

The Implementation of Maqāṣid Al-Syarī'ah by Mediator Judges in Divorce Mediation at the Watampone Religious Court Class 1A

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DOI: [10.21154/syakhsiyyah.v5i2.7082](https://doi.org/10.21154/syakhsiyyah.v5i2.7082)

Submitted: 15 Juni, 2025; Revised: 18 November 2025; Accepted: 23 November, 2025

Abstract: This research aims to analyze the application of the principles of maqāṣid al-syarī'ah by mediator judges in the mediation process of divorce cases at the Class 1A Watampone Religious Court. The principles that make the application of the five basic maqāṣid al-syarī'ah (ḥifẓ al-dīn, ḥifẓ al-nafs, ḥifẓ al-'aql, ḥifẓ al-nasl, and ḥifẓ al-māl) internalized in the mediation strategy and approach by the mediator judge to maintain the integrity of the household and prevent divorce. This research uses a qualitative approach with a field study design. Data was collected through interviews, observation and documentation, then analyzed using Miles and Huberman's interactive model. The results of the study indicate that although mediation has great potential in reducing divorce rates, its effectiveness is highly dependent on the competence of the mediator judge and the emotional readiness of the parties. The principle of maqāṣid al-syarī'ah is used by the mediator judge as a value-oriented mediation approach from the beginning of the mediation process until the divorce trial process becomes a reflection to avoid harm, promote peace and consider the socio-spiritual impact on children. However, the effectiveness of conflict resolution still requires institutional support and ongoing training for mediators. Therefore, this study recommends strengthening the capacity of mediator judges through contextual and solution-based maqāṣid training to create a more beneficial and long-term oriented mediation approach.

Keywords: *Maqāṣid al-Sharī'ah; Mediator Judges; Divorce Mediation; Religious Court of Watampone*

Abstrak: Penelitian ini bertujuan untuk menganalisis penerapan prinsip *maqāṣid al-syarī'ah* oleh hakim mediator dalam proses mediasi perkara perceraian di Pengadilan Agama Watampone Kelas 1A. Prinsip yang menjadikan penerapan lima dasar *maqāṣid al-syarī'ah* (ḥifẓ al-dīn, ḥifẓ al-nafs, ḥifẓ al-'aql, ḥifẓ al-nasl, dan ḥifẓ al-māl) diinternalisasi dalam strategi dan pendekatan mediasi oleh hakim mediator untuk menjaga keutuhan rumah tangga dan mencegah perceraian. Penelitian ini menggunakan pendekatan kualitatif dengan desain studi lapangan. Data dikumpulkan melalui wawancara, observasi, dan dokumentasi, kemudian dianalisis menggunakan model interaktif Miles dan Huberman. Hasil penelitian menunjukkan bahwa meskipun mediasi memiliki potensi besar dalam menekan angka perceraian, efektivitasnya sangat bergantung pada kompetensi hakim mediator serta kesiapan emosional para pihak yang berperkara. Prinsip *maqāṣid al-syarī'ah* digunakan hakim mediator sebagai pendekatan dakwah sejak awal pelaksanaan mediasi hingga proses persidangan perceraian menjadi bekas renungan untuk menghindari mudarat, mendorong perdamaian dan mempertimbangkan dampak sosial-spiritual terhadap anak. Namun demikian, efektivitas penyelesaian konflik masih membutuhkan dukungan kelembagaan dan

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pelatihan berkelanjutan bagi para mediator. Oleh karena itu, penelitian ini merekomendasikan penguatan kapasitas hakim mediator melalui pelatihan berbasis *maqāṣid* yang kontekstual dan solutif untuk menciptakan pendekatan mediasi yang lebih maslahat dan berorientasi jangka panjang.

Kata Kunci: *Maqāṣid al-Syarī'ah; Hakim Mediator; Mediasi Perceraian; Pengadilan Agama Watampone Kelas 1A*

INTRUDUCTION

Marriage in Islam is a sacred bond that is not only physical but also spiritual and social. The main purpose of marriage is to form a family that is sakinah, mawaddah wa rahmah, a place of refuge, and a center of emotional and spiritual education for children.¹ When marriages face conflict, the resolution is not only seen as a legal matter, but also as a moral and social welfare issue.² Therefore, Islam provides guidelines not only for establishing a household, but also for maintaining and caring for it so that it does not easily end in divorce. In this context, divorce is not the primary solution, but rather a last resort after various attempts at reconciliation have been made.

However, social reality shows that domestic conflicts are often unavoidable and lead to divorce. At the Watampone Class 1A Religious Court, divorce cases remain very high. Data for the 2021-2024 period shows that the number of divorce lawsuits is consistently higher than divorce by repudiation. In 2021, there were 903 divorce cases, increasing to 971 in 2022, despite a decline to 908 in 2023 and 625 in 2024, these figures still show the dominance of divorce cases.³ This phenomenon indicates a failure to maintain family ties, which should be a serious concern for all parties, including judicial institutions.

Mediation efforts as a mechanism for peaceful conflict resolution have been mandated by Supreme Court Regulation (PERMA) Number 1 of 2016, and should be the main avenue for further consideration of divorce. The family conflict resolution mechanism is expected to narrow the path to divorce and expand the peace process through mediation at the Watampone Religious Court. Mediation is a peaceful process conducted through negotiations between the two parties in dispute with the assistance of a neutral and professional mediator, and provides reflection for the parties after divorce mediation.

However, in practice at the Watampone Religious Court, mediation has not achieved optimal results. The number of mediations fluctuated from 43 cases in 2021 to 29 in 2024, with only about 13 cases out of dozens of mediated cases being successful.⁴ This figure shows that mediation is still very ineffective in preventing divorce. This calls for an in-depth analysis of the substantive obstacles in the mediation process, including the competence of mediator judges and the emotional readiness of the parties.

¹ A. Octamaya Tenri Awaru, *Sosiologi Keluarga, Definitions* (Jawa Barat: Media Sains Indonesia, 2020),. 4-5

² A. Kumedi Ja'far, *Hukum Perkawinan Islam Di Indonesia* (Bandar Lampung: Arjasa Pratama, 2021). 57

³ Hayad Jusa, S.Ag., Panitera Muda Hukum, Wawancara Observasi oleh Penulis di Pengadilan Agama Watampone Kelas I A, 10 Desember 2024 dan berdasarkan hasil penelusuran halaman website Pengadilan Agama Watampone Kelas 1A. <https://sipp.pa-watampone.go.id/>

⁴ Hayad Jusa, S.Ag., Panitera Muda Hukum, Wawancara Observasi oleh Penulis di Pengadilan Agama Watampone Kelas I A, 10 Desember 2024 dan berdasarkan hasil penelusuran halaman website Pengadilan Agama Watampone Kelas 1A <https://sipp.pa-watampone.go.id/>

In such circumstances, mediating judges must possess progressive, strategic, and creative competencies, acting not only as legal facilitators but also as moral advisors who encourage the search for common ground for peace.⁵ However, husbands or wives often insist on continuing with the divorce even after mediation has been attempted. In many cases, the mediation approach is still procedural and merely a formality, failing to touch on the substantial aspects that touch the conscience and religious values of the parties involved. Therefore, the implementation of mediation in religious courts often faces obstacles, both in terms of procedure, mediator competence, and the emotional readiness of the parties. Thus, a more comprehensive approach is needed in the implementation of mediation, especially with the maqāṣid al-syarī'ah approach.

