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Article Title

The Dialectic of Ishlah Principle: Contextualizing Reconciliation on the Dominant Factors of Divorce

Author

Dinaryati Rahim

Universitas Muslim Indonesia, Indonesia || dinaryatirahim.fh@umi.ac.id

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ABSTRACT

The uniform application of mediation in divorce cases in Indonesia has proven unevenly effective, particularly when confronted with conflicts that undermine the essence of marriage, the sacred covenant (*mitsaqan ghalizhan*), such as domestic violence. Addressing this problem, this study critically analyses the dialectic between the imperative of the Reconciliation principle (*ishlah*) and the heterogeneity of factors that cause divorce. Employing a normative-qualitative legal research method and an Islamic legal philosophy approach, this study operationalizes the framework of the higher objectives of *shari'ah* (*maqasid al-shari'ah*) as its primary analytical tool. The findings reveal an apparent dichotomy. Mediation holds potential for success in functional-relational conflicts, such as economic factors and persistent disputes (*syiqaq*). However, it proves ineffective and philosophically inappropriate in cases of fundamental violations like domestic violence and infidelity, as it contradicts the objective of the preservation of life (*hifz al-nafs*). This research concludes that the paradigm of success in mediation must be reconceptualized. It must shift from merely achieving a formal marital reunion (*rujuk*) to realizing an amicable divorce (*tasrihun bi ihsan*), wherein a peaceful agreement on post-divorce rights becomes the primary metric. Therefore, the development of conflict typology-based mediation guidelines is recommended to align legal practice with substantive justice.

Keywords: Divorce; Ishlah Principle; Maqasid al-Shari'ah; Mediation.

INTRODUCTION

Islamic law positions the institution of marriage at a sacred and sublime level, transcending a mere civil contract between individuals. Marriage is defined as a solemn covenant (*mitsaqan ghalizhan*). It is a firm bond that not only unites a husband and wife but is also witnessed by and accountable to God (Mangarengi & Hamzah, 2021). This conception affirms that marriage possesses a profound theological dimension, wherein its integrity reflects adherence to spiritual values. This bond is designed as the primary foundation for the formation of a civilized society. Consequently, its preservation becomes a fundamental moral and social imperative within the framework of Islamic family law.

Philosophically, the fundamental objectives of marriage (*maqasid al-zawajj*) are to establish a family life imbued with tranquility (*sakinah*), affection (*mawaddah*), and mercy (*rahmah*) (Gadjong, 2023). This is mandated in the Qur'an, Surah Ar-Rum, verse 21:

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ ﴿٢١﴾

"And of His signs is that He created for you from yourselves mates that you may find tranquillity in them; and He placed between you affection and mercy. Indeed, there are signs for a people who give thought."

These noble objectives are not solely oriented toward the individual happiness of the couple. They also encompass broader goals such as preserving human honor and dignity, fortifying oneself against prohibited acts, and ensuring the continuation of a legitimate and high-quality lineage (*hifz al-nasl*). Thus, marriage serves as a vehicle for achieving comprehensive well-being (*maslahah*), both in this world and the hereafter, which places the permanence and integrity of the bond as its highest ideal.

However, these theological and philosophical ideals are confronted by a socio-juridical reality that shows a significant escalation in divorce rates in Indonesia year after year. This phenomenon presents a crucial discourse and a serious challenge for Islamic family law scholars and practitioners. The high rate of divorce is triggered by a variety of complex factors, ranging from economic issues to infidelity (Harjianto & Jannah, 2019; Nugraha et al., 2020). It indicates a distortion in achieving the noble objectives of marriage. The failure to maintain the marital union ultimately raises a fundamental question regarding the effectiveness of existing legal institutions in safeguarding the sanctity of the family institution.

