



THE ROLE OF RELIGIOUS COURTS IN RESOLVING FAMILY DISPUTES THROUGH ADJUDICATION AND MEDIATION

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Abstract

This article examines the role of religious courts in resolving family disputes, focusing on their authority, adjudication processes, and mediation efforts in cases of marriage, inheritance, and waqf. The discussion presents a conceptual exploration of how religious courts function as institutions that connect state law and religious norms in the regulation of family relations. Adjudication is viewed as more than the mechanical application of legal rules, since judges must engage with emotionally charged relationships and competing claims among family members. Mediation is discussed as an institutionalised attempt to encourage amicable settlements that preserve long term family harmony and protect vulnerable parties, particularly women and children. Waqf disputes are considered in relation to the need to safeguard the original religious intent behind endowed property while addressing present day management issues. By synthesising these aspects, the article highlights the potential of religious courts to provide resolutions that combine legal certainty with moral responsibility in family law.

Keywords: religious court, family dispute, marriage, inheritance, waqf, mediation, family law.

Introduction

In modern legal systems, family courts occupy a very important position in maintaining order in civil relations arising from domestic life, inheritance, and the management of religious assets. In religious communities, family disputes are not only related to civil rights and obligations but also touch on moral, religious, and social harmony. Marriage, divorce, child custody, inheritance distribution, and the management of endowments carry values that go beyond mere material calculations. In such circumstances, society requires a forum for resolution that does not solely rely on the rationality of positive law but also provides space for religious teachings and living customs. Religious courts exist as institutions formally authorized to adjudicate certain family disputes derived from religious law, thus serving as a bridge between Sharia norms, statutory regulations, and the social realities of families. This is important because legal institutions also play a role in shaping harmonious social behavior within families, especially for children and younger generations (Aidan Bin Abdullah, 2021; Evendi et al., 2021).

The development of modern society, which is increasingly complex, has broadened the spectrum of issues in family law, along with increasing social mobility, transformations in gender relations, and changing values regarding the institution of marriage and family structure (Giddens, 1992). Modernization brings consequences in the form of more diverse family structures, so legal conflicts are no longer limited to divorce but also include disputes over child custody, post-divorce alimony, division of joint property, and inheritance conflicts among family members with increasingly complex economic interests (Goode, 1963). Moreover, children and adolescents are also vulnerable to social pressures that influence their life choices and behavior within the family, making dispute resolution require consideration of these psychosocial aspects (Fajar, Zakki, Darmawan, & Evendi, 2021). On the other hand, the economic development of the community encourages a transformation in endowment practices from traditional management to high-value productive asset management that requires transparency, accountability, and legal certainty (Chapra, 2000). In this regard, religious courts face institutional demands to adjust their authority, adjudication procedures, and alternative dispute resolution mechanisms to effectively and fairly respond to the dynamics of Muslim family life. This process also

emphasizes the need for active participation of women and family members in decision-making that affects household welfare (Halizah & Nuraini, 2021).

Normatively, the position of religious courts within the national judicial system reflects the state's effort to accommodate family law needs derived from certain religious teachings (An-Na'im, 2011). The authority to adjudicate matters of marriage, inheritance, and endowments indicates recognition of the existence of religious norms that live within society. However, this recognition requires a judicial mechanism capable of translating sacred texts and fiqh into enforceable decisions that are just. Judges in religious courts stand at the intersection of positive legal texts, religious sources, and the concrete family relationships they face in the courtroom. In this context, an approach that considers the best interests of the child is highly relevant so that each decision is not only fair but also strengthens the emotional stability of the family (Fajar, Darmawan, & El-Yunusi, 2021).