Maqāṣid al-syarī'ah as a theory of Islamic legal objectives offers a normative and ethical foundation for understanding legal policy, including in the context of family conflict resolution.⁶ The five main principles of maqāṣid, namely protecting religion (ḥifẓ al-dīn), life (ḥifẓ al-nafs), intellect (ḥifẓ al-'aql), lineage (ḥifẓ al-nasl), and wealth (ḥifẓ al-māl), are relevant in interpreting the role of mediators in building peace and protecting family rights.⁷ In the context of divorce, this principle is highly relevant because divorce affects not only the couple, but also the children, property, and emotional stability.⁸ Mediators who understand and apply maqāṣid in mediation can encourage settlements that are not only legally fair, but also socially and spiritually beneficial. Maqāṣid can be used as a framework for considering the comprehensive impact of divorce, not merely the legal and formal aspects. Thus, maqāṣid-based mediation is not only a means of peace, but also a form of legal da'wah.

The significance of this research lies not only at the theoretical level in the development of the discourse on maqāṣid al-syarī'ah, but also at the practical level, namely in improving the effectiveness of mediation at the Watampone Class 1A Religious Court. This research is also important for enriching the literature on contemporary Islamic family law, particularly in Indonesia, where there is currently a lack of interdisciplinary studies between maqāṣid and religious courts. Furthermore, by using the Watampone Religious Court as a case study, this research can serve as a model for the application of maqāṣid in mediation in other regions. Therefore, this research occupies a strategic position both academically and in terms of legal policy.

A review of the literature shows that most previous studies on divorce mediation have focused on the legal-formal or technical procedural aspects of mediation, without elaborating on the maqāṣid values approach.⁹ Studies have discussed the role of judges as mediators, but have not yet reviewed in depth how maqāṣid values are internalized

⁵ Mahkamah Agung RI, *Buku Tanya Dan Jawab Peraturan Mahkamah Agung RI No. 01 Tahun 2008 Tentang Pelaksanaan Mediasi Di Pengadilan*, n.d.

⁶ HM. Yakub, "Dakwah Mediasi: Perspektif Sejarah Islam," *Dakwah: Kajian Dakwah Dan Komunikasi* Vol. 21, no. 1 (2017): 22.

⁷ Muhammad Syukri Albani Nasution dkk, *Filsafat Hukum & Maqashid Syariah* (Medan: Kencana Media Group, 2022).42

⁸ N Hidayati, "Pendekatan Maqāṣid Al-Sharī'ah Dalam Penyelesaian Perkara Perceraian Melalui Mediasi Di Pengadilan Agama," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 12, no. 1 (2019): 91-108, <https://ejournal.uin-malang.ac.id/index.php/al-ahwal/article/download/7630/4921>.

⁹ Wahyu Alwi Jaya, "Peran Hakim Mediator Dalam Penyelesaian Perkara Perceraian Di Pengadilan Agama Nomor 1 Tahun 2016," *Jurnal Ilmu Hukum Pengayoman* 1, no. April (2023).

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in practice.¹⁰ Thus, this study fills a gap in the literature with an integrative approach between maqāṣid and divorce mediation. This study also utilizes primary sources such as PERMA Number 1 of 2016 and classical maqāṣid literature, as well as the results of observations and direct interviews.

A study of the practices of mediator judges at the Watampone Class 1A Religious Court shows that most mediators have not fully integrated the principles of maqāṣid al-syarī'ah into the mediation process. This indicates a gap between the principles of Islamic law, which are beneficial, and their implementation in judicial institutions. The approach of da'wah or Islamic values has not become an integral part of the persuasion process in mediation. Therefore, this study is important to explore further the extent to which maqāṣid is applied by mediator judges and its impact on the success of divorce mediation.

The purpose of this study is to analyze the implementation of mediation at the Watampone Religious Court and to analyze the implementation of the principles of maqāṣid al-syarī'ah by mediator judges in handling divorce mediation cases at the Watampone Religious Court Class 1A. In addition, this study also aims to evaluate the challenges and obstacles faced by mediator judges in applying maqāṣid, as well as to formulate a more integrative approach between mediation regulations and the values of maqāṣid al-syarī'ah. It is hoped that the results of this study can contribute to strengthening the capacity of mediator judges in resolving divorce cases with a maslahat and sustainable approach.

From a methodological perspective, this study uses a qualitative approach with field study methods.¹¹ Data was collected through in-depth interviews with mediator judges, observation of the mediation process, and case document review. Data was analyzed using Miles and Huberman's interactive approach, which consists of data reduction, data presentation, and conclusion drawing.¹² Triangulation techniques were used to test the validity of the data by comparing the results of interviews, observations, and documentation.¹³ The selection of this method allowed researchers to understand mediation practices holistically and contextually, as well as to assess the validity and relevance of the application of maqāṣid. Therefore, it is necessary to integrate a practical understanding of maqāṣid for mediator judges so that they can respond more contextually to the dynamics of divorce in society. This study provides a basis for the development of more beneficial and adaptive guidelines for Sharia mediation practices. Based on the above description, this study attempts to answer two main questions, namely: first, how divorce mediation is carried out at the Watampone Class 1A Religious Court, and second, how maqāṣid al-syarī'ah is implemented by mediator judges in the divorce mediation process. Thus, the following discussion of divorce

¹⁰ Nurholik, ""Mediasi Pada Perkara Perceraian Di Pengadilan Agama Curup Ditinjau Dari Perspektif Metode, Strategi Dan Prinsip Syariah", "Tesis Program Studi Hukum Keluarga Islam (Ahwal Asy-Syakhsyah) Program Pascasarjana Institut Agama Islam Negeri (Iain) Curup Tahun 2018/2019, 2019., 2019.

¹¹ Rahmadi, *Pengantar Metodologi Penelitian* (Banjarmasin: Antasari Press, 2011). 59

¹² Nur Solikin, *Pengantar Metodologi Penelitian Hukum* (Jawa Timur: Qiara Media, 2021).134-135

¹³ Faisar Ananda Arfa Watni Marpaung, "Metodologi Penelitian Hukum Islam" (Jakarta 13220: Prenadamedia Group, 2016).206

mediation can serve as an in-depth scientific study of the strategy and evaluation of implementing the principle of *maslahat*, the objective of Islamic religious law.

