

Advocates' strategies for resolving muslim family conflicts through mediation: an islamic religious education approach

Aris Widodo ^{a,1,*}, Husna Nashihin ^{a,2}, Joni ^{a,3}

^a Institut Islam Nahdlatul Ulama Temanggung, Indonesia

¹ aris09aw@gmail.com; ² aufahusna.lecture2017@gmail.com

*Correspondent Author

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ABSTRACT

This study employs a qualitative descriptive approach. Data were collected through interviews, observation, and documentation involving mediators and relevant stakeholders at the Sleman Religious Court. The analysis focuses on mediation strategies applied by non-judge mediators and the factors influencing the success of mediation in Muslim family disputes. The findings reveal that mediation strategies implemented by non-judge mediators include religious, psychological, nostalgic, family-based, and logical-mathematical approaches. These strategies are used flexibly depending on the characteristics of the disputing parties. The success of mediation is influenced by internal factors such as the willingness of the parties, communication skills, mediator competence, and case complexity, as well as external factors such as social support and cultural pressures. Mediation outcomes vary from unsuccessful settlement, partial agreement (amicable divorce with mutual arrangements), to full reconciliation resulting in case withdrawal. In conclusion, PERMA No. 1 of 2016 strengthens the role of mediation as a mandatory and strategic mechanism in civil dispute resolution. Mediation at the Sleman Religious Court not only contributes to legal efficiency but also reflects values of Islamic Religious Education such as deliberation (musyawarah), reconciliation (islah), and moral responsibility in resolving Muslim family conflicts.

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Introduction

Family is the primary social institution in Islam and serves as the foundation for the formation of religious, moral, and social values. The realization of a harmonious family is one of the main objectives of Islamic teachings, as reflected in the concept of *sakinah*, *mawaddah*, and *rahmah*. However, various social, economic, and psychological challenges often trigger conflicts within Muslim families, which may ultimately lead to divorce. In this context, family conflict is not merely a legal issue but also an educational, social, and religious concern that requires comprehensive resolution efforts.

Sleman Regency has been identified as one of the regions with the highest number of divorce and family conflict cases in the Special Region of Yogyakarta. Reports indicate that most cases involve divorce petitions filed by wives, with economic difficulties among the dominant causes of marital disputes (Google, n.d.). The increasing number of family conflicts highlights the need for effective conflict-resolution mechanisms capable of addressing not only legal disputes but also the social and religious dimensions of family life. Consequently, the role of legal professionals, particularly advocates, becomes increasingly important in

assisting disputing parties throughout the conflict-resolution process.

Advocates are legal professionals authorized to provide legal services both inside and outside the court. These services include legal consultation, legal assistance, representation, advocacy, and other legal actions undertaken for the benefit of clients (Khoirin, 2020:11). In family conflict cases, advocates occupy a strategic position because they not only represent clients in legal proceedings but also influence the direction and outcome of dispute resolution. According to Ishaq (2024:50), advocates possess the authority to act on behalf of clients in various legal processes, including civil disputes, while remaining bound by legal and ethical responsibilities. Therefore, their professional role extends beyond litigation and encompasses efforts to encourage peaceful settlements whenever possible.

The importance of peaceful dispute resolution is explicitly emphasized in the Indonesian Advocate Code of Ethics. Article 4 point A of Chapter III concerning relations with clients states that advocates handling civil cases must prioritize settlement through peaceful means (Komite Kerja Advokat Indonesia, 2019). Since family disputes fall within the scope of civil law, advocates are ethically required to pursue reconciliation before advancing litigation. This obligation aligns with the broader objective of dispute resolution, namely reducing hostility, preserving family relationships, and minimizing the emotional and financial burdens associated with court proceedings.

Litigation is often characterized by lengthy procedures, high costs, and adversarial outcomes that may exacerbate tensions between disputing parties. As a result, court decisions frequently generate win-lose situations that satisfy one party while disappointing the other. Such conditions can lead to prolonged animosity and the breakdown of family and social relationships. Therefore, advocates are encouraged to employ strategies that promote consensus and reconciliation through deliberative approaches (*musyawarah*) and peaceful settlement mechanisms (Khoirin, 2020:84).

The commitment to peaceful settlement is further strengthened by Supreme Court Regulation (PERMA) Number 1 of 2016 concerning Mediation Procedures in Courts. Article 3 paragraph (1) stipulates that judges, mediators, litigants, and legal representatives are required to participate in mediation procedures as part of the dispute-resolution process before judicial examination continues (Ketua Mahkamah Agung Republik Indonesia, 2016). Furthermore, mediation constitutes a mandatory stage in civil disputes and serves as a mechanism through which disputing parties are provided opportunities to communicate, negotiate, and seek mutually acceptable solutions. This approach reflects the Islamic principles of *musyawarah* (deliberation) and *islah* (reconciliation), which emphasize peace, justice, and social harmony.

