research lies in its comparative analysis of the application of *islah* principles in domestic dispute mediation within both Religious Courts and District Courts. By placing *islah* as the central evaluative framework, this study seeks to examine the alignment, differences, and implications of mediation practices as regulated under Supreme Court Regulation Number 1 of 2016. Furthermore, this research does not merely compare procedural aspects but also investigates the extent to which core values of reconciliation, public welfare (*maslahah*), and restoration of family relationships—integral elements of *islah*—are realized in contemporary judicial practice.

Ultimately, this study is expected to contribute academically and practically by offering a framework for harmonizing Islamic legal principles with Indonesia's positive legal system in resolving domestic disputes. Such harmonization is crucial in ensuring that dispute resolution mechanisms are not only legally valid but also just, humane, and oriented toward sustainable peace within family life.

REVIEW OF LITERATURE

In the development of studies on customer service and interpersonal communication, various studies have explored the complexity of the relationship between service quality and customer satisfaction in the context of the telecommunications industry. Rapid digital transformation has changed the paradigm of interaction between service providers and consumers, creating the need for a deeper understanding of the role of responsive empathy and interpersonal communication in shaping the customer experience.

RESEARCH METHOD

This study employs a normative and comparative legal research design, aiming to analyze and compare the application of the *islah* principle in the mediation of domestic disputes within the Religious Courts (Pengadilan Agama) and the District Courts (Pengadilan Negeri) in Indonesia. Normative legal research focuses on examining legal norms, principles, and doctrines as outlined in statutory regulations and authoritative legal sources, while the comparative approach is utilized to identify similarities and differences between two legal systems or institutional practices (Soekanto & Mamudji, 2022; Marzuki, 2021). Through this combined approach, the research seeks to provide a comprehensive understanding of how *islah* is conceptualized and implemented within different judicial frameworks.

The study adopts three main approaches: the statutory approach, the conceptual approach, and the comparative approach. The statutory approach is used to analyze positive law governing mediation in Indonesia, particularly Supreme Court Regulation Number 1 of 2016 concerning mediation procedures in court, as well as laws related to marriage and judicial authority. These regulations serve as the primary legal framework for mediation practices in both Religious and District Courts (Mahkamah Agung RI, 2016). The conceptual approach is employed to explore the theoretical and normative foundations of *islah* within Islamic law. This includes examining its basis in the Qur'an, Hadith, and the perspectives of classical and contemporary Islamic scholars, thereby providing a deeper understanding of *islah* as a principle of reconciliation and social harmony (Saidah, 2012; Auda, 2022).

Meanwhile, the comparative approach is used to systematically identify and evaluate the similarities and differences in the implementation of mediation in domestic disputes between the two court systems. This comparison covers both procedural aspects and the underlying values that shape mediation practices, including the extent to which reconciliation, justice, and family restoration are emphasized in each judicial environment.

The legal materials used in this research consist of primary and secondary sources. Primary legal materials include statutory regulations such as Law Number 1 of 1974 on Marriage as amended by Law Number 16 of 2019, as well as Supreme Court Regulation Number 1 of 2016. In addition, primary Islamic legal sources, including the Qur'an and Hadith related to *islah*, are also examined as foundational references. Secondary legal materials consist of fiqh literature, academic books, and previous research studies, as well as relevant journal articles discussing mediation and family dispute resolution (Ibrahim, 2022; Rahmadi, 2011). These sources are essential in supporting the analytical framework and providing scholarly perspectives on the issue.

Data collection in this study is conducted through library research, which involves systematically gathering and reviewing legal documents, scholarly books, and relevant academic publications. This method allows the researcher to obtain a comprehensive and in-depth understanding of both the legal framework and the conceptual dimensions of *islah* in mediation practices. The collected data are then organized and analyzed systematically to ensure coherence and relevance to the research objectives.

The analysis of legal materials is carried out using a normative qualitative method, which emphasizes legal reasoning and interpretation. In this process, legal norms, principles, and doctrines are interpreted and compared across the two judicial systems under study. The

analysis focuses on identifying how *islah* is positioned within mediation practices, whether explicitly or implicitly, and how it influences the outcomes of domestic dispute resolution.