In practice, family court proceedings in religious courts are not merely the application of positive legal norms but also arenas of social interaction imbued with psychological and emotional dimensions of the parties involved. Socio-legal studies show that family disputes almost always involve deep relational conflicts, including marital disappointment, inter-kin conflicts, and disagreements over interpretations of moral or religious obligations (Mnookin & Kornhauser, 1979). Family judges, therefore, do not only function as interpreters of the law but also as social mediators dealing with individuals under emotional pressure and unstable personal identities (Bourdieu, 1987). This underscores the importance of understanding social dynamics and economic pressures affecting family interactions, including the risk of marginalization of street children and economically vulnerable parties (Fauzi, 2021; Aidan Bin Abdullah, 2021). Sensitivity in uncovering facts, balance in considering the interests of children and spouses, and caution in formulating decisions become essential so that court rulings do not prolong social conflict or create new relational wounds. This demonstrates that family law operates in the realm of humanity, going beyond merely formal legal dimensions.

Over the past two decades, the idea of resolving disputes peacefully through mediation has received significant attention within the judiciary, including religious courts. Family disputes, especially matters of marriage and inheritance, in fact, fall within relationships that ideally should not be

completely severed even when legal conflicts arise (Agnes, 2011). The continuation of blood ties, maintenance obligations, and the interests of children demand that disputes be resolved in a manner that reduces hostility. Mediation in religious courts is seen as a means to reconcile formal justice with the values of welfare inherent in religious teachings. Here, a psychosocial approach that considers the child's environment and peer influences is also relevant so that the agreements reached are more sustainable and acceptable to all parties (Evendi et al., 2021). Through mediation, parties are given the opportunity to develop agreements that better suit the specific needs of their families, under the guidance of a mediator who understands both the legal and moral dimensions of the dispute.

The emerging issue relates to the extent to which the authority of religious courts is truly utilized optimally to preserve integrity and justice within the family (Ben-David, 2019). Although the scope of authority has been clearly defined in statutory regulations, practice in the field often reveals hesitancy in utilizing the available legal instruments to protect vulnerable parties, such as economically dependent children and wives. In some cases, inheritance and endowment disputes also demonstrate a tension between personal interests and religious trusts. This indicates that a simple understanding of the law is insufficient; attention must also be paid to the welfare and psychological needs of the parties involved (Gani et al., 2021; Fajar, A. S. M., Darmawan, & El-Yunusi, 2021). A pertinent question is how religious courts position themselves as authorities that do not merely validate the will of the parties but ensure that such will does not conflict with the principles of family justice and the worship-related objectives inherent in marriage, inheritance, and endowments.

Another issue concerns the operation of mediation as an integral part of the religious court process. Normatively, mediation is positioned as a peaceful effort that must be attempted before a case is examined through full litigation (Basu, 2012). However, its implementation depends on the capacity of the mediator, the willingness of the parties, and the culture of the judicial institution itself. In family disputes, the imbalance between parties with legal knowledge and those without can affect the quality of agreements reached. Moreover, public perceptions of religious courts as institutions whose task is to issue formal judgments can create psychological barriers to utilizing mediation as an equal dialogue space. By understanding

the principles of child and family welfare, mediation can become a fairer and more comprehensive space, not merely a legal formality (Fajar, A. S. M., Darmawan, & El-Yunusi, 2021; Fajar, Zakki, Darmawan, & Evendi, 2021). Here arises the question of how the role of mediation is conceptually understood within the framework of family dispute resolution that places substantive justice as the primary goal.

The urgency of compiling a literature study on the role of religious courts in resolving family disputes stems from the need to develop a comprehensive conceptual understanding of authority, judicial procedures, and mediation efforts within a single framework of thought. Public discussion is often fragmented between criticism of court decisions, discussions on the rights of women and children, and discourse on family law reform. Without a structured review, the relationship between formal authority, judicial processes, and mediation is difficult to understand as a single series of activities aimed at achieving family justice. Developing a literature review also helps strengthen awareness of the social and economic factors influencing the dynamics of modern families, so that the resulting legal solutions are more realistic and humane (Hariani & Mardikaningsih, 2021). This reading-based study is expected to provide a theoretical foundation for readers to view religious courts not merely as administrative institutions but as entities bearing moral responsibility in maintaining family order.