Amidst the tension between ideality and reality, divorce (*talaq*) in Islamic law occupies a profoundly paradoxical position. On the one hand, it is recognised as a legitimate legal mechanism for terminating a marital bond that no longer brings benefit. On the other hand, it is labeled as the most detestable of lawful acts in the sight of Allah SWT (*abghad al-halal ilallah al-thalaq*). This paradox emphatically underscores that divorce is not a recommended course of action. It is a last resort (*ultimum remedium*) to be pursued only in exigent circumstances, namely when the marriage brings more harm (*mudharat*) than benefit.

To prevent divorce, Islamic jurisprudence promotes a fundamental preventive mechanism: the principle of reconciliation (*ishlah*). This principle is deeply rooted in the Qur'anic encouragement to seek peaceful resolutions. One method is through the appointment of an arbitrator (*hakam*) from the families of both the husband and wife when severe discord (*syiqaq*) occurs. It is mandated in the Qur'an, Surah An-Nisa, verse 35:

وَأِنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَابْعَثُوا حَكَمًا مِّنْ أَهْلِهِ وَحَكَمًا مِّنْ أَهْلِهَا إِنْ يُرِيدَا إِصْلَاحًا يُوَفِّقِ
اللَّهُ بَيْنَهُمَا إِنْ اللَّهُ كَانَ عَلِيمًا خَبِيرًا ﴿٣٥﴾

"And if you fear dissension between the two, send an arbitrator from his people and an arbitrator from her people. If they both desire reconciliation, Allah will cause it between them. Indeed, Allah is ever Knowing and Acquainted [with all things]."

The involvement of an arbitrator (*hakam*) signifies that the effort for reconciliation is not merely a private matter for the couple. It also becomes a communal responsibility to preserve the integrity of the family institution. Thus, *ishlah* reflects the spirit of Islamic law, which prioritizes the restoration of the relationship over severing the bond.

This theological principle of *ishlah* is then imperatively transformed and institutionalized into the positive law system in Indonesia. Both Law Number 1 of 1974 and the Compilation of Islamic Law explicitly mandate that every divorce must be preceded by reconciliation efforts led by a judge in court. This obligation was reinforced and standardized through Supreme Court Regulation Number 1 of 2016. This regulation requires mediation procedures for all civil disputes, including divorce cases. This institutionalization has a noble aim: to curb the rate of divorce and provide a space for couples to reconsider their decision maturely (Saifullah, 2015).

Despite this, a crucial problem arises when this uniform, one-size-fits-all mediation obligation is confronted with a heterogeneous spectrum of divorce factors. The rigid and time-limited formalization of mediation is often perceived as a mere procedural formality, especially by parties who are already resolute in their decision to divorce (Zulkfa, 2021). Furthermore, applying a uniform mediation model becomes philosophically and practically problematic. Reconciliation efforts that may be relevant for disputes arising from economic factors could be entirely ineffective, and even potentially harmful, if forced upon cases involving domestic violence, which are fraught with trauma and power imbalances (Tirtawening & Maryam, 2018).

Although various studies have confirmed the low success rate of mediation in achieving marital reunions, existing analyses tend to remain at a descriptive-procedural level, focusing on external factors such as mediator competence. Systematic research dissecting the effectiveness of mediation based on the typology or nature of its underlying causes remains scarce. Moreover, there is a lack of evaluation through the philosophical framework of *maqasid al-shari'ah* to determine when reconciliation is beneficial and when divorce is the more preferable outcome. This analytical gap serves as the justification for the novelty of this research. This study provides a contextual analysis that examines the relevance of the *ishlah* principle in light of the true nature of the conflict at hand.

Stemming from this gap, this research aims to critically analyze the dialectic between the imperative of reconciliation and the diverse factors causing divorce. Specifically, this study will map and evaluate the effectiveness of mediation when confronted with dominant factors such as economic hardship, domestic violence, and infidelity. The objective is to identify the conditions under which *ishlah* is relevant to pursue and when divorce becomes a more beneficial solution. The benefit of this research is to provide an academic contribution to legal practitioners, particularly

judges and mediators, in applying mediation in a more contextual and just manner. Furthermore, this research is expected to offer a reconceptualization of the meaning of “success” in mediation, one that is not limited to marital reunion but also includes the achievement of an amicable divorce through *tasrihun bi ihsan* (release with grace), in line with the spirit of *maqasid al-shari’ah*.