Finally, the findings of this analysis are used to draw conclusions regarding the similarities, differences, and implications of the application of *islah* in mediation within Religious Courts and District Courts. This includes assessing the extent to which *islah* contributes to the harmonization between Islamic law and Indonesia's positive legal system, particularly in achieving fair, humane, and sustainable resolutions to domestic disputes.

RESULTS AND DISCUSSION

1. The Principle of *Islah* as a Normative Framework for Domestic Dispute Mediation

Islah in Islamic law is a concept that focuses on resolving problems peacefully to maintain the well-being of relationships between individuals, especially within families. Etymologically, the term *islah* means to repair, reconcile, and eliminate damage (Saidah, 2012). Terminologically, *islah* is an effort made to overcome damage and division among humans and improve their lives to create a safe, calm, and prosperous situation (Yusuf, 2014). Therefore, broadly in the Islamic context, the term *islah* can be understood as an activity aimed at changing a bad situation into a better one.

Modern Indonesian exegesis expert M Quraish Shihab in his work *Tafsir al-Misbah* discusses *islah* with reference to the following verses 9-10 of Surah al-Hujurat:

وَإِنْ طَائِفَتَانِ مِنَ الْمُؤْمِنِينَ اقْتَتَلُوا فَأَصْلِحُوا بَيْنَهُمَا فَإِنْ بَغَتْ إِحْدَاهُمَا عَلَى الْأُخْرَى فَقَاتِلُوا الَّتِي تَبْغِي حَتَّى تَفِيءَ إِلَى أَمْرِ اللَّهِ فَإِنَّ فَاءَ تِ فَأَصْلِحُوا بَيْنَهُمَا بِالْعَدْلِ وَأَقْسِطُوا إِنَّ اللَّهَ يُحِبُّ الْمُقْسِطِينَ

"If there are two groups of believers who are at odds, make peace between them. If one of the groups commits a violation against the other, fight the group that did the wrongdoing until they return to the provisions of Allah SWT. After the group returns to the provisions of Allah SWT, act fairly in reconciling the two parties. Be fair! Indeed, Allah loves those who act justly"

Understanding the essence of the message in the verse above shows that when two groups are in conflict, especially among believers, even over minor matters, the Quran still instructs them to reconcile. Furthermore, M. Quraish Shiab, in his *Tafsir al-Misbah*, explains that the phrase "*fa aslihu*" (reconciliation) means that believers should act immediately to bring about peace upon seeing signs of conflict.

Wahbah az-Zuhaili, an expert in tafsir (interpretation of the Quran), explains the term "*islah*" (reconciliation) in Surah al-Hujurat, verse 9, in the context of establishing peace. When two groups are in conflict, they need to be reconciled through advice and preaching. If they refuse, then the advice must be delivered firmly, and justice must be upheld in the reconciliation process.

Meanwhile, verse 10 of Surah al-Hujurat also emphasizes the importance of pursuing peace on the basis of the belief that Muslims are brothers.

إِنَّمَا الْمُؤْمِنُونَ إِخْوَةٌ فَأَصْلِحُوا بَيْنَ أَخَوَيْكُمْ وَاتَّقُوا اللَّهَ لَعَلَّكُمْ تُرْحَمُونَ

"Indeed, those who believe are bound together as brothers, therefore make peace between two brothers who are at odds and have piety to Allah SWT so that you may all be given mercy." (Tohir, Al-Qur'an Dan Terjemah).

The main message in this verse is to always strive to improve relationships between people. If a dispute arises, efforts to reconcile must be carried out fairly so that neither party feels disadvantaged. Therefore, the efforts to reconcile in this verse highlight the importance of building brotherly relationships. The goal is to reduce or even end conflict by recognizing that all Muslims are brothers.