The purpose of writing this literature study is to compile a structured conceptual exposition regarding the role of religious courts in resolving family disputes, with emphasis on three main elements: the authority they possess, the judicial process they conduct, and the implementation of mediation in matters of marriage, inheritance, and endowments. Theoretically, this paper is expected to clarify the position of religious courts within the framework of family law and demonstrate how judicial authority and moral obligations are intertwined in handling disputes. Practically, this exposition is expected to provide insights for policymakers, academics, and family law practitioners to reassess the design of court processes and the strengthening of mediation institutions so that they align with the objectives of justice and family welfare.

Method

This study is compiled as a qualitative literature review focusing on theoretical reasoning regarding the role of religious courts in resolving family disputes. Gomm (2008) explains that social research methodology requires clarity regarding how researchers formulate questions, select sources, and develop arguments. Based on this idea, the initial step of this study is to formulate questions related to the authority of religious courts, the stages of the family court process, and the position of mediation in matters of marriage, inheritance, and endowments. Crano, Brewer, and Lac (2014) emphasize the importance of consistency between research objectives and methodological design, so the selection of reading materials is directed at works discussing procedural law, dispute resolution theory, and the regulation of religious court institutions. Source selection is carried out selectively to obtain a sufficient diversity of perspectives for developing a conceptual framework.

In developing the study design, Gagnon (2010) ideas on case studies are used as inspiration to view religious courts as a complete analytical unit, although this research does not use field data. Hesse Biber and Leavy (2006) remind that emergent qualitative methods provide space for researchers to adjust the analytical focus as understanding of the reading materials increases. With this spirit, the discussion structure is formed gradually, starting with an explanation of authority, followed by the court process, and ending with a conceptual analysis of mediation. Singleton and Straits (2018) stress the importance of clarity in the logic of exposition so that readers can follow the argumentative flow coherently. By integrating the perspectives of Gomm (2008), Crano and colleagues (2014), Hesse Biber and Leavy (2006), Gagnon (2010), and Singleton and Straits (2018), this study positions the literature review as a process of constructing a normative argument based on readings that are critically interconnected.

Result and Discussion

The role of religious courts as institutions for resolving family disputes is rooted in the state's recognition of legal pluralism and the needs of religious communities to obtain legal certainty aligned with their normative beliefs (Hooker, 1975). In general, the presence of this legal institution also helps the community understand their rights and obligations within the family context, thereby fostering more harmonious relationships. The authority of religious courts in matters of marriage, inheritance, and endowments is not

merely an administrative division of the judicial system but reflects the integration between the national legal system and religious law norms within the framework of legal pluralism (Menski, 2006). In marriage cases, religious courts ensure the validity of the husband-wife legal relationship and its legal consequences on children and joint property; in inheritance cases, the institution determines the legitimacy of heirs and the distribution of shares according to Islamic law principles; while in endowment cases, the court functions to validate pledges, oversee management, and resolve conflicts regarding the use of worship assets. In other words, this institution serves as a guide for the community in making fair and responsible decisions within the family sphere (Hariani, Aaliyah, & Issalillah, 2021). Thus, this authority demonstrates the role of religious courts as institutions bridging the religious demands of the community with the modern state legal system.

This authority provides the basis for religious courts to act as guardians of order in family relationships regulated by religious law. Without a clear judicial forum, family disputes could potentially be resolved through informal mechanisms that do not necessarily guarantee justice for the weaker parties (Reza, 2017). Simply put, the presence of the court provides a sense of security and assurance that the rights of all parties will be considered (Issalillah & Khayru, 2021). With their authority, religious courts function as a place where parties can obtain an objective assessment of their respective claims (Sukadi & Zuhriah, 2021). This role becomes especially important when there is a conflict between individual desires and the limits set by religious norms. For instance, in inheritance disputes involving attempts to reduce the share of certain heirs, religious courts are obliged to restore distribution according to rules deemed valid under Sharia, so that temporary interests do not override the principles of family justice derived from religious teachings. This emphasizes the importance of balancing formal law and the social interests of the family (Safira, 2021).