From the perspective of Islamic Religious Education, mediation is not merely a procedural legal requirement but also an educational process that cultivates religious awareness, self-control, empathy, forgiveness, and responsibility among family members. Islamic Religious Education promotes values that encourage constructive communication and peaceful conflict management, making mediation a practical manifestation of educational and religious teachings within family life. Consequently, advocates who actively encourage mediation can be viewed not only as legal representatives but also as facilitators of moral and educational transformation aimed at restoring family harmony.

Despite the growing importance of mediation in family dispute resolution, studies examining advocates' strategies through the lens of Islamic Religious Education remain limited. Existing scholarship tends to focus on legal procedures, judicial decisions, or mediation effectiveness, while relatively little attention has been devoted to understanding how advocates integrate educational and religious values into their mediation practices. This gap highlights the need for further investigation into advocates' strategies in resolving Muslim family conflicts and the extent to which these strategies reflect the principles of Islamic Religious Education.

Based on these considerations, this study aims to analyze advocates' strategies for resolving Muslim family conflicts through mediation at the Sleman Religious Court and to examine these strategies from an Islamic Religious Education perspective. By exploring the

intersection of legal advocacy, mediation, and religious education, this study seeks to contribute to the development of more holistic approaches to family conflict resolution within Muslim communities.

Research Methods

This study employed a qualitative research design using a descriptive qualitative approach. Qualitative research was selected because it enables an in-depth understanding of social phenomena, behaviors, perceptions, motivations, and actions experienced by research subjects in their natural settings. The focus of this study was the strategies employed by advocates in resolving Muslim family conflicts through mediation at the Sleman Religious Court. Through this approach, the researchers sought to explore and describe comprehensively the advocates' actions, considerations, and mediation practices, particularly those reflecting the values and principles of Islamic Religious Education. The descriptive qualitative approach was considered appropriate because it facilitates a detailed portrayal of social realities and allows the researcher to examine the phenomenon holistically.

Data were collected from both primary and secondary sources. Primary data were obtained through interviews, observations, and open-ended questionnaires administered to advocates and other relevant parties involved in family dispute resolution processes. Secondary data were gathered from legal documents, court regulations, professional codes of ethics, academic literature, and other relevant records related to mediation and family conflict resolution. The collected data were analyzed descriptively by identifying patterns, themes, and meanings emerging from the participants' experiences and practices. This analytical process enabled the researchers to explain how advocates implement mediation strategies in Muslim family conflict cases and to examine the extent to which these strategies embody the educational values of dialogue (*musyawarah*), reconciliation (*islah*), responsibility, and social harmony promoted within Islamic Religious Education.

Results and Discussion

The Function of Supreme Court Regulation No. 1 of 2016 in Resolving Muslim Family Conflicts in Sleman Regency

The issuance of Supreme Court Regulation (PERMA) Number 1 of 2016 concerning Mediation Procedures in Courts has significantly strengthened the framework for resolving civil disputes, including Muslim family conflicts in Sleman Regency. This regulation was positively received by the Religious Court of Sleman, particularly because it introduces several improvements compared to PERMA No. 1 of 2008. One of the key changes is the reduction of the mediation period from 40 days to 30 days, reflecting an effort to create a more efficient and timely dispute resolution process.

Another important reform is the mandatory presence of the disputing parties (in personam) in mediation sessions, either with or without legal representation. This requirement emphasizes the importance of direct communication between parties in order to facilitate better understanding and emotional engagement in resolving family disputes. Exceptions are only granted under specific conditions such as serious health issues, legal incapacity, residence abroad, state duties, or unavoidable professional obligations. This provision highlights that mediation is not merely procedural, but also relational, requiring active participation from the parties involved.

Furthermore, PERMA No. 1 of 2016 introduces the concept of good faith (*iktikad baik*) as a central requirement in the mediation process. Article 7 explicitly obliges parties and their legal representatives to participate in mediation in good faith. Failure to do so may result in a party being declared uncooperative by the mediator, with consequences ranging from procedural sanctions to the dismissal of the lawsuit and financial penalties. These strict provisions reflect the seriousness of mediation as a mandatory stage in civil dispute resolution and serve as a legal mechanism to encourage sincerity and commitment among disputing parties.