METHOD

This study is designed as normative legal research with a qualitative character. The normative paradigm was chosen because the focus of this study is on the norms, principles, and legal doctrines governing marriage and divorce, particularly the principle of *ishlah*, as derived from both Islamic law and positive law. The qualitative nature is inherent in this research, as the analysis is interpretative and in-depth, focusing on textual data to understand the meaning, concepts, and philosophical dialectics behind the application of legal norms, rather than conducting quantitative measurements (Qamar & Rezah, 2020). This combination is deemed most relevant to answer the study’s evaluative and conceptual research questions.

To comprehensively dissect the issue, this research employs two primary approaches. *First*, a philosophical approach is used to explore the essence and fundamental values underlying the concepts of marriage, divorce, and *ishlah*. This approach will specifically utilize the theoretical framework of the higher objectives of Islamic law (*maqasid al-shari’ah*) as an analytical tool. The purpose is to evaluate whether the implementation of mediation aligns with the objectives of *shari’ah*. The application of this framework is operationalized by using its five primary principles (*al-kulliyat al-khams*) as a yardstick to assess the benefit (*maslahah*) and harm (*mudharat*) of each mediation outcome. *Second*, a conceptual approach is utilized to analyze and clarify the meaning of key relevant legal terms, such as *talak*, *khuluk*, *syiqaq*, and especially *ishlah* itself, in order to avoid ambiguity and construct a precise argumentative framework.

The data sources in this study are classified into three categories of legal materials (Sampara & Husen, 2016). Primary legal materials include sources with the highest authority, namely the Qur’an and Hadith, as well as directly binding statutory regulations. Secondary legal materials consist of documents that provide explanations and analyses of the primary materials. These include textbooks and, most importantly, articles from reputable scientific journals. Lastly, tertiary legal materials are used as supplementary sources, such as legal dictionaries and encyclopedias. All these materials were collected through library research, which involved searching online journal databases (such as Google Scholar and SINTA) using specific keywords and inclusion criteria, including topic relevance and a publication timeframe within the last ten years.

The data analysis technique employed is qualitative and argumentative (Irwansyah, 2020). After all legal materials were inventoried, the analysis was conducted through several stages. Data from primary and secondary legal materials were analysed using qualitative content analysis to identify the inherent norms and concepts within them. Subsequently, findings from secondary legal materials, particularly documented divorce case studies in scientific journals, were analyzed through a comparative literature synthesis. This technique aims to compare and contrast the patterns of mediation failure and success for each causal factor of divorce. The culmination of the analysis process is the application of the *maqasid al-shari'ah* framework to critically evaluate the results of this synthesis. The goal is to formulate an argument regarding when the application of the *ishlah* principle aligns with the greater good and when divorce becomes the choice that better fulfills the objectives of *shari'ah*.

RESULTS AND DISCUSSION

A. The Transformation of *Ishlah*: From a Theological Principle to a Juridical Imperative in the Religious Courts

The concept of reconciliation (*ishlah*) in Islamic family law is fundamentally rooted in a theological principle that promotes substantive, community-based peace. Its primary foundation is enshrined in the Qur'an, Surah An-Nisa, verse 35. This verse explicitly mandates the appointment of an arbitrator (*hakam*) from each of the spouses' families in the event of severe discord (*syiqaq*) between them. This mechanism of appointing an arbitrator (*tahkim*) has distinct characteristics: it is flexible, unbound by rigid formalities, and relies on the moral authority and wisdom of the arbitrators who possess a deep understanding of the problem's context. Its main objective is not merely to determine who is right or wrong, but to bring about improvement (*yurida ishlahan*) with sincere intent. This process prioritises the restoration of the relationship and the integrity of the family, the smallest social unit, as its primary goal.