In domestic matters, conflict often arises between husbands and wives who have differing views, which can lead to divorce. In the Quran, Surah An-Nisa, verse 35, it states:

وَأِنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَابْعَثُوا حَكَمًا مِّنْ أَهْلِهِ وَحَكَمَا مِّنْ أَهْلِهَا إِنْ يُرِيدَا إِصْلَاحًا يُوَفِّقِ اللَّهُ بَيْنَهُمَا إِنَّ اللَّهَ كَانَ عَلِيمًا خَبِيرًا

"If you (the guardians) are worried about a dispute between the two, send one peacemaker from the man's side and one from the woman's side. If they both desire reconciliation, Allah will surely guide them. Indeed, Allah is All-Knowing and All-Aware." (Tohir, Al-Qur'an Dan Terjemah).

Reconciliation here means making amends by bringing in a wise judge or peacemaker to resolve their problems peacefully. Ideally, this peacemaker should come from both the husband's and wife's families. In a marital dispute, reconciliation not only means ending the dispute but also serves as a step toward improving the marital relationship, thereby restoring the goals of marriage—peace (sakinah), love (mawaddah), and mercy (rahmah).

Classical and modern scholars have paid great attention to islah in resolving conflicts within the family. Al-Ghazali sees islah as part of efforts to maintain the objectives of the Shari'a, especially those that protect descendants and family honor (Ghazali, 2022). Ibn Qayyim al-Jawziyyah emphasized that the essence of Islamic law is to realize justice, goodness and compassion, so that every way to resolve disputes that leads to real peace is in accordance with the essence of the Shari'a (Jawziyyah, 2007). On the other hand, Wahbah al-Zuhaili explained that islah in domestic matters must prioritize a persuasive approach, dialogue and emotional justice rather than just fulfilling formal legal procedures (Zuhaili, 2011).

From the perspective of contemporary Islamic legal theory, islah is also understood as justice that focuses on restoring social and moral relations between parties in conflict. Jasser Auda describes islah as a flexible tool within the framework of sharia objectives aimed at overall human well-being, including the psychological and social aspects of the family (Auda, 2022). Therefore, when the principle of islah is used as a normative basis in domestic dispute mediation, mediation is seen not only as a formal legal procedure but also as a means of reconciliation or peacemaking aimed at maintaining family harmony, mitigating the impact of conflict, and achieving a just and sustainable resolution.

2. Domestic Dispute Mediation in the Indonesian Judicial System

In the current legal system, resolving disputes does not always require litigation in court. One increasingly popular option is mediation. Mediation has been recognized as a dispute resolution method officially incorporated into the Indonesian legal system. It aims to achieve effective, fair, and peace-focused resolutions. In domestic disputes, mediation plays a crucial role, as family issues involve not only legal aspects but also emotional, psychological, and social dimensions for all parties involved. Therefore, an approach that prioritizes dialogue and peacemaking is considered more appropriate than the confrontational litigation model.

The first official regulation of mediation in Indonesian law emerged through Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. Although this law focuses primarily on arbitration, Articles 6 through 12 also discuss alternative dispute resolution, including mediation as a voluntary mechanism that can be chosen by the parties before or during the trial (Yahya, 2025). The peak of attention to mediation in the Indonesian legal system occurred when the Supreme Court issued Supreme Court Regulation No. 2 of 2003, which was later amended to become Supreme Court Regulation No. 1 of 2008 and finally to Supreme Court Regulation No. 1 of 2016. This regulation emphasized that every civil case submitted to the court must first go through a mediation process. Thus, mediation is no longer merely an option but has become part of the mandatory procedure in the judicial process (Mariastuti, 2024).

In practice, mediation for domestic disputes is conducted in Religious Courts and District Courts, although these two institutions have different characteristics and powers. Religious Courts handle family cases for Muslim citizens, including divorce, child custody, and alimony. Meanwhile, District Courts handle general civil cases, including family disputes involving non-Muslims (Law No. 7 of 1989, Article 66). This difference in jurisdiction also influences the method of mediation, including aspects of values, resolution methods, and the mediator's role in peacemaking.

Procedurally, court mediation follows several predetermined steps, starting with the selection of a mediator, through the mediation meeting, and the drafting of a peace agreement if an agreement is reached between the parties. The mediator can be a mediating judge or another mediator certified by the Supreme Court. In domestic cases, the mediator is expected not only to understand the law but also to be sensitive to the psychological situation and emotional relationships of the parties to ensure a successful mediation.