The regulation also strengthens the role of mediators, both judges and certified non-judge mediators, in facilitating settlement outside litigation. Mediators are expected to play a more active role in bridging communication gaps and guiding parties toward mutually beneficial agreements. In practice, mediation can be conducted by judge-mediators or non-judge mediators, allowing flexibility for disputing parties to choose based on preference, expertise, or financial considerations. While judge-mediators are commonly selected due to cost efficiency, non-judge mediators often offer broader interdisciplinary perspectives due to their diverse academic and professional backgrounds.

In the context of Muslim family conflict resolution in Sleman, mediation under PERMA No. 1 of 2016 functions as a legal and social mechanism that integrates formal judicial procedures with informal values of deliberation (*musyawarah*) and reconciliation (*islah*). Although conflict is an unavoidable social reality, its impact can be minimized through effective dispute management within both formal and informal institutions. Formal mechanisms provide legal certainty and enforceability, while informal approaches offer flexibility and confidentiality. The integration of both approaches is expected to produce more comprehensive and equitable solutions for disputing parties.

Initially, mediation was understood as a non-litigation dispute resolution mechanism. However, its development into a mandatory judicial procedure reflects a paradigm shift in the Indonesian legal system, where settlement efforts must first prioritize reconciliation before adjudication. The success or failure of mediation is also considered by judges in the final decision-making process, indicating its strategic importance in civil proceedings. Within this framework, advocates play a crucial role in supporting mediation by encouraging constructive communication, fulfilling procedural requirements, and guiding clients toward peaceful settlement in accordance with legal and ethical standards.

Overall, PERMA No. 1 of 2016 not only regulates procedural aspects of mediation but also reinforces a cultural and ethical shift toward peaceful dispute resolution. In Muslim family conflicts, this regulation aligns with Islamic values of harmony, justice, and reconciliation, making mediation not only a legal obligation but also a moral and educational process that supports the preservation of family integrity and social cohesion.

Mediation Strategies for Conflict Resolution at the Sleman Religious Court

Mediation as an alternative dispute resolution (ADR) mechanism has become a central approach in resolving civil disputes, including Muslim family conflicts and divorce cases at the Sleman Religious Court. The increasing reliance on mediation reflects a broader judicial policy that prioritizes peaceful settlement before litigation. In practice, mediation is not only a procedural requirement but also a strategic effort to reduce the burden of courts and promote reconciliation between disputing parties. The presence of both judge mediators and non-judge certified mediators has strengthened the implementation of mediation in family law cases, with non-judge mediators playing a particularly significant role in facilitating dialogue and negotiation between parties.

Despite its growing importance, the effectiveness of mediation remains influenced by various challenges. Previous studies indicate that mediation success rates in several Religious Courts are still relatively limited due to factors such as mediator competence and the willingness of disputing parties to reconcile. In many cases, mediators—especially non-judge mediators—still face constraints related to certification, communication skills, and public trust. These conditions highlight that mediation outcomes are not solely determined by procedural regulations but are also strongly influenced by human factors and the quality of interaction between parties and mediators.

In divorce-related cases, mediation at the Religious Court is often perceived as a final attempt before formal separation occurs. Many parties entering the court already have a strong intention to divorce, making reconciliation a challenging objective for mediators. This condition places mediators in a difficult position, requiring them not only to facilitate dialogue but also to reconstruct emotional and relational understanding between disputing spouses. Therefore, this study emphasizes not only mediation outcomes but also the

strategies employed by mediators in guiding parties toward either reconciliation or structured agreement.

Mediation outcomes in family disputes at the Sleman Religious Court can generally be categorized into three forms. First, unsuccessful mediation occurs when parties maintain rigid positions that cannot be reconciled, resulting in no agreement. Second, partial agreement occurs when parties agree to divorce amicably while also reaching consensus on legal consequences such as iddah maintenance, mut'ah, and child support. Third, successful reconciliation occurs when parties agree to withdraw the case and restore their marital relationship. Among these outcomes, partial agreement is still considered a meaningful achievement, as it reduces conflict intensity and facilitates a more dignified separation process.

The success of mediation is influenced by both internal and external factors. Internal factors include the willingness of the disputing parties, their mental readiness, communication effectiveness, flexibility in compromise, and physical presence during mediation sessions. The mediator's competence, neutrality, communication skills, empathy, and understanding of both legal and religious values also play a crucial role in shaping mediation outcomes. Additionally, case complexity—such as financial disputes, property division, and child custody issues—significantly affects the difficulty level of mediation.

External factors also contribute to mediation effectiveness. Family and social support systems can encourage parties to pursue peaceful resolution, while social and cultural pressures may either facilitate or hinder the mediation process. Cultural norms regarding honor, gender roles, and family responsibility often shape how parties perceive conflict and negotiation. These external influences demonstrate that mediation is not merely a legal process, but also a socially embedded practice influenced by broader community values.