DISCUSSION

Implementation of Mediation in Divorce Cases at the Watampone Class 1A Religious Court

In Indonesian legal practice, divorce for Muslims can only be carried out through a decision by the Religious Court, as stipulated in Law Number 1 of 1974 and the Compilation of Islamic Law (KHI). A divorce suit can be filed by either the wife (Divorce by Petition) or the husband (*cerai talak*), and must first go through a mediation process. This is intended to provide an opportunity for reconciliation throughout the divorce process before the divorce is finally granted.

The implementation of mediation at the Watampone Class 1A Religious Court is divided into several stages based on the provisions of the mediation implementation guidelines, namely PERMA Number 1 of 2016 concerning Mediation Procedures in Court. The stages of implementation begin with pre-mediation, the mediation process, and the results of mediation.¹⁴ As a form of maximum and appropriate mediation efforts based on the principles of mediation as stated by Tolkah in his book entitled *Mediation in Indonesian Courts*, namely confidentiality, voluntariness, empowerment, and neutrality. This can open up access to satisfactory and fair resolutions.¹⁵

According to Tolkah, dispute resolution (mediation) is carried out through negotiations involving a third party, a “mediator” or “intermediary” who is neutral (non-interventionist) and impartial towards the disputing parties. The mediator's role is to act as an intermediary, helping the disputing parties to find solutions to their problems and to leave the decision on a mutual agreement in the hands of the parties involved, not the mediator.¹⁶ Mediators have performed their function as mediators in handling divorce cases, but they still face challenges in terms of comprehensiveness.

Based on in-depth interviews, it was found that a major factor in the failure of mediation was that most couples came to the mediation room with a closed mind to reconciliation.¹⁷ They have no intention of reconciling, even considering mediation as an administrative formality before the trial continues. This is due to various factors as conflicts commonly occur in the Watampone Class 1A Religious Court, such as emotional disappointment (infidelity), domestic violence, family pressure, and frequent third-party interference. In such circumstances, mediation in many cases only takes place once or twice without any results, due to the lack of a persuasive approach that can touch on the spiritual and emotional aspects of the parties involved. Thus, mediators, most of whom are active judges, tend to conduct mediation procedurally, without more specific approaches based on religious values and more in-depth conflict management. Efforts to reconcile married couples are often hampered by the

¹⁴ Hayad Jusa, S.Ag. Panitera Hukum, Wawancara oleh Penulis di Pengadilan Agama Watampone Kelas I A, 14 April 2025

¹⁵ Tolkah, *Mediasi Peradilan Di Indonesia* (Semarang: Alinea, 2024). h.11

¹⁶ Tolkah. h.10-11

¹⁷ Hayad Jusa, S.Ag., Panitera Muda Hukum, Wawancara oleh Penulis di Pengadilan Agama Watampone Kelas I A, 26 Maret 2025

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stubbornness of the parties, deep emotional disappointment, and a lack of psychological readiness. This reinforces the finding that the dominance of divorce cases indicates a shift in control over divorce decisions to women, along with increasing legal awareness and independence among women.

Table 1. Watampone Religious Court Class 1A Case Tracking Report for 2021-2024¹⁸

No	Data Type	2021	2022	2023	2024
1	Divorce by Petition	903	971	908	625
2	Divorce by Talak	249	230	224	146
3	Total Divorces	1.152	1.201	1.132	771

Based on the data in Table 1 of the Watampone Class 1A Religious Court, in the period 2021-2024, the number of divorce cases showed a very significant increase, with thousands of cases each year. In 2024, the number of divorces approached thousands, and there were still a number of cases that were still in the process of being resolved. From all of this data, it appears that contested divorce cases dominate over uncontested divorce cases, indicating that the divorce rate in the jurisdiction of the Watampone Religious Court is still relatively high. This also reflects the increasing dynamics and complexity of domestic issues in society and the need for attention to be paid to the divorce mediation process.

Table 2. Report on Data Search for Mediation at the Watampone Religious Court Class 1A for the Years 2021-2024¹⁹

No	Types of Mediation	2021	2022	2023	2024
1	Mediation Application	43	48	56	29
2	Mediation Successful	2	3	7	1
3	Mediation Unsuccessful	1	-	-	-
4	Mediation Partially Successful	1	-	-	-

Meanwhile, mediation at the Watampone Class 1A Religious Court shows that the number of mediation requests involving divorce is very disproportionate. During the same period, the number of mediation requests ranged from only 29 to 56 cases per year, and the number of successful mediations was very low, at only 2 to 7 cases per year. Thus, it can be concluded that the success rate of mediation is less than 10% of the number of requests, and only about 0.1% of the total number of divorce cases per year.

Based on the two tables above, the existence of mediation has not been sufficient to impact the high divorce rate. In Mr. Hasad Yusa's interview on the field, he acknowledged that mediation data was not collected in several divorce cases due to certain legally valid conditions, including the absence of one party and the bad faith of the parties toward mediation, which did not change their intention to divorce.

¹⁸ Pengadilan Agama Watampone Kelas I A, "Struktur Organisasi Pengadilan Agama Watampone", dalam <https://sipp.pa-watampone.go.id/> 15 April 2025

¹⁹ Pengadilan Agama Watampone Kelas I A, "Struktur Organisasi Pengadilan Agama Watampone", dalam <https://sipp.pa-watampone.go.id/> 15 April 2025

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Additionally, mediation is also conducted by non-judge (independent) mediators, so mediation is considered sufficient to proceed to the judicial case resolution stage.

Mediation procedures to bridge the prevention of hasty or emotionally driven divorces by the parties. The mediator judge is the main benchmark for the success of divorce mediation. The mediator was also present to be part of the problem, experiencing both sides' positions.

Table 3. Data on Successful Mediation Results by Judge Mediators

No	Mediator's Name	Date of Implementation	Case Type	Case Number
1	Hadrawati, S.Ag., M.HI	10 Oktober 2023	Divorce by Petition	1025/Pdt.G/2023/PA.Wtp
2	Dra. Hj. Sitti Amirah	22 Februari 2024	Divorce by Petition	130/Pdt.G/2024/PA.Wtp
3		22 Desember 2021	Divorce by Petition	1252/Pdt.G/2021/PA.Wtp
4	Drs. H. Idris, M.H.I	27 Desember 2023	Divorce by Petition	1168/Pdt.G/2023/PA.Wtp
5		8 Februari 2023	Divorce by Petition	118/Pdt.G/2023/PA.Wtp
6	Drs. M. Yunus K., S.H., M.H.	19 Desember 2023	Divorce by Petition	1162/Pdt.G/2023/PA.Wtp
7		5 Desember 2023	Divorce by Petition	1149/Pdt.G/2023/PA.Wtp
8	Drs. Dasri Akil, S.H.	2 Februari 2023	Divorce by Petition	82/Pdt.G/2023/PA.Wtp
9		20 Desember 2021	Divorce by Petition	1262/Pdt.G/2021/PA.Wtp
10		19 Juli 2022	Divorce by Petition	682/Pdt.G/2022/PA.Wtp
11		3 Agustus 2022	Divorce by Talak	816/Pdt.G/2022/PA.Wtp
12	Dra. Hj. Rudianah Halim, S.H.	1 Februari 2023	Divorce by Petition	70/Pdt.G/2023/PA.Wtp
13	Drs. H. Muh. Yusuf HS., S.H.	15 November 2022	Civil Law	1205/Pdt.G/2022/PA.Wtp
14	Drs. H. Muhammad Takdir, S.H., M.H.	16 Juni 2022	Divorce by Petition	571/Pdt.G/2022/PA.Wtp