3. Implementation of the Islah Principle in Mediation in Religious Courts

Religious Courts have a unique character in resolving domestic disputes because they operate in accordance with Islamic law and Indonesian positive law. In this regard, the *islah* principle provides a strong foundation for mediation. This is evident in the way family cases are resolved in Religious Courts, which prioritize efforts to reconcile couples and maintain the integrity of the household before issuing a divorce decree (Law No. 7 of 1989 in conjunction with Law No. 50 of 2009, Article 66). This effort aligns with the purpose of marriage in Islam, which emphasizes the importance of harmony within the family.

The application of the *islah* principle in mediation in Religious Courts is normatively supported by the judge's authority to create peace. In accordance with Islamic civil procedure law and Supreme Court Regulation No. 1 of 2016, the mediating judge in Religious Courts not only functions as a facilitator in the process but also plays a role in encouraging reconciliation through a persuasive approach and moral and religious values (PERMA No. 1 of 2016, Article 3). In practice, mediators often use religious advice, Islamic family values and considerations for the well-being of children and partners to defuse conflicts and create space for dialogue between the parties involved.

Furthermore, the principle of reconciliation in Religious Courts is implemented through an approach that focuses on restoring relationships, not simply reaching a formal agreement. Mediation aims to explore the root causes of domestic conflict, including economic, communication, and psychological aspects. Thus, the resulting solution not only resolves the problem legally but also seeks to improve the relationship between husband and

wife (Amriani, 2012). This approach demonstrates that reconciliation is understood deeply as a comprehensive process of improvement, not merely a temporary compromise.

The success of mediation can be seen, among other things, in the role of the mediator, who is determined to achieve a positive outcome, as well as their excellent skills and mastery of mediation techniques (Amriani, 2012). Therefore, the role of the mediator-judge is crucial in realizing this principle of reconciliation.

Mediation judges in Religious Courts actively employ approaches grounded in moral and religious values. The practice of providing religious advice, reminding families of their responsibilities, and considering the interests of children reflects the application of *islah* (reconciliation) as a substantive method. In this context, judges not only facilitate conversations but also encourage parties to ethically reflect on the conflicts they face. This demonstrates that mediation in Religious Courts has a more normative dimension than simply focusing on reaching a formal agreement.

However, the application of the *islah* principle in mediation in Religious Courts also encounters various obstacles. Mediated cases often fail due to various factors and backgrounds. For example, divorces arising from domestic violence are often unsuccessful. Furthermore, divorces caused by lack of love, the presence of a third party, and termination of employment have been successfully resolved through mediation, but most fail. The failure to apply the *islah* principle in the mediation process can also arise because the parties involved do not see the benefits of mediation and their strong determination to divorce is very strong. They tend to close themselves off and not express their problems clearly, prioritizing their own interests. This also applies to non-divorce cases, where they feel that going through a trial is the best way and feel embarrassed to compromise (Antasari, 2013).

From the perspective of the *maqasid sharia* (the principles of sharia), the application of the principle of *islah* in mediation in Religious Courts must be viewed in terms of protecting the soul (*hifz al-nafs*), descendants (*hifz al-nasl*), and human dignity (*hifz al-'ird*) (Auda, 2022). This means that peace efforts must be balanced, fair, and not sacrifice the safety and fundamental rights of each party. In this way, the application of *islah* in mediation in Religious Courts can function optimally as a tool for resolving family problems that is not only legally valid, but also just, humane, and in accordance with Islamic values.

4. Implementation of the *Islah* Principle in Mediation at the District Court

The term "*islah*" (reconciliation) is not specifically used in the application of mediation in District Courts. Mediation in District Courts is based on civil procedural law and Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts, which emphasizes peaceful, expeditious, and low-cost resolution of disputes (RI, Supreme Court, 2016). The principles of reconciliation applied are general and universal, not tied to any particular religious teaching. Therefore, the values consistent with *islah* emerge indirectly, not as the primary normative basis.

District Courts view mediation as an objective legal tool that focuses on the legal interests of the parties, such as the division of rights and obligations, the needs of children, and legal resolution of divorce cases. Therefore, in the context of District Courts, *islah* functions as a substantive peacemaking tool that is not associated with Islamic labels but still serves the same goal: to resolve disputes peacefully.

