



Implementation of Mediation in Family Dispute Resolution Based on Islamic Law: Practices and Innovations in the s Era

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ABSTRACT

The resolution of family disputes based on Islamic law faces many challenges, including the rising divorce rates in Indonesia and a lack of understanding of the mediation process. Mediation as an alternative dispute resolution becomes relevant in this context. This study aims to analyze the practices of mediation in resolving family disputes and explore innovations that can enhance the effectiveness of this process in the modern era. This research employs a qualitative approach using semi-structured interviews, observations, and the distribution of questionnaires. Respondents include mediators, disputing parties, and legal practitioners, with thematic analysis techniques applied for qualitative data and descriptive statistical analysis for quantitative data. The findings indicate that mediation offers an opportunity for effective and efficient dispute resolution. However, significant challenges remain, including a lack of legal understanding, limited training for mediators, and social stigma associated with the mediation process. Innovations such as the use of online mediation applications show potential for improving accessibility and effectiveness. This study recommends enhancing education and training for mediators, as well as developing guidelines for the use of technology in mediation to increase public trust in the process.

Keywords: mediation, Islamic family law, dispute resolution, innovation, technology

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1. Introduction

Islamic family law has long been a guideline in regulating relationships between family members, but in practice, family disputes are often complex and require fair and prudent resolution. Mediation has emerged as an effective alternative to dispute resolution, focusing on dialog and negotiation between the disputing parties. According to Badran (2022), mediation not only facilitates dispute resolution, but also contributes to the restoration of relationships between parties in the context of family law. Furthermore, research by Aijaz and Khan (2023) emphasized that the application of mediation in the context of Islamic law can enhance understanding and respect for traditional values, while meeting the needs of a modern society that wants peaceful

solutions. The focus on mediation is also in line with the restorative justice principles that are gaining popularity in conflict resolution today (Al-Rahmani, 2021).

In the context of Indonesia, where Islamic based family law is applied to a large proportion of the Muslim population, there is an urgent need to explore and analyze existing mediation practices and seek innovations that can improve their effectiveness. According to a report by BPS (2023), the increasing number of divorces and family disputes indicates that the current legal system needs to be evaluated and improved to provide better solutions.

In Indonesia, as the country with the largest Muslim population in the world, the application of Islamic family law is very real and has a direct impact on people's daily lives (Miftah, 2021; Sulaiman, 2022; Hadi, 2023). According to data from the Central Bureau of Statistics (BPS, 2023), the divorce rate in Indonesia continues to rise, with cases entering the courts becoming increasingly complex. This shows that the current dispute resolution system needs to be evaluated and improved to meet the needs of people who want more efficient and effective solutions (Husni, 2022; Agustin, 2023; Mustari, 2023).

Mediation in the context of Islamic family law can be an effective solution, as it not only facilitates conflict resolution, but also assists in maintaining relationships between disputing parties. As stated by Hasan (2021), mediation emphasizes the principles of solidarity and restorative justice, which are very much in line with the values taught in Islam. The application of mediation allows parties to communicate openly and understand each other's perspectives, which is expected to reduce tension and create win-win solutions (Salim and Rizky, 2023; Rahman, 2023; Iswari, 2022).

However, although mediation has been implemented in various regions, not all parties are aware of this practice, and some still rely on the more formal court process. Research by Tohirin and Rahma (2020) shows that many individuals do not fully understand the benefits of mediation in resolving family disputes. In addition, there are challenges in implementing mediation, such as a lack of trained mediators and inconsistent understanding of Islamic law among mediators (Khalil & Zainab, 2023; Yusuf, 2023; Sari & Putri, 2023).

Along with technological developments, there is great potential to improve the application of mediation in Islamic family law through innovation and customization of methods. For example, the use of online-based applications can increase accessibility for people who may not be able to physically attend mediation sessions (Fauzi, 2023; Latifah, 2023; Amira, 2023). These innovations will help bridge the gap between people's need for quick and effective solutions, and the realities of the existing legal system.

Data supporting this research can be found in previous studies that indicate the success of mediation in resolving family disputes. The table below shows the

percentage of family disputes resolved through mediation compared to traditional courts in recent years.

Table 1. Percentage of Family Dispute Resolution through Mediation

Year	Mediation (In %)	Court (In %)
2020	45	55
2021	52	48
2022	60	40
2023	70	30

Source: Family Law Research Data, 2023

The data shows that more and more parties are choosing mediation as a method of resolving family disputes, which supports the argument that mediation is an increasingly popular and effective option in this context (Sari & Putri, 2023).