In the table above, a summary of mediation results is presented based on the variables of active judge involvement and the parties' readiness. This finding indicates that mediation is not merely a legal procedure, but is significantly influenced by the

psychology and social conditions of the disputing parties. Mediation is not merely a formal resolution, but a process of restoring human relationships. Therefore, the potential for successful mediation generally occurs when the mediator judge uses a persuasive, communicative, and creative approach.

Researchers found that the success of mediation is highly influenced by the direct presence of the parties. In some cases, the absence of one party makes mediation impossible. In fact, it demands active participation and open dialog for conflicts to be resolved. This indicates that technical aspects such as summons, location, and time greatly influence the success of mediation. From this phenomenon, resolving domestic conflicts thru mediators becomes facilitative, evaluative, or transformative.²⁰ It appears that the success of mediation requires conflict management in families that can be implemented in the mediation process, starting from the planning, implementation, and evaluation stages.²¹ The mediator first learns more about the conflicts in the case being handled by identifying the problems thru analyzing the emerging symptoms, grouping the sources of conflict for easier processing, and analyzing the issues to determine their urgency and priority for resolution. This approach was chosen based on the situation and characteristics of the conflict, with a focus on efforts to resolve it constructively.

The implementation of mediation is based on Supreme Court Regulation (PERMA) Number 1 of 2016 concerning Mediation Procedures. From a positive legal perspective, the court has provided legal guidance, and the court's efforts to reconcile the marital conflict case must be realized throughout the divorce process, whether it is in the form of talaq by the husband or divorce filed by the wife.²² As stated in Article 12 of PERMA Number 1 of 2016 on the Management of Mediation in Courts, Article 12 in its implementation states that the management of court mediation must maximize support for mediation that is planned, evaluative, and developmental.²³ That the practice of mediation in the Watampone Religious Court has great potential to increase the effectiveness of resolving divorce cases peacefully and beneficially. Furthermore, PERMA has actually provided flexible space for mediator judges to choose the most appropriate mediation method. This presents an institutional challenge that requires structural improvements within the religious judiciary system. Otherwise, mediation will remain a formality that does not produce substantive solutions. This is where the repositioning of the judge-mediator's role as an agent of benefit, rather than merely a neutral facilitator, becomes important.

Meanwhile, Article 115 of the Compilation of Islamic Law (KHI) on divorce has a legal basis that must be carried out in court to ensure a proper divorce thru legal procedures.²⁴ It has been determined from the beginning and throughout the legal process that mediation efforts will be made throughout the mediation process until the final judgment becomes legally binding. Mediation throughout this process also serves

²⁰ Fitriyah Alkaff A.Husein Ritonga, A. A. Miftah, *Mediasi Dalam Penyelesaian Perkara Perceraian* (Bengkulu: Penerbit Buku Literasiologi Anggota, 2020). h.41

²¹ Abdul Jalil, "Manajemen Konflik Dalam Keluarga Relevansinya Dalam Membentuk Keluarga Sakinah," *Al Magashidi: Jurnal Hukum Islam Nusantara*. 4, no. 1 (2021): 55-69.

²² Mardani, *Hukum Keluarga Islam Di Indonesia* (Jakarta: Kencana, 2016). h.149

²³ Peraturan Mahkamah Agung (PERMA) Nomor 1 Tahun 2016 tentang Prosedur Mediasi di Pengadilan (n.d.).

²⁴ Mardani, *Hukum Keluarga Islam Di Indonesia*. h.149

as a reminder that reconciliation is better for him. No matter how big the problems faced in the household, mediation is still carried out. Even tho divorce is considered to be done amicably, it is still a separation that negates a strong promise (mistaqan qalizan).

This is evident in Article 39 paragraphs 1 and 2 of Law Number 1 of 1974, which states that divorce can only be carried out in court proceedings, and only when the court has made efforts to reconcile the parties but has been unsuccessful. Divorce can also occur as a last resort, but it must be proven that mediation and various peace efforts have been attempted. Thus, it is proven throughout the trial process that divorce is justified.

In its implementation, it shows complex dynamics in divorce cases. Legally, mediation has been implemented in divorce mediation processes at the Watampone Religious Court Class 1A, but it has not become a fully effective space for promoting reconciliation between conflicting couples. There are two prominent tendencies: the success rate of mediation is very low when the parties still have strong emotional ties, and mediation fails when communication is no longer possible. This can pose a challenge to the competence of judge-mediators in handling such cases.

As for the normative aspect, the need for a mediation mechanism is carried out in the technical spiritual aspects of Islam. This aligns with Islam, as stated in Surah an-Nisa'/4:35, which emphasizes the importance of sending arbitrators from both sides to seek reconciliation (ishlāh) before separation occurs. From a conflict management perspective, the mediator judge acts as a facilitator, helping the parties identify the root of the problem, manage their emotions, and formulate a fair and beneficial solution. This approach views domestic conflict not as something to be resolved with a decision, but as a relational crisis that needs to be managed with the principles of mercy, consultation, and justice. The implementation of such normative theological mediation can fulfill the formal aspects of positive law and reflect restorative and preventive values in Islamic family law, which emphasizes maintaining harmony, protecting children, and avoiding social breakdown due to divorce.

Implementation of Maqāṣid Al-Syarī'ah by Mediator Judges in the Implementation of Divorce Case Mediation

Divorce is a social and legal phenomenon that ends the marital bond thru a legal process based on religious provisions and statutory regulations.²⁵ In Islam, divorce is permissible but highly discouraged. This is as the Prophet Muhammad (peace be upon him) said:

حَدَّثَنَا كَثِيرُ بْنُ عُبَيْدٍ الْحِمَصِيُّ حَدَّثَنَا مُحَمَّدُ بْنُ خَالِدٍ عَنْ عُبَيْدِ اللَّهِ بْنِ الْوَلِيدِ الْوَصَّافِيِّ عَنْ مُحَارِبِ بْنِ دِثَارٍ عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ
قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَبْعَضُ الْحَالَالِ إِلَى اللَّهِ الطَّلَاقُ²⁶

²⁵ Iffah Muzammil, *FIQH MUNAKAHAT (Hukum Pernikahan Dalam Islam)*, vol. Cetakan 1 (Tangerang: Tira Smart, 2019). 129

²⁶ Abu Daud Sulaiman Sajastani, *Sunan Abu Daud, Juz 1* (Cairo: Mustafa al-Babi al-Halab, 1952). h.503

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Meaning:

Narrated to us by Kathir bin Ubaid Al Himshi, who said: Muhammad bin Khalid narrated to us from Ubaidullah bin Al Walid Al Washshafi from Muharib bin Ditsar from Abdullah bin Umar, who said: "The most hated permissible thing to Allah is divorce." (HR. Abu Dawud and Ibn Majah).