In carrying out their duties, mediators in District Courts carry out their duties in a more formal manner and follow procedures. Mediators function as neutral parties who help

maintain balance between all parties and encourage the achievement of an agreement (Amriani, 2012). Mediators do not provide advice regarding norms or morals, but instead seek to assist each party in identifying interests, explaining legal positions, and finding rational solutions (Harahap, 2021). This approach aligns with one aspect of reconciliation (islah), namely eliminating hostility and stopping conflict before it escalates to a more detrimental stage. In other words, even though the term "islah" is not used, mediation practices in the District Court still reflect the spirit of peace and the prevention of social harm.

In domestic cases, mediation in the District Court typically focuses on resolving legal issues arising from the conflict, such as the division of joint property, alimony arrangements, and child custody. Mediators encourage parties to consider the long-term impact of the conflict, especially on children. This approach aligns with the principle of reconciliation, particularly in protecting the interests of children, who are the most vulnerable parties in family disputes.

Furthermore, mediation practices in the District Court tend to focus on resolution, emphasizing the achievement of a written agreement that can be formalized in a deed of reconciliation. The success of mediation is measured quantitatively by the existence or absence of an agreement, rather than by improvements in the quality of the relationship between the parties (Rahmadi, 2011). In the context of reconciliation (islah), this approach may be considered to not fully reflect the meaning of comprehensive improvement, as reconciliation focuses not only on ending the dispute but also on improving the relationships and social conditions of the parties after the dispute is resolved.

The limitations of applying the reconciliation principle to mediation in the District Court become apparent when the parties approach with a highly confrontational attitude. In many cases, the parties view mediation merely as a formal step to be completed before their case is heard in litigation. This results in limited dialogue and mediation losing its transformative function. This situation demonstrates that without values that encourage moral reflection and responsibility between the parties, mediation tends to become merely a pragmatic compromise.

Nevertheless, mediation practice in the District Court has the potential to develop in a direction more in line with the reconciliation principle. Strengthening the mediator's role in exploring the parties' fundamental interests, improving understanding of the psychological aspects of family conflict, and prioritizing the best interests of children could be initial steps towards substantively integrating the values of reconciliation (islah). With this approach, mediation in the District Court not only functions as a formal dispute resolution tool, but also as a means to create just and sustainable peace.

5. Comparative Analysis of the Application of the Islah Principle in Mediation

This comparative analysis reveals that the application of the principle of islah in mediation in Religious Courts and District Courts shows significant differences, both in terms of the normative basis, mediation methods, and the desired objectives. These differences directly impact the effectiveness of mediation in resolving domestic conflicts, which are rich in emotional, psychological, and social elements.

In terms of normative basis, Religious Courts consider islah an inherent value in resolving domestic disputes. This principle stems from Islamic teachings, which establish peace and relationship improvement as the primary goals in resolving family conflicts. In practice, although the principle of islah is not always mentioned in official regulations, it

emerges through religious advice, a moral approach, and a focus on the unity and integrity of the household. In contrast, District Courts do not recognize the principle of *islah* as a normative concept but instead conduct mediation based on neutral civil procedural law. In this case, the goal of peace exists as a general objective of mediation without any connection to a specific ethical or theological framework.

A further difference is evident in the mediation methods used. Mediation in Religious Courts tends to be more oriented and focused on restoring the relationship between husband and wife. The mediator judge not only facilitates discussion but also plays an active role in encouraging reflection and reconciliation as a comprehensive process of repairing damaged relationships (Auda, 2022). Meanwhile, mediation in the District Court is more resolution-oriented, with the primary focus being reaching a written agreement that can formally end the dispute. The success of mediation is measured by the achievement of a legal agreement, not by the quality of the post-mediation relationship (Rahmadi, 2011).