Overall, mediation at the Sleman Religious Court reflects a complex interaction between legal procedures, human behavior, and socio-cultural values. The effectiveness of mediation depends not only on regulatory frameworks such as Supreme Court Regulation No. 1 of 2016 but also on the strategic role of mediators and advocates in guiding disputing parties toward constructive dialogue and resolution. In this context, mediation serves not only as a legal mechanism but also as a socio-educational process aligned with Islamic principles of musyawarah (deliberation) and islah (reconciliation), which aim to preserve harmony within Muslim families.

Strategies of Non-Judge Mediators in Achieving Successful Mediation at the Sleman Religious Court

The success of mediation in family dispute resolution is significantly influenced by the role and strategies of the mediator. In the context of the Sleman Religious Court, non-judge mediators play a strategic role in facilitating communication, reducing emotional tension, and guiding disputing parties toward either reconciliation or mutually acceptable agreements. Their effectiveness depends not only on legal competence but also on the ability to apply multidimensional approaches tailored to the psychological, social, and religious conditions of the parties involved.

One of the most prominent approaches used by non-judge mediators is the religious approach. In this strategy, mediators integrate Islamic values to provide moral and spiritual reflection for the disputing parties. Mediation sessions are often initiated with prayers and reminders to seek guidance from God, as well as encouragement for self-reflection through repentance (istighfar). Mediators also remind the parties of the sacred nature of marriage and the commitment made before God. This approach aims to strengthen moral awareness and spiritual responsibility, thereby encouraging parties to reconsider their intention to divorce and seek reconciliation in accordance with religious teachings.

In addition to the religious dimension, mediators also apply a psychological approach. This method focuses on understanding the emotional states, perceptions, and psychological needs of both parties. Mediators emphasize that every marital relationship is ideally intended to achieve *sakinah*, *mawaddah*, *wa rahmah*, and that conflicts often arise from differences in

perception, misunderstanding, and lack of trust. By encouraging empathy, communication, and mutual understanding, mediators help reduce emotional hostility and create a more constructive atmosphere for dialogue. This psychological engagement enables parties to shift from emotional reactions toward more rational and solution-oriented thinking.

Another strategy commonly applied is the nostalgic or “positive memory” approach. Mediators guide parties to recall positive experiences from the early stages of their relationship, including moments of affection, happiness, and shared commitment. This technique is intended to revive emotional attachment and encourage reflection on the value of maintaining the marital relationship. However, this approach is not always effective in cases where the marital history is dominated by negative experiences. In such situations, mediators instead focus on highlighting remaining positive aspects of the relationship or constructive values that may still exist between the parties, with the aim of opening space for reconciliation.

The family-based approach is also an important strategy in mediation. Mediators often remind disputing parties of the broader consequences of divorce, particularly its impact on children and extended family members. Issues such as children’s psychological well-being, future upbringing, and family stability are emphasized to encourage more responsible decision-making. In some cases, family members such as parents or close relatives are involved in the mediation process to provide additional perspectives and emotional support. This approach strengthens the sense of social responsibility and encourages parties to prioritize family welfare over individual conflict.

Furthermore, mediators may employ a logical-mathematical approach, particularly in cases involving financial disputes such as asset division, alimony, or child support. This strategy involves the use of calculations, data, and scenario analysis to provide a more objective understanding of the financial consequences of various settlement options. By presenting concrete and rational comparisons, mediators help reduce emotional bias and support decision-making based on fairness and sustainability.

These five mediation strategies—religious, psychological, nostalgic, family-based, and logical-mathematical—are not applied in isolation but are used flexibly depending on the characteristics of each case and the conditions of the disputing parties. The success of mediation is therefore determined not only by the chosen strategy but also by the mediator’s ability to adapt approaches contextually and integrate them effectively within the mediation process. Ultimately, the role of non-judge mediators in Sleman reflects a holistic mediation practice that combines legal reasoning, emotional intelligence, and Islamic ethical values in resolving Muslim family conflicts.

Conclusion

Based on the findings of this study, the implementation of mediation at the Sleman Religious Court under Supreme Court Regulation (PERMA) No. 1 of 2016 plays a significant role in resolving family conflicts, particularly divorce cases. This regulation introduces important reforms, including the reduction of the mediation period to 30 days, the mandatory in-person attendance of disputing parties, and a strong emphasis on good faith, accompanied by sanctions for parties who fail to comply. In practice, non-judge certified mediators play an essential role in facilitating peaceful dispute resolution through adaptive and context-based approaches tailored to the characteristics of the parties involved.