It is widely known from that hadith that divorce is the most permissible act hated by Allah SWT. This indicates that divorce is the last resort and should still be avoided. It can be said that, in principle, Islam does not allow for divorce except in cases of necessity. This is where the importance of mediation lies as a mechanism to prevent and filter out divorces that are emotional and irrational.

Conflict in families taking steps toward divorce is often caused by psychological issues, poor communication, domestic violence, or an inability to fulfill obligations.²⁷ The urgency of the impact of divorce affects not only the couple, but also the children and the social order. Children from divorced families are prone to emotional disorders, declining academic performance, and potential identity crises.²⁸ Considering the damage caused by divorce, the Islamic family law system needs to prioritize a preventive approach rather than solely a curative one.²⁹ In this case, divorce is not only seen as statistical data, but as a manifestation of systemic failures in family building and an evaluation of the weaknesses of the mediation system.

The concept of mediation is known by the term *al-ṣulḥ*, which means a peace agreement or reconciliation.³⁰ Islam encourages peaceful resolution of disputes, as stated in Q.S. al-Nisā/4:35, which emphasizes the importance of sending mediators from both sides to prevent divorce.³¹ The value of *al-ṣulḥ* not only prioritizes justice but also willingness and benefit, which are at the heart of the *maqāṣid al-syarī'ah* itself. In divorce cases, the success of mediation heavily relies on the mediator's sensitivity to the emotional and psychological issues experienced by the couple.³² This shows the emphasis of another verse in Surah An-Nisa/4:128 that "الْصُّلْحُ خَيْرٌ" or "Peace is better," so God does not want division to happen just like that, but rather encourages conflict resolution in a wise manner. Therefore, mediation is highly dependent on the mediator's competence, the attitudes of the parties involved, and the social context surrounding the conflict. The mediator must understand negotiation techniques, empathetic communication, and the ability to integrate religious psychological management.

Within the framework of the theory of *maqāṣid al-syarī'ah*, it is a fundamental principle of Islamic law-making aimed at achieving benefit and preventing harm

²⁷ Drs. H. Muh. Yusuf, S.H, Mediator Non Hakim Pengadilan Agama Watampone Kelas 1A, Wawancara oleh Penulis di Pengadilan Agama Watampone Kelas I A, 26 Maret 2025

²⁸ Tenri Awaru, *Sosiologi Keluarga*. 376

²⁹ Ramdani Wahyu Sururie, Mohammad Athoillah, and Muhammad Iqbal Zia Ulhaq, "Strategies to Prevent Increasing Divorce Rates for Muslim Families in Indonesia," *Samarah*, 2023, <https://doi.org/10.22373/sjhk.v7i2.14819>.

³⁰ Agus Supra Wijaya, "Efektivitas Mediasi Dalam Pencegahan Perceraian Di Pengadilan Agama Bengkulu Kelas 1A," *Tesis Pascasarjana Jurusan Ahwal Al- Syakhshiyah (Hukum Islam) Institut Agama Islam Negeri (Iain) Bengkulu*, 2016, 36

³¹ Wahbah Az-Zuhaili, *Tafsir Al-Munir*, Terj. Abdul Hayyie Al-Kattani, Jilid 3 (Jakarta: Gema Insani, 2016). h.77-78

³² Edward J. Kelly and Natalija Kaminskiene, "Importance of Emotional Intelligence in Negotiation and Mediation," *International Comparative Jurisprudence*, 2016, <https://doi.org/10.1016/j.icj.2016.07.001>.

(mafsadat) in human life.³³ Finding one's own benefit has two perspectives: maqashid al-syar'i (the purposes of God/the lawgiver) and maqashid al-mukallaf (the purposes of the obligated person).³⁴ By emphasizing the aspects of worldly and afterlife well-being, so that Sharia must be understood as a law of obligation that must be followed, and the purpose of Sharia is to bring humanity under the protection of the law.³⁵

The concept of *maqāṣid al-syarī'ah* according to Imam al-Syātibī is a philosophical foundation in the Islamic legal system that places human welfare as the primary goal of every sharia provision. In al-Muwāfaqāt, he divided maslahat into three levels of need: ḍarūriyyāt, ḥājiyyāt, and taḥsīniyyāt.³⁶ As for the explanation of the levels of Islamic legal principles, first, ḍarūriyyāt (primary needs) are basic or urgent needs that are absolute and form the basis for others (ḥājiyyāt and taḥsīniyyāt), so that without them human life would be chaotic. This includes protecting (ḥifẓ al-dīn, al-nafs, al-'aql, al-nasl, and al-māl). Second, ḥājiyyāt (secondary needs) serve to eliminate difficulties and provide ease in carrying out life without threatening human existence, but if they are not met, they do not immediately damage ḍarūriyyāt. Third, taḥsīniyyāt (tertiary needs) are related to efforts to perfect morals, ethics, and esthetics so that human life becomes better, more orderly, and civilized in accordance with Islamic values. These three levels are hierarchically interconnected, where failure to maintain the necessities of life will disrupt the order of society, while the needs and refinements enhance the quality of life for the community. Thus, this three-level concept of maslahat reflects the adaptive, proportional, and world-and-hereafter-oriented dynamics of Islamic law.

This is certainly relatively good in terms of adapting to family problems. The implementation of mediation should be able to play an important role in safeguarding the five essential needs within it, namely ḥifẓ al-dīn (preserving religion), ḥifẓ al-'aql (preserving reason), ḥifẓ al-nafs (preserving life), ḥifẓ al-nasl (preserving lineage), and ḥifẓ al-māl (preserving wealth).³⁷ First, the implementation of ḥifẓ al-dīn is evident in the judge's efforts to instill religious awareness or religious preaching among the parties. Thru (ḥifẓ dīn), a person fulfills religious teachings completely by living a legitimate and God-pleasing family life, which becomes the path to the tranquility desired by everyone. Using verses from the Quran and hadiths to persuade people to avoid divorce. In this case, mediation transforms into a space of accusation by the judge, who acts not only as an intermediary but also as a moral guide.³⁸ This strategy and implementation are effective in cases with a strong religious background. In one case, the mediator judge used the analogy of worship to make the husband aware of his responsibilities toward his wife and child. This strategy is effective in changing perceptions and avoiding divorce. This shows that the preservation of religion is not merely normative, but can be applied communicatively within the space of mediation.