From the perspective of the mediator's role, mediator judges in the Religious Courts have greater flexibility to incorporate moral and religious values during the mediation process. This provides the mediator with the opportunity to address the emotional and spiritual aspects of the parties, which are often the source of conflict in marriages. In contrast, mediators in the District Court are bound by the principle of strict neutrality and tend to avoid normative intervention. As a result, mediation in the District Court provides less opportunity for in-depth reflection, although it remains effective in resolving existing legal issues (Amriani, 2012).

Furthermore, this analysis also reveals similarities between the Religious Courts and the District Courts regarding the application of values consistent with the principle of *islah*. Both consider mediation as a peaceful dispute resolution method and encourage the parties involved to avoid protracted conflict. Furthermore, consideration of the best interests of children is crucial in mediation in both types of courts. From an *islah* perspective, this aspect reflects a focus on the common good and preventing greater harm (Solum, 2010).

However, the application of the *islah* principle in Religious Courts faces several limitations. Not all domestic conflicts are suitable for reconciliation, particularly in cases involving violence or injustice in relationships. In such circumstances, an *islah* approach that places too much emphasis on reconciliation can risk neglecting justice for more vulnerable parties. On the other hand, although District Courts do not apply *islah* normatively, their approach can provide stronger legal protection in certain cases. This suggests that the effectiveness of mediation depends not only on the normative values applied but also on sensitivity to the context and characteristics of the dispute at hand (Maharona, 2020). This comparative analysis demonstrates that the *islah* principle has advantages as a normative framework in domestic dispute mediation, particularly in promoting relationship restoration and sustainable peace. However, reconciliation needs to be integrated proportionally and contextually so that it does not conflict with the principles of justice and protection of rights.

CONCLUSION

This study concludes that the principle of *islah* (reconciliation) is crucial in resolving domestic disputes through mediation, particularly in practice in Religious Courts, where the primary goal is to create peace and improve family relationships. In Religious Courts, mediation is conducted with an approach that prioritizes morals and religious values. This

enables the mediator judge to promote peace more deeply. In contrast, mediation in District Courts is conducted based on neutral civil procedural law and focuses more on reaching a formal agreement. Although the term *islah* is not explicitly used in District Courts, the principles of peace and goodness remain implicit in mediation practices. The comparative results indicate that the principle of *islah* can strengthen the effectiveness of mediation in domestic disputes. However, it is important to apply it proportionally and contextually to ensure that substantive justice and protection for the weaker party are not neglected.

REFERENCES

- Al-Ghazali. *Al-Mustasfā Min 'Ilm Al-Uṣul*. Beirut: Dar al-Kutub al-Ilmiyyah, 2022.
- Al-Jawziyyah, Ibn Qayyim. *I'lam Al-Muwaqqi 'in 'an Rabb Al-'Ālamin, Vol. 3*. Beirut: Dar al-Kutub al-Ilmiyyah, 2007.
- Ali, Zainuddin. *Metode Penelitian Hukum*. Jakarta: Sinar Grafika, 2022.
- Amriani, Nurnaningsih. *Mediasi: Alternatif Penyelesaian Sengketa Perdata Di Pengadilan*. Jakarta: Raja Grafindo Persada, 2012.
- Antasari, Rina. "Pelaksanaan Mediasi Dalam Sistem Peradilan Agama (Kajian Implementasi Mediasi Dalam Penyelesaian Perkara Di Pengadilan Agama Kelas I A Palembang)." *Jurnal Intizar* 19, no. 1 (2013): 156–57.
- Auda, Jasser. *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*. London: IIIT, 2022.
- Az-Zuhaili, Wahbah. *Al-Fiqh Al-Islami Wa Adillatuh, Jilid 7, Terj.* Jakarta: Gema Insani, 2022.
- . *Al-Fiqh Al-Islami Wa Adillatuh, Jilid 9*. Damaskus: Dar Al-Fikr, 2021.
- . *Al-Fiqh Al-Islami Wa Adillatuh, Jilid VII*. Jakarta: Gema Insani, 2011.
- Harahap, M. Yahya. *Hukum Acara Perdata*. Jakarta: Sinar Grafika, 2021.
- Ibrahim, Johnny. *Teori Dan Metodologi Penelitian Hukum Normatif*. Malang: Bayumedia, 2022.
- Karmawan. "Mediation in The Religious Courts of Indonesia." *Ahkam* 20, no. 1 (2020): 79–96.
- Maharona. "Kekerasan Dalam Rumah Tangga Dan Upaya Upaya KUA Mengatasinya (Studi Di Kecamatan Kota Padang)." IAIN Curup, 2020.
- Mariastuti, Windi. "Pelaksanaan Peraturan Mahkamah Agung Nomor 3 Tahun 2022 Tentang Mediasi Di Pengadilan Secara Elektronik Dalam Perspektif Hukum Islam (Studi Di Pengadilan Agama Sarolangun Provinsi Jambi)." Universitas Islam Indonesia, 2024.
- Marzuki, Peter Mahmud. *Penelitian Hukum*. Jakarta: Kencana, 2021.
- Perma No. 1 Tahun 2016 tentang Prosedur Mediasi di Pengadilan (n.d.).
- Prawira, Decia Rahmadini. "Mediasi Dalam Perspektif Islah: Upaya Preventif Penyelesaian Sengketa Rumah Tangga Di Pengadilan Agama." *Causa: Jurnal Hukum Dan Kewarganegaraan* 13, no. 10 (2025): 1–11.
- Rahmadi, Takdir. *Mediasi: Penyelesaian Sengketa Melalui Pendekatan Mufakat*. Jakarta: Raja Grafindo Persada, 2011.
- Republik Indonesia. *Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan Jo. Undang-Undang Nomor 16 Tahun 2019, Pasal 41*.
- RI, Mahkamah Agung. *Peraturan Mahkamah Agung Nomor 1 Tahun 2016 Tentang Prosedur Mediasi Di Pengadilan*. Jakarta: MA RI, 2016.