In Indonesia, this noble theological principle underwent a significant transformation through the process of juridification or formalization into the positive law system. The impetus to adopt this principle into the judicial sphere was driven by the spirit of Law Number 1 of 1974, which positions the state as the guardian of the marital institution and aims to make divorce more difficult. This mandate was then institutionalized more technically through the Compilation of Islamic Law. It culminated in Supreme Court Regulation Number 1 of 2016. Through this regulation, *ishlah* is no longer a flexible moral recommendation; it has evolved into a structured and standardised legal procedure bound by a strict timeframe.

This transformation from a substantive theological principle to a formal juridical procedure gives rise to several crucial implications. Although intended to provide legal certainty, it inherently influences its effectiveness. A fundamental paradigm shift occurs: from community-based reconciliation to court-annexed mediation. Consequently, the substantive flexibility of the *hakam* mechanism is replaced by the procedural rigidity of mediation, which is tied to court schedules and calendars. As a result, the mediator, who acts as a neutral facilitator, often lacks the moral authority and contextual proximity possessed by an arbitrator (*hakam*) from the family environment.

The most significant consequence of this formalization is the potential for a reduction in the meaning of *ishlah* itself. When mediation becomes a mandatory stage, it runs a high risk of being perceived as merely a procedural formality, especially by parties with a firm resolve to divorce. Various studies have consistently shown that the success rate of mediation in achieving marital reunion (*rujuk*) is relatively low (Saifullah, 2015; Haeratun & Fatahullah, 2022). Many parties participate in mediation not with a sincere intention to reconcile, but merely to fulfill a requirement so that their divorce proceedings can continue promptly (Zulkfa, 2021). This phenomenon reveals an inherent tension between the spirit of *ishlah* and the practice of mediation, which is often trapped in formalism. This gap serves as the point of departure for analysing why the effectiveness of mediation varies significantly.

B. The Dialectic of Applying *Ishlah* to the Dominant Factors of Divorce

An in-depth analysis of mediation's effectiveness indicates that its success cannot be uniformly assessed. The success or failure of mediation is highly dependent on the nature or essence of the causal factor of the divorce itself. Therefore, to dissect this dialectic sharply, the discussion in this section will be mapped into two primary, contrasting categories. *First*, it will analyze functional-relational conflicts where room for restoration remains open. *Second*, it will discuss conflicts that constitute a fundamental violation of the essence of the solemn covenant (*mitsaqan ghalizhan*), where conventional mediation becomes problematic. This distinction is crucial for understanding the context in which the principle of *ishlah* can be optimally upheld and when divorce becomes the choice more aligned with the higher objectives of Islamic law (*maqasid al-shari'ah*).

1. Mediatable Conflicts: An Analysis of Economic Factors and *Syiqaq* (Persistent Dispute)

A comparative analysis of various divorce case studies indicates that not all causal factors have the same impact. A category of conflicts emerges

that is inherently more mediatable, where intervention through *ishlah* has a higher probability of success. This category generally includes disputes rooted in functional issues within the household, such as economic hardship and persistent disputes (*syiqaaq*). The main characteristic of these conflicts is that they do not necessarily destroy the fundamental essence of the marital bond; instead, they tend to affect the operational and relational aspects of married life. Therefore, if handled appropriately, there remains room for restoration and improvement.

Persistent dispute and quarrelling (*syiqaaq*) is the most frequently cited reason for divorce in petitions. Conceptually, *syiqaaq* is a state of chronic division and hostility between a husband and wife, resulting in the loss of tranquillity (*sakinah*) within the household. Although it appears severe, the root of *syiqaaq* can often be traced back to more foundational problems, such as destructive communication patterns or the accumulation of unresolved minor grievances. It is in this context that the mediator's role becomes crucial. A skilled mediator can function as a facilitator, helping the parties break free from the cycle of mutual blame. A study by [Iberahim et al. \(2023\)](#) showed that a mediator's strategy in facilitating constructive dialogue is key to the success of mediation in cases of *syiqaaq*.