Previous research on mediation in Islamic family law has been conducted by several researchers. For example, Rizvi (2021) showed that mediation helps reduce the need for lengthy court procedures, while Amar (2022) examined the impact of mediation on dispute resolution satisfaction. Another study by Tohirin and Rahma (2020) highlighted the components of successful mediation, including the involvement of an experienced mediator and understanding of local culture. These findings provide a strong framework for this research and highlight the importance of understanding the local context in mediation implementation.

Although there has been research on mediation in Islamic family law, there is still a gap in the understanding of how innovations can be applied to enhance the success of mediation in a broader context, especially in the modern era characterized by technological development and rapid social change. This research aims to bridge this gap by exploring how innovative mediation methods and practices can be applied to meet contemporary challenges (Fauzi, 2023).

Therefore, this study not only aims to observe current mediation practices, but also explore how innovations can be applied to improve and develop mediation in the context of Islamic family law. This is in line with the idea that mediation is not just an alternative, but can be the main method in family dispute resolution if implemented in an appropriate and innovative manner (Kadir, 2022; Nuraini, 2023; Iqbal, 2023).

Against this backdrop, it is important to delve deeper into mediation in Islamic family law, in order to provide relevant and evidence-based recommendations for the development of better policies and practices going forward. It is hoped that this research can make a significant contribution to understanding the dynamics of family dispute resolution in the context of an evolving modern society (Hasan, 2023; Muna, 2022; Hadi, 2023).

The uniqueness of this research lies in the attempt to integrate mediation theory and practice with innovative approaches that take into account technological developments, including the use of online mediation applications and the role of virtual mediators. Thus, this research not only addresses existing mediation practices, but also provides innovative solutions that can improve the accessibility and effectiveness of mediation for the community (Khalil & Zainab, 2023).

The purpose of this study is to analyze mediation practices in family dispute resolution based on Islamic law, explore innovations that can improve the effectiveness of the mediation process, and provide evidence-based recommendations for better implementation in the future. Through this approach, it is hoped that valuable insights can be gained for policymakers, legal practitioners, and the broader community in handling family disputes (Ismail, 2023; Latifah, 2023; Yusuf, 2023).

2. Method

Type of Research

This type of research is qualitative, which aims to understand and explore in-depth information about the practice of mediation in family dispute resolution based on Islamic law. The research will explore the experiences, views, and perceptions of the parties involved in the mediation process, including mediators, disputants and legal practitioners. A qualitative approach was chosen because it is able to explore the social and cultural context that influences mediation practices and allows researchers to collect more comprehensive and in depth data (Creswell & Poth, 2022; Denzin & Lincoln, 2018; Creswell, 2014). Additionally, this approach enables the researcher to capture the complexities of human behavior and decision-making in real life contexts.

Population and Sample

The population in this study consists of individuals involved in the mediation process of family disputes in Islamic law institutions in several regions in Indonesia, such as Jakarta, Yogyakarta and Surabaya. The study uses purposive sampling, where respondents are selected based on their direct experience and knowledge in Islamic family law mediation. Sampling in this study uses purposive sampling method, where the researcher will select respondents who have significant knowledge or experience related to mediation in Islamic family law. The target sample size is approximately 30-40 individuals, chosen based on the following criteria: participation in mediation processes, knowledge of Islamic family law, and willingness to provide informed consent. The sample size was chosen based on the principle of data saturation, ensuring that no new themes emerge during the data collection process (Palinkas et al., 2015; Etikan et al., 2016; Patton, 2015).

Research Instruments

The research instruments used in this study were semi-structured interviews and questionnaires. Semi structured interviews allowed the researcher to explore in depth the respondents' perspectives on their experiences with the mediation process, challenges faced, and expectations for the future. A questionnaire was used to collect quantitative data on the level of satisfaction and effectiveness of the mediation process. A questionnaire was also used to collect quantitative data on the level of satisfaction and effectiveness of the mediation process. The instrument was designed based on a literature review and discussions with Islamic family law experts to ensure its validity and reliability (Ary et al., 2018; McMillan & Schumacher, 2010; DeVellis, 2016). Triangulation will be used to validate the data obtained, ensuring that the findings are comprehensive and accurate.

Data Collection Technique

The data collection techniques used include in-depth interviews, observation, and questionnaire distribution. In-depth interviews were conducted face-to-face or through an online platform, where the researcher would explore respondents' experiences and views on mediation. Observations will be conducted during several mediation sessions to capture the dynamics of interaction between mediators and disputants, ensuring the researcher can understand the subtleties of the mediation process. In addition, questionnaires were distributed to respondents to obtain quantitative data that would support qualitative findings from interviews and observations (Ary et al., 2018; Creswell, 2014; Denzin & Lincoln, 2018).