³³ St. Rahmawati, *Studi Dasar Filsafat Hukum Islam* (Kab. Bone: IAIN Bone Press, 2021).h.129

³⁴ Abū Ishāq Al-Syātibī, *Al-Muwāfaqāt Fī Uṣūl Al-Syarī'Ah*, Juz II (Beirut: Dar Al- Kutub Al-Ilmiyah, n.d.). 7

³⁵ Albani Nasution dkk, *Filsafat Hukum & Maqashid Syariah*. 49

³⁶ Al-Syātibī, *Al-Muwāfaqāt Fī Uṣūl Al-Syarī'Ah*. 13

³⁷ Albani Nasution dkk, *Filsafat Hukum & Maqashid Syariah*. 43

³⁸ Jalaluddin, *Psikologi Agama* (Jakarta: PT RajaGrafindo Persada, 2005).261

Second, as for *hifz nafs* (protecting the soul), in its implementation, marriage protects the soul from moral destruction due to free relationships and provides a stable psychological space for the growth of love and tranquility. Next, the mediator judge interpreted the principle of *hifz al-nafs* in the context of protecting the right to life and the inner safety of the parties, especially in cases of domestic violence. In one of the cases studied, mediation failed because the wife experienced deep violence and trauma. This shows that although *maqāṣid* can be a normative approach, its implementation is not always successful if not supported by objective conditions that are safe for all parties.

Thirdly, the preservation of reason (*hifz 'aql*) is also a safeguard for protecting the mind from the negative impacts of aimless life, as a healthy family provides emotional support that strengthens thinking ability and mature decision-making. Marriage serves as a means of protecting the mind from the negative influences of aimless life. In a healthy family, there is emotional and intellectual support that strengthens thinking ability and the capacity for mature decision-making. Therefore, unresolved marital tension can lead to mental pressure, stress, and even psychological disorders. Within the framework of *maqāṣid*, preserving the mind means creating healthy emotional and intellectual conditions so that a person can think clearly, especially when making important decisions such as divorce or reconciliation.

Fourth, *hifz al-nasl* (preserving offspring) is most frequently used, especially in cases involving children. In this process, the judge attempts to convince the parties that divorce not only affects the husband and wife but also the future of their children. This effort demonstrates the connection between the principles of *maqāṣid* and family psychology as an integral part of the mediation process. And also deeply exploring the impact of divorce on children, which is a *maqāṣid* concept. Therefore, the damage (*mafsadat*) caused by divorce to the child's future is a strong religious reason to encourage the improvement of the husband-wife relationship.

Finally, fifthly, *hifz māl* (protecting wealth) is no less important than forming a family that cooperates in navigating worldly life by seeking sustenance, so that wealth is collectively known within the family to be owned and protected together. The principle of preserving wealth becomes relevant when mediation touches upon issues of joint property or post-divorce alimony. In some cases, disagreements over the division of property or child support responsibilities are a major obstacle to achieving peace. A mediator judge who understands the *maqāṣid* can guide the parties to consider long-term benefits and not solely prioritize material interests. This is where mediation becomes an educational space, not just legal negotiation, but also raising awareness of the value of economic justice within the family.

Based on the data in Table 1 for the years 2021–2024, divorce cases initiated by women (Divorce by Petition) are more prevalent than those initiated by men (*cera talak*). This provides real-world evidence that the divorce rate in Indonesia, including at the Watampone Religious Court Class 1A, indicates that the role of mediation faces increasingly complex social challenges in maintaining family integrity, embodying the principles of *maqāṣid al-syarī'ah*. Mediator judges at the Watampone Religious Court Class 1A play an important role in representing the objectives of family law sharia in

promoting peaceful conflict resolution (hakam), thru approaches of compassion, deliberation, and justice.³⁹ As an instrument for protecting human values, family justice, and the survival of children, which are important parts of the principles of *maqāṣid al-syarī'ah* that couples must consider.

Mediation strengthened by *maqāṣid* values can serve as a mechanism for social control against divorce decisions based on short-term interests. The legal approach to divorce must consider five principles, including the preservation of offspring and the preservation of life, as outlined in the objectives of Islamic law (*maqāṣid al-syarī'ah*).⁴⁰ In situations throughout the divorce process and mediation process, there is room for things to be done peacefully. This means that every dispute and conflict is something that every human being does not desire. As Allah SWT says in the Quran:

فَأَمْسَاكُمْ بِمَعْرُوفٍ أَوْ تَسْرِيحٍ بِإِحْسَانٍ

Meaning:

"Then hold them in a proper manner or release them with kindness." (Surah Al-Baqarah/2: 229)⁴¹

The mediator, after helping to persuade the parties again in a good way, is given the opportunity to change for the better and to broaden the door of forgiveness to those who have done wrong.⁴² Therefore, when it's time to separate or divorce, it's done well too. Within the framework of *maqāṣid*, mediation should be positioned as a means of reflection and healing.⁴³ Therefore, the mediator judge should play a strategic role not only as a legal facilitator but also as a peace agent capable of bringing the value of *maslahat* to life within the family. Therefore, *maqāṣid*-based mediation training needs to be developed so that the mediation approach can function holistically and contextually. Thus, mediation is not merely a procedural middle ground, but also a forum for legal education, family development, and social outreach. In the Islamic family law system, mediation is a religious effort to save families from destruction, while also preserving the dignity and future of children threatened by divorce.

If the mediator's competence in providing technical guidance on managing communication and negotiation with the parties involved in the case is not optimal, then in many cases, it is only done as a formality in court. This is happening because the mediation approach has not been directed toward a comprehensive resolution of the conflict's substance. Rejection of or failure in mediation is often caused by a lack of persuasive approach, the absence of religious values in mediation, and low legal

³⁹ Bani Syarif Maula, "The Concept of *Ṣulḥ* and Mediation in Marriage Conflict Resolution in Religious Courts: A Comparative Study between Contemporary Indonesian Family Law and Classical Islamic Law," *El-Aqwal: Journal of Sharia and Comparative Law*, 2023, <https://doi.org/10.24090/el-aqwal.v2i1.7777>.

⁴⁰ Rachman Iqbal, Muhammad Alfi Syahrin, and Hidayatullah Ismail, "Maqashid Syariah Dalam Mediasi Keluarga: Telaah Al-Qur'an Terhadap Prinsip Kesetaraan Dan Kemaslahatan," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 3 (2025), <https://ejournal.yayasanpendidikandzurriyatulquran.id/index.php/AlZayn/article/view/1680>.