The mediation strategies applied at the Sleman Religious Court reflect a comprehensive approach, including religious, psychological, nostalgic (positive memory), family-based, and logical-mathematical approaches. The success of mediation is influenced by internal factors such as the readiness of the parties, communication skills, and mediator competence, as well as external factors such as social support and cultural pressures. Mediation outcomes are not limited to reconciliation but may also include amicable divorce agreements or unsuccessful mediation, all of which still contribute positively to procedural efficiency and dispute resolution. Therefore, PERMA No. 1 of 2016 functions not only as a procedural guideline but also as an important instrument in improving the legal, social, and psychological quality of

dispute resolution.

References

- Ahsan, Muhammad. Terjemah Kitab Al-Lu'lu Wal Marjan Shahih Bukhari Muslim karya Muhammad Fu'ad Abdul Baqi. Jakarta: Kompas Gramedia, 2022.
- "Data sekunder." KBBI Daring. <https://kbbi.kata.web.id/data-sekunder/> (diakses 17 Januari 2024).
- Direktorat Bina KUA dan Keluarga Sakinah. Kompilasi Hukum Islam di Indonesia.
- Fauzan Januri, Moh. Pengantar Hukum Islam dan Pranata Sosial. Bandung: CV Pustaka Setia, 2023.
- Ishaq. Pendidikan Keadvokatan. Jakarta: Sinar Grafika, 2024.
- Kartini, Kartono. Pengantar Metodologi Riset Sosial. Bandung: Mandar Maju, 2020.
- Ketua Mahkamah Agung Republik Indonesia. Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2016 tentang Prosedur Mediasi di Pengadilan.
- Kementerian Agama Republik Indonesia. Al-Qur'an dan Terjemahan. Bandung: Mikraj Khazanah Ilmu, 2023.
- Kementerian Hukum dan HAM Republik Indonesia. Undang-Undang Nomor 3 Tahun 2006 tentang Perubahan atas Undang-Undang Nomor 7 Tahun 1989 tentang Peradilan Agama.
- Khoirin, Nur. Strategi dan Fungsi Advokat dan Lembaga Bantuan Hukum. Semarang: Basscom Multimedia Grafika, 2020.
- Komite Kerja Advokat Indonesia. Kode Etik Advokat Indonesia Tahun 2019.
- "Kuasa." KBBI Daring. <https://kbbi.web.id/kuasa> (diakses 13 November 2024).
- Manurung, Darwis. "Tinjauan Yuridis terhadap Strategi dan Fungsi Advokat dalam Penyelesaian Perkara Perdata." Jurnal Hukum, Vol. 03 No. 1 (Juni 2019), hlm. 74.
- Maru Hutagalung, Sophar. Praktik Peradilan Perdata dan Alternatif Penyelesaian Sengketa. Jakarta: Sinar Grafika, 2022.
- Musadad, Ahmad. Alternative Dispute Resolution. Batu: Literas Nusantara, 2020.
- Pitoyo, Whimbo. Strategi Jitu Memenangkan Perkara Perdata dalam Praktik Peradilan. Jakarta Selatan: Transmedia Pustaka, 2022.
- Rada, Arifin. "Esensi Keberadaan Advokat Menurut Hukum Islam." Jurnal Hukum, hlm. 120.
- Rambe, Ropaun. Teknik Praktek Advokat. Jakarta: PT Grasindo, 2021.
- Sugiyono. Memahami Penelitian Kualitatif. Bandung: Alfabeta, 2021.
- Sugiyono. Metode Penelitian Pendidikan Pendekatan Kuantitatif, Kualitatif dan R&D. Bandung: Alfabeta, 2022.
- Tarantang, Jefry. Advokat Mulia (Paradigma Hukum Profetik dalam Penyelesaian Sengketa Hukum Keluarga Islam). Yogyakarta: KMedia, 2023.
- "Preventif." KBBI Daring. <https://kbbi.web.id/preventif> (diakses 01 November 2024).
- Tim Penyusun. Pedoman Penulisan Karya Ilmiah Institut Agama Islam Negeri Sleman. Sleman: IAIN Sleman, 2020.
- Usman, Husaini. Metodologi Penelitian Sosial. Jakarta: Bumi Aksara, 2023.
- Witanto, D.Y. Hukum Acara Mediasi dalam Perkara Perdata di Lingkungan Peradilan Umum dan Peradilan Agama menurut PERMA No. 1 Tahun 2024 tentang Prosedur Mediasi di Pengadilan. Bandung: Alfabeta, 2024.