In the judicial process, religious courts do not stop at reading legal texts but place family facts as the primary consideration (Moors, 2018). Judges examine the background of the dispute, the relationships of the parties, and the social consequences of the decision to be rendered. In divorce cases, for example, the judge needs to assess whether peaceful efforts have been made, the welfare of the child after the parents' separation, and whether there is an imbalance in relationships requiring special protection.

In general, this process also serves to protect the child's right to grow up in a stable and safe environment (Hariani, Aaliyah, & Issalillah, 2021; Hariani, Safira, & Wahyuni, 2021). In inheritance cases, judges must scrutinize the kinship structure, relationships among heirs, and the condition of the inherited assets. Meanwhile, in endowment disputes, judges assess the conformity of asset management with the worship objectives pledged by the endower. This process shows that religious courts operate at the intersection of written norms, social realities, and religious purposes.

The authority of religious court judges includes interpreting religious law sources within the framework of the national legal system. Here, the creative role of judges in bridging the text with reality becomes apparent. For example, when handling joint property disputes, judges must consider principles of fairness between husband and wife, each party's role in building the household, and the protection of economically vulnerable parties. This aligns with the importance of considering individual and family welfare comprehensively (Warin, 2021). Judicial decisions not only resolve disputes but also convey normative messages regarding how families should be managed. In endowment disputes, rulings that regulate asset management do not merely resolve conflicts among managers but also serve as a reminder that endowment trusts must not be treated as personal property (Wicaksono, 2020).

Mediation in religious courts occupies a unique position as a bridge between dispute resolution based on agreement and the adjudicative authority of judges (Martin et al., 2020). In family cases, mediation offers a safe space for parties to express complaints, expectations, and limits of tolerance without being confined to the formal language of the courtroom. Simply put, mediation provides an opportunity for all parties to feel heard and respected, thereby reducing the potential for long-term conflict (Issalillah & Khayru, 2021; Safira et al., 2021). Mediators can help parties view issues from a broader perspective, such as the interests of children that require long-term cooperation between parents. In inheritance disputes, mediation can guide heirs to realize that family fragmentation carries a high social cost, making compromise necessary in certain distributions as long as it does not violate legal principles. In endowment cases, mediation can encourage managers and heirs to revisit the intentions of the endower, so that conflicts of interest do not undermine the worship objectives inherent in the asset.

The role of mediation in religious courts emphasizes that family judicial institutions ideally prioritize relationship restoration rather than merely formal dispute resolution (Bano, 2017). Judicial rulings are binding and can create a sharp sense of winners and losers. In contrast, peaceful agreements resulting from mediation provide space for parties to feel valued, as their aspirations are heard and accommodated. In other words, peaceful resolution supports the mental and emotional health of family members, especially children (Safira, 2021). In divorce cases, for example, mediation can produce agreements regarding joint custody, visitation schedules, and child support arranged by the parents themselves. Such agreements are more likely to be adhered to because they arise from conscious commitment rather than merely court orders. Here, religious courts demonstrate their role as facilitators of reconciliation in line with religious teachings on the importance of maintaining kinship and respecting family bonds.

However, mediation is not a complete substitute for the judicial process but rather a complement integrated into procedural law (Singer, 2018). When mediation fails to reach an agreement, litigation remains necessary to provide legal certainty. In general, this approach demonstrates a balance between peaceful efforts and the formal legal certainty required by society (Rojak et al., 2021). In this situation, the mediation experience can serve as a basis for judges to understand the dynamics of the parties' relationships. Information regarding peaceful efforts, the attitudes of each party, and the main issues under debate provides a fuller picture of the dispute being examined. Thus, the presence of mediation does not diminish the authority of the court but enriches the judge's understanding in rendering decisions.