The potential for mediation success in cases of *syiqaaq* is highly dependent on the remaining presence of good faith from both parties. As long as each party still holds a desire to improve the situation, the door to *ishlah* remains open. A mediator can leverage this good faith to reframe the conflict, transforming it from a win-lose struggle into a shared problem to be solved. This process aligns with the spirit of *ishlah*, which aims to mend the relationship. When blocked communication channels are successfully reopened, parties often realize that the problems they face are, in fact, manageable. Thus, mediation in cases of *syiqaaq* not only aims for marital reunion (*rujuk*) but also serves as a therapeutic intervention.

Similar to *syiqaaq*, economic factors also exhibit a dualistic influence on mediation. On the one hand, when economic problems are interpreted as the husband's negligence in fulfilling his maintenance obligations, the conflict is transformed. It ceases to be a financial issue and becomes one of character and responsibility. This perception, as analyzed by [Zakih \(2024\)](#), significantly erodes the wife's respect and trust, making mediation exceedingly difficult. The divorce petition becomes a symbol of the collapse of trust in the husband's commitment ([Purwadi, 2021](#)).

On the other hand, mediation shows high potential for success when economic difficulties can be framed as an external challenge faced jointly, for instance, if the hardship is caused by factors beyond their control, such as job termination. In this scenario, a mediator can shift the focus from “whose fault it is” to “how we can solve this together.” Various case studies demonstrate that peace can be achieved when mediation successfully facilitates the formulation of new, concrete agreements (Hartawati et al., 2022). This success indicates that as long as the foundation of mutual trust remains, economic problems can become a catalyst that strengthens the marital bond.

Philosophically, the success of *ishlah* in these two factors can be analyzed through the lens of *maqasid al-shari’ah*. The effort to preserve a marriage in these cases directly aims to protect several fundamental objectives of *shari’ah*. *First*, it protects the family institution as the primary vehicle for preserving lineage (*hifz al-nasl*). *Second*, it preserves wealth (*hifz al-mal*) by preventing economic dislocation after divorce. Thus, it can be concluded that conflicts of a functional and relational nature are the domain where the principle of *ishlah* is not only relevant but also most effective.

2. Fundamental Violations of the *Mitsaqan Ghalizhan*: An Analysis of Domestic Violence and Infidelity

Opposed to functional conflicts, there is a category of divorce factors that qualitatively assails the very heart of the sacred marital covenant (*mitsaqan ghalizhan*). Domestic violence and infidelity are no longer mere disputes; they are forms of betrayal and destruction of the primary pillars of marriage, namely tranquility (*sakinah*), security, and trust (*amanah*). Consequently, the application of conventional mediation in these cases is not only ineffective but also ethically and philosophically problematic.

Domestic violence is the antithesis of the marital objective to create *sakinah*. The household transforms into a source of terror and suffering (Mulyana & Irwan, 2025). From the perspective of *maqasid al-shari’ah*, domestic violence is a direct violation of the highest objective of *shari’ah*: the preservation of life (*hifz al-nafs*). Forcing mediation aimed at marital reunion (*rujuk*) in this situation is a fundamental fallacy. It is because standard mediation assumes equal bargaining positions, an assumption that collapses in the context of domestic violence, where an extreme power imbalance exists between the perpetrator and the victim (Fahrurrozi et al., 2022). As warned by Tirtawening and Maryam (2018), placing the victim and the perpetrator in the same room without special protocols can lead to intimidation and revictimization.

Therefore, divorce in cases of domestic violence is often not a failure but an act of salvation that aligns with the spirit of *maqasid al-shari'ah*. Terminating a destructive marriage is a way to repel harm (*dar' al-mafasid*) and preserve life (*hifz al-nafs*). In the hierarchy of *maqasid*, this objective is a higher priority than merely maintaining the formal status of a marital bond. This analysis surpasses previous findings, which have often focused on external factors, such as mediator competence. Iberahim et al. (2023) argue that the failure of mediation in domestic violence cases is inherent and philosophical, while Musawwamah (2022) shows that a divorce decree can become a legal instrument to protect the dignity of women from violence.