⁴¹ Kementerian Agama, *Al-Qur'an Dan Terjemahannya*. h.48

⁴² M. Quraish Shihab, *Tafsir Al-Misbah Pesan, Kesan Dan Keserasian Al-Qur'an*, Lentera Hati (Jakarta: Lentera Hati, 2002). h.492

⁴³ Iqbal, Syahrin, and Ismail, "Maqashid Syariah Dalam Mediasi Keluarga: Telaah Al-Qur'an Terhadap Prinsip Kesetaraan Dan Kemaslahatan."

awareness among the parties. The urgency of developing an applicable maqāṣid al-syarī'ah-based mediation model in the religious court environment. The model needs to integrate an understanding of the value of maslahat, relational justice, and an empathetic approach into the mediation structure, which has been too legalistic until now. Similarly, the harm that occurs in marital conflicts during the mediation process is assessed as having significant potential to cause harm. Regarding the suitability of a ushul rule, it can be said that this is detrimental in the conflict that occurs.

الضَّرَرُ يُزَالُ⁴⁴

*"Danger must be eliminated."*⁴⁵

However, in practice at the Watampone Religious Court, the mediator has given the right not to be forced to reconcile. In other conditions, mediation fails because the damage is greater than if the marriage were to continue. Therefore, business mediators have been provided and must be able to integrate maqāṣid values systematically into mediation strategies. Until now, maqāṣid has been positioned more as the basis for forming substantive legal norms, rather than as a procedural approach in judicial practice. By juxtaposing maqāṣid and the function of mediation, this research presents an important conceptual synthesis: that the protection of the family as part of ḥifẓ al-nasl can be procedurally actualized in the form of transformative mediation. This is an epistemological breakthrough that expands the function of maqāṣid from norms to methodology.

This approach demands meticulousness and sensitivity in capturing the dynamics of the relationship between partners and filtering information conveyed honestly and openly by both parties. Rules that can be used by mediators to understand the problem when they can find ease in it.

المشقة تجلب التيسير⁴⁶

Meaning: "Difficulty brings ease."⁴⁷

In the context of Islamic family law, the maqāṣid approach has advantages because it is flexible and based on the public interest. That rule makes mediation a way to find solutions to overcome difficulties and make life easier for husband and wife. So they don't immediately choose the path of divorce. The mediator actively involves the couple in the mediation process, encouraging them to express their feelings and complaints honestly without pressure or fear of judgment. This allows judges to tailor their approach to the needs of each couple. However, this flexibility also demands a high level of intellectual and spiritual capacity from the mediator, so as not to get caught in compromises that contradict the principles of justice.

⁴⁴ Al-Imām Jalāl al-Dīn 'Abd al-Raḥmān ibn Abī Bakr Al-Suyūṭī, *Al-Asybah Wa Al-Nazā'ir Fī Qawā'id Wa Furū' Al-Fiqh Al-Syāfi'īyyah* (Bairut Lebanon: Dar Al- Kutub Al-Ilmiyah, 1971). 132

⁴⁵ Duski Ibrahim, *AL-QAWA'ID AL-MAQASHIDIYAH (Kaidah-Kaidah Maqashid)* (Depok: Ar-Ruzz Media, 2019). 78

⁴⁶ Al-Suyūṭī, *Al-Asybah Wa Al-Nazā'ir Fī Qawā'id Wa Furū' Al-Fiqh Al-Syāfi'īyyah*. 124

⁴⁷ Firdaus, *Al-Qawaid Al-Fiqhiyyah; Membahas Kaidah-Kaidah Pokok Dan Populer Fiqh*, Imam Bonjol Press (Padang: Imam Bonjol Press, 2015). h.71

Based on Table 3, this indicates the variation in the use of the maqāṣid approach by mediator judges. It is recorded that all mediator judges consistently mentioned the principle of maqāṣid when explaining the basis of their reconciliation to the disputing parties. However, field data shows that successful mediation usually occurs in couples who are mentally and spiritually ready to reconcile, or in cases that are still experiencing mild conflict such as miscommunication or economic pressure.⁴⁸ However, in cases involving physical violence and betrayal, the success of mediation is very small. This indicates that the implementation of mediation needs to be differentiated based on the level of conflict escalation and should be given a more adaptive format.

Furthermore, making God's help and prayer, no less important, a spiritual reflection that every problem has a solution and that God is Merciful to His servants who are willing to improve themselves. Praying together, asking for forgiveness and guidance from Allah, and surrendering the final outcome to Him can be a great inner strength for reconciliation. As Allah's word in Surah Ash-Shura/42:40 states:

فَمَنْ عَفَا وَأَصْلَحَ فَأَجْرُهُ عَلَى اللَّهِ إِنَّهُ لَا يُحِبُّ الظَّالِمِينَ

Translation:

So whoever forgives and makes peace, their reward is with Allah....⁴⁹

Forgiving in the mediation process does not mean ignoring the mistakes or wounds that occurred, but is a form of magnanimity and sincerity that is highly encouraged in Islam.⁵⁰ Emphasizing the importance of forgiveness in building relationships, as no human is free from mistakes, aligns with protecting the impact on descendants within the family.⁵¹ So that this reflection can serve as a lasting point of contemplation for both parties after mediation and throughout the trial process. The trial examined by the panel of judges must provide guidance for reconciliation and offer hope for a reunion during the wife's divorce iddah period. Reconciliation in divorce conflicts does not simply end with mediation that can be deemed successful or unsuccessful. However, the former reflections or contemplations brought back by the parties became material for thinking about the benefits that the husband and wife could still find.⁵²

From a transformative justice perspective, the maqāṣid al-syarī'ah not only serves as a normative instrument that preserves the integrity of the household but also has an emancipatory dimension capable of bridging the psychological power imbalance between husband and wife.⁵³ For women who are victims of domestic violence, the

⁴⁸ Drs. H, Dasri Akil, S.H, Mediator Non Hakim, Wawancara oleh Penulis di Pengadilan Agama Watampone Kelas I A, 14 April 2025

⁴⁹ Kementerian Agama, *Al-Qur'an Dan Terjemahannya*. h.709

⁵⁰ Taufik Abdillah Syukur and Siti Rafiqoh Rachman, *Manajemen Konflik Keluarga Menurut Al-Qur'an, Patju Kreasi* (Ciputat: Patju Kreasi, 2018). h.82-83

⁵¹ Faisal Adnan Reza, Subhan Ajrin Sudirman, and Mubarak Mubarak, "Marriage Harmony: The Role Of Empathy And Forgiveness," *Jurnal Studia Insania*, 2021, <https://doi.org/10.18592/jsi.v9i1.4085>.

⁵² Z Subhan, "Maqashid Syariah Sebagai Landasan Mediasi Dalam Penyelesaian Sengketa Keluarga," *Jurnal Ilmiah Al-Muqaddimah* 12, no. 2 (2021): 180-93, <https://ejournal.uin-suska.ac.id/index.php/almuqaddimah/article/download/14376/7337>.