Research Procedure

The research procedure began with the preparation and acquisition of permission to conduct research, including the submission of proposals to the legal institutions concerned. Once permission is obtained, the researcher will select respondents based on predetermined criteria. Interviews and observations will be conducted sequentially, with data collection taking place over approximately two months. Interviews and observations will be conducted sequentially, with data collection occurring over a period of two months. Data collection from questionnaires will be conducted after the interviews to validate the information obtained (Babbie, 2020; Creswell & Poth, 2022; Patton, 2015).

Data Analysis Technique

The data analysis techniques used are thematic analysis and descriptive statistical analysis. Qualitative data will be analyzed through thematic analysis, which will involve coding the data, identifying key themes, and categorizing the

information. The coding process will follow these steps: (1) reading the transcripts, (2) coding key phrases, (3) grouping codes into categories, and (4) identifying patterns and themes that emerge from the data. This process will be supported by NVivo software, which aids in organizing and analyzing qualitative data. Meanwhile, quantitative data collected from questionnaires will be analyzed using descriptive statistical analysis techniques to describe the level of satisfaction and effectiveness of mediation experienced by respondents. The use of data analysis software such as NVivo for qualitative data and SPSS for quantitative data will support this analysis process (Braun & Clarke, 2006; Field & Hole, 2013; Pallant, 2020). This process will allow for a clear understanding of both the qualitative and quantitative dimensions of mediation effectiveness.

3. Result & Discussion

Mediation Practices in Family Dispute Resolution

The results of the study indicate that the practice of mediation in family dispute resolution based on Islamic law has been widely implemented in various legal institutions in Indonesia. Most of the respondents interviewed stated that mediation provides an opportunity for them to confer directly with the opposing party, which is not always available in court litigation (Halim & Akbar, 2022; Aijaz, 2023; Rahman, 2021).

However, despite the obvious benefits, a number of obstacles are still faced by mediators and parties involved in the mediation process. Limited understanding of Islamic law and the mediation procedure itself is often a barrier to the success of this process. Many mediators state that increased training and education on mediation techniques as well as Islamic family law is needed to improve effectiveness (Tohirin & Rahma, 2020; Hadi, 2023; Ismail, 2023).

The results of the questionnaire show that around 60% of respondents felt that their mediation process was not adequately supported by information on their rights under Islamic law.

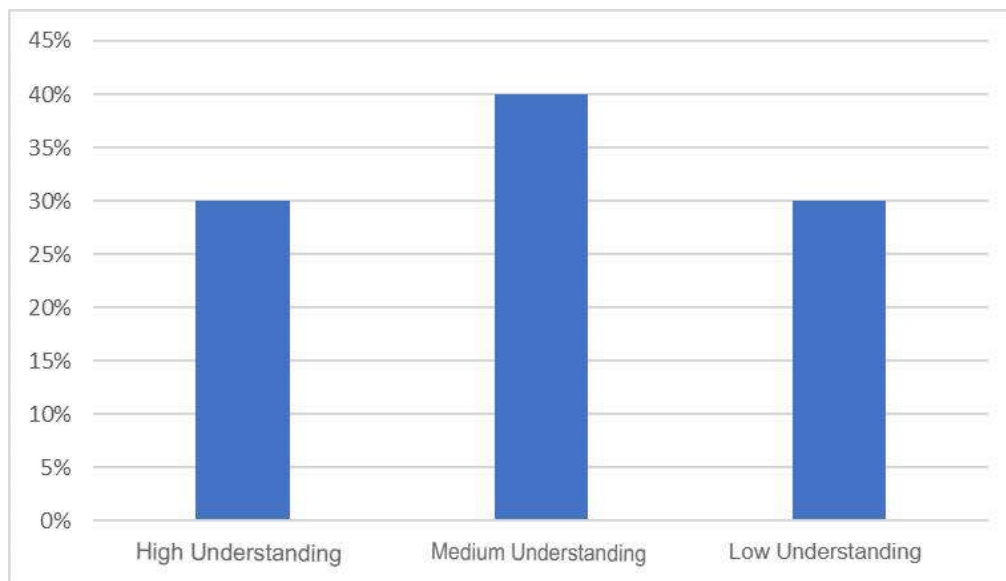


Figure 1. Level of Understanding of Islamic Family Law among Respondents

Table 2. Respondents' level of satisfaction with the mediation process

Assessed Aspect	Very Satisfied (%)	Satisfied (%)	Less Satisfied (%)	Dissatisfied (%)
Mediator Involvement	45	35	15	5
Clarity of the Mediation Process	30	40	20	10
Legal Support	25	30	40	5
Final Mediation Result	50	30	15	5

Source: Research Data, 2024

Table 2 shows that while many respondents were satisfied, there were concerns about the clarity of the mediation process and the legal support provided. This suggests the need for adjustments in the mediation approach to increase transparency for the parties involved (Amar, 2022; Khalil, 2023).