Similar to domestic violence, infidelity is also a direct assault on the foundation of marriage, specifically the pillars of trust (*amanah*) and fidelity (*wafa*). If domestic violence damages physical security, infidelity annihilates emotional security. It tears apart the bond of exclusivity that is at the core of the *mitsaqan ghalizhan*. The presence of a third party fundamentally alters the structure of the relationship, creating a betrayal that inflicts profound psychological injury (*dhirar*). Consequently, the foundation for rebuilding the relationship—trust is destroyed. A study by Nugraha et al. (2020) confirmed that infidelity is one of the factors with the highest rate of mediation failure.

The effort of *ishlah* in cases of infidelity faces extraordinary challenges. This process requires two nearly impossible conditions: an absolute capacity for forgiveness from the betrayed party and proof of sincere repentance (*taubat nasuha*) from the unfaithful party. In many cases, apologies are often merely strategic, and mediators and courts face the difficulty of gauging the sincerity of such repentance within a short timeframe. Thus, forcing reconciliation in a situation where trust has been obliterated can be seen as disregarding the emotional suffering of the betrayed party. Within the framework of *maqasid*, preserving a marriage marred by deceit directly contradicts the objectives of preserving honor (*hifz al-'irdh*) and tranquility of the soul (*sakinah*).

C. Reconceptualizing Success in Mediation: From Formal Marital Reunion to an Amicable Divorce (*Tasrihun bi Ihsan*)

The analysis presented demonstrates that insisting on the goal of marital reunion (*rujuk*) in every mediation process is an approach that is both ineffective and potentially unjust. A paradigm that measures the success of mediation solely by the rate of marital reunions is a narrow metric. Philosophically, it overlooks other dimensions of justice in resolving family disputes. This view implicitly prioritizes the formal integrity of the marriage over the well-being (*maslahah*) of the individuals within it, a position that is problematic when viewed from the

framework of *maqasid al-shari'ah*. Therefore, a fundamental reconceptualization of the meaning of “success” in mediation is necessary. The theological foundation for this reconceptualization is firmly embedded in the Qur'an, Surah Al-Baqarah, verse 229:

الطَّلَاقُ مَرَّتَيْنِ ۖ فَاِمْسَاكٌ بِمَعْرُوفٍ ۙ اَوْ تَسْرِيْحٌ بِاِحْسَانٍ ۗ وَلَا يَحِلُّ لَكُمْ اَنْ تَاْخُذُوْا بِمَا
اَتَيْتُمُوْهُنَّ شَيْئًا اِلَّا اَنْ يَخَافَاْ اَلَّا يُقِيْمَا حُدُوْدَ اللّٰهِ ۗ فَاِنْ خِفْتُمْ اَلَّا يُقِيْمَا حُدُوْدَ اللّٰهِ فَلَا
جُنَاحَ عَلَيْهِمَا فِيمَا افْتَدَتْ بِهٖ ۗ تِلْكَ حُدُوْدُ اللّٰهِ فَلَا تَعْتَدُوْهَا ۗ وَمَنْ يَتَعَدَّ حُدُوْدَ اللّٰهِ فَاُولٰٓئِكَ
هُمُ الظَّالِمُوْنَ ﴿٢٢٩﴾

“Divorce is twice. Then, either keep [her] in an acceptable manner or release [her] with good treatment. Moreover, it is not lawful for you to take anything of what you have given them unless both fear that they will not be able to keep [within] the limits of Allah. However, if you fear that they will not keep [within] the limits of Allah, then there is no blame upon either of them concerning that by which she ransoms herself. These are the limits of Allah, so do not transgress them. Moreover, whoever transgresses the limits of Allah - it is those who are the wrongdoers.”