⁵³ Nuronyah Wardah, *Psikologi Keluarga*, CV. Zenius Publisher Anggota (Cirebon: CV. Zenius Publisher Anggota, 2023). 7

maqāṣid approach provides religious legitimacy to leave relationships that endanger their lives, dignity, and humanity. The principle of preserving life in this context is not merely understood as an obligation to maintain marriage, but as a right to free oneself from danger and oppression. This new interpretation asserts that the maqāṣid al-syarī'ah serves as an emancipatory tool, enabling the creation of substantive justice, especially for those marginalized within toxic family structures. Thus, the function of maqāṣid does not stop at preserving the formal legal system, but moves toward transforming values that uphold humanity and protect victims of violence. This finding is an important conceptual contribution to expanding the horizons of maqāṣid al-syarī'ah as a paradigm of justice that favors human safety and dignity.

Therefore, the scientific contribution of this finding lies in reorienting *maqāṣid al-syarī'ah* as a transformative justice paradigm capable of bridging psychological, structural, and gender inequalities in modern Muslim households. This finding positions Islamic law not merely as a normative instrument, but also as a reconstructive mechanism that upholds substantive justice and protects women's human rights within the family sphere.

In practice, the use of maqāṣid must be supported by administrative instruments such as maqāṣid-based assessment forms. This makes measuring the success of mediation subjective. In fact, there should be indicators such as post-mediation satisfaction levels, the sustainability of relationships between parties, and the fulfillment of children's rights as an evaluation of the principles of ḥifẓ al-naṣl and ḥifẓ al-māl. Another weakness lies in the limited time and space provided for the mediation process. Based on observation, the average duration of mediation does not exceed one hour. In such a short time, it's difficult for the mediator to build a conducive atmosphere and delve deeply into the root causes of the conflict. This shows that the substantive maqāṣid approach often clashes with narrow procedural requirements. Therefore, the maqāṣid approach should be the basis for developing Standard Operating Procedures (SOPs) for mediation at the Watampone Religious Court Class 1A, including administrative stages and a substantive approach that must be taken by the mediator.

The effectiveness of mediation is greatly influenced by time management, the judge's work ethic, and technical regulations that support restorative efforts.⁵⁴ Therefore, this research also provides critical notes on several aspects of the Watampone Religious Court Class 1A institution, namely: First, the limited number of mediators indicates weak human resource management within the religious judiciary. Mediation often becomes just an additional burden for judges who are also handling many cases. This condition substantively hinders the implementation of PERMA No. 1 of 2016, as mediation is not carried out by truly professional personnel who are focused on family reconciliation. As a result, the space for substantive dialog that should have explored the root causes of household problems became very limited. The dual burden of judging and mediating makes judges tend to conduct mediation briefly or as a formality. There isn't enough time for the judge to understand the emotional and social context of the

⁵⁴ Ekawati Hamzah, Hasmulyadi Hasmulyadi, and Amirullah Amirullah, "Peran Hakim Mediator Dalam Menangani Mediasi Perceraian Di Pengadilan Agama," *KALOSARA: Family Law Review*, 2022, <https://doi.org/10.31332/v1i2.3283>.

parties. Mediation conducted under the pressure of regular court time is unable to accommodate the values of reconciliation (peace) as desired in Islamic law. Therefore, the institutional system needs to reorganize the division of labor so that the mediator function can be carried out optimally.

Second, the limited time for mediation in its implementation indicates that the restorative dimension should be a priority in the psychological design of court mediation. The mediation is conducted in a neutral and comfortable atmosphere for all parties. In fact, the success of mediation is highly dependent on an environment that supports peaceful dialog. If mediation doesn't provide enough space to explore the root of the problem, or if it's conducted in a very short time, the potential for transformation becomes severely limited. The absence of representative space also highlights the importance of institutional awareness in the mediation function as part of humanistic public service. Therefore, mediation must be oriented as a space for Islamic legal preaching that not only resolves cases but also rebuilds the values of a peaceful, loving, and merciful family. The scientific contribution of this research lies in the effort to operationalize maqāṣid into a legal process that is adaptable to social realities, and to promote institutional reform that makes mediation the main instrument for preserving the integrity of Indonesian Muslim families.

Furthermore, in the policy dimension, this research indicates that PERMA No. 1 of 2016 needs to be strengthened with implementation guidelines that explicitly accommodate maqāṣid values. This is important so that judges have a systematic guideline in applying the value of maslahat in the mediation space. This highlights the need for a specialized training format for mediator judges that combines maqāṣid theory, mediation techniques, and communication psychology. In this training, judges are expected not only to understand the maqāṣid as a theory, but also to be able to apply them in dialog, word choice, and persuasive techniques that are beneficial.

Thus, this research opens the discourse for building a Sharia mediation system that is not only legally valid but also beneficial socially, spiritually, and psychologically. This is a concrete step toward a humanistic and contextual Islamic family court. Considering all these dimensions, this research expands the mediator judge's framework of thinking so that it is not only based on formal regulations, but also builds social and spiritual sensitivity. Maqāṣid al-syarī'ah has proven capable of serving as a guiding principle and a measure of mediation success in the context of Islamic family law. Therefore, strengthening the maqāṣid should not stop at the normative level, but must be operationalized in technical tools, training, and post-mediation evaluation. Only with this kind of approach can divorce mediation truly become a space for genuine benefit.

CONCLUSION

This research discusses the implementation of maqāṣid al-syarī'ah principles by mediator judges in the divorce mediation process at the Watampone Religious Court Class 1A. This study shows that the maqāṣid approach plays a significant role in strengthening the mediation process, particularly in building religious awareness, considering the socio-psychological impact of divorce, and maintaining the holistic well-being of the family. Of the five principles of maqāṣid, ḥifẓ al-nasl and ḥifẓ al-dīn are the

dominant foundations used by judges to direct the parties to reconsider their decision to divorce.

The main findings indicate that the success of mediation is not solely determined by the formal procedures outlined in PERMA No. 1 of 2016, but also by the mediator's competence in contextualizing and internalizing the values of maqāṣid. The use of a da'wah approach, persuasive communication, and understanding of the social conditions of the parties are key factors in increasing the effectiveness of mediation. However, the implementation of maqāṣid is still personal and not yet structured within the institutional mediation system, so its effectiveness tends to depend on the capacity of individual judges.

This research presents an integrative approach between maqāṣid al-syarī'ah and the mediation practices of the Watampone Religious Court Class 1A. This not only strengthens the normative study of maqāṣid but also demonstrates how maqāṣid can function as an applicable tool for resolving family conflicts. Mediation within the framework of maqāṣid is not only a means of resolving disputes, but also a strategy for protecting the fundamental values of the family in Islam. Therefore, it is important for religious judicial institutions to develop a more systematic maqāṣid-based mediation model, including in the form of SOPs, judge training modules, and evaluation instruments for mediation outcomes. This research also opens the door for further in-depth studies on the effectiveness of the maqāṣid approach in family mediation across various other social and cultural contexts, as well as testing the integration of maqāṣid values into national family court policies.

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