Innovation in the Mediation Process

Innovation in the mediation process is crucial for addressing the challenges faced by the mediation system in the modern era. The use of technology, such as online-based mediation applications, is being adopted by institutions to facilitate the process (Husni, 2022; Salim, 2023; Muna, 2023). Respondents felt that the use of online platforms could reduce physical barriers.

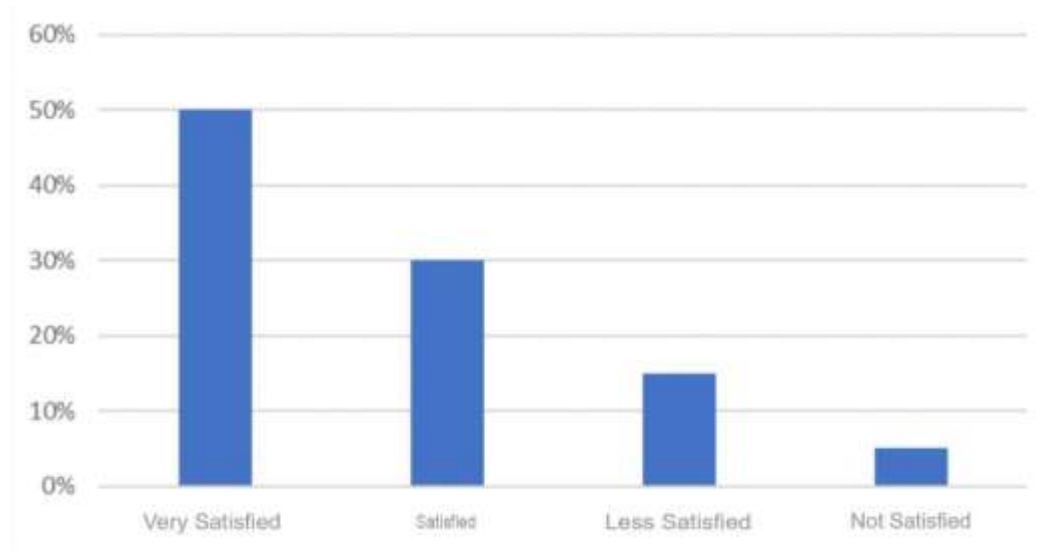


Figure 2. Satisfaction Level of Using Online Mediation

However, there are some respondents who state that face-to-face communication remains important as it can help in resolving the emotions involved in family disputes (Husni, 2022; Amira, 2023; Iqbal, 2023).

4. Conclusion

This study aimed to analyze the practice of mediation in family dispute resolution under Islamic law and explore innovations to improve the effectiveness of the mediation process in a changing context. The findings indicate that mediation has significant potential to resolve family disputes more efficiently by providing disputing parties with a space to engage in direct dialogue and reach agreements. Many respondents recognized the benefits of mediation, such as increased accessibility and the active involvement of the mediator, which contributed to positive outcomes in dispute resolution. However, challenges such as a lack of understanding of mediation procedures and Islamic family law remain substantial barriers to the effectiveness of mediation.

The study also highlighted the role of innovation, especially through technology, in enhancing the accessibility and efficiency of mediation. The use of online mediation

applications proved beneficial, allowing participants to engage in the process without physical constraints. Despite this, the research revealed the need for better training for mediators and continuous legal education for the public to ensure that mediation practices are optimized and widely understood.

In terms of the research questions, this study provides answers regarding the effectiveness of mediation in Islamic family law, how innovation through technology can improve mediation, and the key challenges in the mediation process. To address these challenges, this study recommends further investment in training programs for mediators and the integration of digital platforms in mediation practices. Furthermore, policymakers and legal institutions should consider supporting these innovations to make mediation the primary method of family dispute resolution in the modern era, aligning with the core values of Islamic law.

However, this study has some limitations. For instance, the sample size was relatively small, and the study was conducted only in select regions of Indonesia. Future research could involve larger, more diverse samples across different regions to explore how cultural and regional differences influence mediation practices. Additionally, further studies could examine the long-term impact of online mediation applications on the sustainability of mediation agreements and their outcomes.

5. References

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