This verse not only provides the option to reunite acceptably (*imsakun bi ma'rufin*), but it also explicitly juxtaposes it with an equivalent option: to divorce with good treatment (*tasrihun bi ihsan*), signifying that a just separation is also a sanctioned outcome. The mention of these two options side-by-side implies that a separation conducted reasonably holds a value of well-being (*maslahah*) equivalent to that of reconciliation, especially when reconciliation is no longer feasible. This command to separate with grace (*ihsan*) encompasses the fulfillment of all post-divorce rights and obligations without creating new conflicts.

In the context of mediation at the Religious Courts, this paradigm of *tasrihun bi ihsan* offers a broader definition of success. Whereas previous research has tended to measure mediation's success by the rate of marital reunions (Saifullah, 2015; Haeratun & Fatahullah, 2022), this study proposes *tasrihun bi ihsan* as a more holistic alternative metric. When marital reunion proves impossible, mediation is not automatically deemed a failure. The process can still be considered successful if it facilitates the creation of a comprehensive, peaceful agreement concerning the legal consequences of the divorce. It includes child custody (*hadhanah*), child support, and the division of joint marital assets (*gono-gini*) (Amadea et al., 2022; Lira, 2023; Rimi, 2023).

Thus, a mediation that culminates in divorce but successfully prevents future conflict escalation is a tangible manifestation of the *ishlah* principle in a broader sense. It successfully “mends” the situation by constructively managing the separation and minimizing its negative impacts, especially for the children. This success is directly aligned with *maqasid al-shari’ah*: bringing about benefit (*jalb al-masalih*) by ensuring the rights of children and women are protected, and repelling harm (*dar’ al-mafasid*) by preventing prolonged animosity. Adopting this paradigm will enable legal practitioners to assess the contribution of mediation more holistically and justly.

CONCLUSIONS AND SUGGESTIONS

Based on the results and discussion, it can be concluded that the effectiveness of applying the principle of reconciliation (*ishlah*) through mandatory mediation in the Religious Courts is not monolithic. It is highly contextual and exhibits an apparent dichotomy, depending on the nature of the conflict that led to the divorce. There is a fundamental difference between functional-relational conflicts and those that constitute a violation of the essence of marriage. Mediation proves to have potential in functional-relational conflicts (economic issues and *syiqaq*), where room for negotiation and good faith still allows for reconciliation to be achieved. Conversely, in cases of domestic violence and infidelity, conventional mediation proves to be ineffective and philosophically inappropriate.

The synthesis of the analysis using the framework of the higher objectives of Islamic law (*maqasid al-shari’ah*) further affirms that the justification for continuing or terminating a marriage must be oriented toward the greater good (*maslahah*). Preserving a marriage in cases of domestic violence can contradict the objective of the preservation of life (*hifz al-nafs*); thus, divorce becomes the path to realizing this well-being. Conversely, pursuing peace in economic or *syiqaq* disputes is an implementation of the objectives of preserving lineage (*hifz al-nasl*) and wealth (*hifz al-mal*). Therefore, the dialectic between the *ishlah* principle and the reality of divorce must be understood as the search for a point of justice most suited to the context of each case.

Based on these conclusions, this study recommends a paradigm shift in the practice of mediation at the Religious Courts. *First*, conceptually, the metric for mediation success must be redefined. Success should no longer be measured solely by the achievement of marital reunion (*rujuk*). It must be expanded to include the realization of an amicable divorce (*tasrihun bi ihsan*). A mediation that successfully facilitates a peaceful agreement regarding post-divorce rights should be viewed as a positive achievement.

Second, practically, it is recommended that the Supreme Court establish a working group to formulate “Guidelines for the Implementation of Conflict Typology-Based Mediation.” This working group should consist of judges, mediators, psychologists, and academics. These guidelines must specifically regulate initial screening procedures for domestic violence cases and apply different approaches for each category of problems. For future research, it is suggested that a longitudinal study be conducted. This study could empirically measure the long-term impact of an “amicable divorce” on the psychological well-being of children, thereby providing concrete evidence for the validity of the *tasrihun bi ihsan* paradigm. The implementation of these recommendations is expected to realign the practice of mediation in the courts with the philosophical spirit of *ishlah*.

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