- . PERMA Nomor 1 Tahun 2016 tentang Prosedur Mediasi di Pengadilan, Pasal 1 ayat (1).
- Saidah. “Konsep Ishlah Dalam Hukum Islam (Perspektif Tafsir Maudhu’iy).” *Jurnal Hukum Diktum* 10, no. 2 (2012): 121.
- Salsabila, Naila, and Usep Saepullah. “Peran Mediasi Dalam Upaya Rekonsiliasi Rumah Tangga Pada Pengadilan Agama Cianjur.” *El-Usrah: Jurnal Hukum Keluarga* 5, no. 2 (2022): 388–97.
- Shihab, M. Quraish. *Tafsir Al-Mishbah; Pesan, Kesan, Dan Keserasian Al-Qur’an, Cet. II*. Jakarta: Lentera Hati, 2009.
- Sidharta, Bernard Arief. *Refleksi Tentang Struktur Ilmu Hukum*. Bandung: Mandar Maju, 2009.
- Soekanto, Soerjono, and Sri Mamudji. *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Jakarta: Rajawali Pers, 2022.
- Solum, Lawrence B. “Procedural Justice and the Rule of Law.” *Harvard Law Review* 123, no. 6 (2010): 1812–15.
- Tohir, Muhammad Shohib. *Al-Qur’an Dan Terjemah*. Jakarta: PT Pustaka Jaya Ilmu, 2012.
- Undang-Undang Nomor 7 Tahun 1989 tentang Peradilan Agama sebagaimana diubah dengan Undang-Undang Nomor 3 Tahun 2006 dan Undang-Undang Nomor 50 Tahun 2009. (n.d.).
- Undang-Undang Nomor 7 Tahun 1989 Tentang Peradilan Agama Sebagaimana Telah Diubah Dengan UU No. 3 Tahun 2006 Dan UU No. 50 Tahun 2009, Pasal 66*, n.d.
- Yahya, Ahmad Septian. “Pengaturan Hukum Terhadap Praktik Mediasi Dalam Penyelesaian Sengketa.” *Jurnal Hukum Caraka Justitia* 5, no. 1 (2025): 111.
- Yusuf, Choirul Fuad. *Kamus Istilah Keagamaan*. Jakarta: Puslitbang Lektur, 2014.
- Zuhaili, Wahbah. *Tafsir Munir Fi Aqidah Wa Syar’iyati Wal Manhaj*. Beirut: Dar Al-Fikr.