In marriage cases, the role of religious courts is particularly prominent during the assessment of divorce reasons. Although divorce is recognized as a right, the court has the duty to ensure that the decision is not the result of coercion or a momentary misunderstanding. The court can facilitate reconciliation efforts, scrutinize evidence of disputes, and assess whether there is violence or serious violations of obligations that hinder the continuation of the household. This is important for protecting the rights of vulnerable parties, especially children and wives (Hariyani, Safira, & Wahyuni, 2021; Issalillah & Khayru, 2021). If divorce is unavoidable, the court must carefully regulate its legal consequences, including the status of children, maintenance rights, and division of joint property. This process

positions religious courts as guardians of order in changing family status, so that separation does not result in neglect of vulnerable parties (Broyde, 2015; Htun & Weldon, 2011). Thus, the role of the court is not only formal legal but also social and humanitarian.

In the realm of inheritance, religious courts play a role in emphasizing that the death of an individual should not mark the beginning of a new dispute but rather a moment to fulfill predetermined rights (Greenberg-Kobrin, 2013). The division of inheritance often presents a tension between the desire to retain property under the control of certain parties and the obligation to allocate shares to other heirs (Izuhara & Köppe, 2019). In general, the presence of the court is expected to maintain a balance between individual rights and the collective interests of the family (Hariani, Aaliyah, & Issalillah, 2021). The court examines the legitimacy of heirs, evaluates testamentary statements, and determines shares according to religious law principles. In situations where the family disputes the value or form of the division, the court can guide towards a solution that considers the continuity of family enterprises as well as the needs of individual heirs. Thus, religious courts uphold distributive justice that is recognized as legitimate by the parties because it is based on sources they believe in.

In endowment disputes, religious courts act as guardians of the sanctity of the trust attached to assets set aside for worship and social purposes (Sadique et al., 2016). Issues may arise regarding the appointment of nadzir, the transfer of utilization forms, or suspicions of asset misuse. The court must trace the initial pledge, understand the endower's intentions, and assess whether the ongoing management aligns with those purposes. Simply put, this illustrates how legal institutions can protect public interests and the social values inherent in endowed assets (Mahmudah, 2021; Mardikaningsih & Hariani, 2021). Decisions made not only resolve conflicts among parties but also provide new direction for endowment management to return to the proper course. Thus, religious courts ensure that endowments do not become sources of personal profit that disregard the common good.

From an institutional perspective, religious courts also perform an educational function through the construction of legal reasoning in each decision issued. Court rulings not only resolve individual disputes but also serve as a medium for social learning regarding normative standards of family life (Friedman, 1975). In other words, the community can learn from

court decisions about rights, obligations, and responsibilities within the family (Suwito et al., 2021; Hariani, Safira, & Wahyuni, 2021). Legal considerations explaining spousal duties, children's rights, inheritance distribution principles, and endowment management serve to gradually build public legal awareness. In legal culture theory, this process demonstrates that judicial institutions help shape legal culture through the practice of interpreting and communicating rulings to the public (Cotterrell, 1992). The clearer and more communicative the legal reasoning conveyed by judges, the greater the contribution of religious courts in improving family legal literacy and encouraging society to understand the norms that should guide everyday family relations.

Religious courts also serve as a forum for articulating gender justice values within family law (Korteweg & Selby, 2012). In cases involving maintenance, wives' rights, and daughters' inheritance rights, judges face the demand to interpret religious norms while considering evolving social realities. In general, legal institutions are also expected to be sensitive to the vulnerabilities and rights of women and children (Hariani, Aaliyah, & Issalillah, 2021; Safira et al., 2021). Although bound by statutory texts and religious sources, judges have discretion in assessing evidence, determining maintenance amounts, or setting custody arrangements. Sensitivity to the vulnerability of certain parties, especially women and children, is one measure of how successfully religious courts respond to justice demands in contemporary families. Here, the institution does not merely perpetuate old patterns but engages in the process of renewing the understanding of family law.

In relation to religious and customary institutions outside the court, religious courts function as the formal apex of various dispute resolution efforts previously conducted at the family level, by community leaders, or local religious institutions (Solanki, 2011). Many family disputes go through internal deliberation and informal mediation before being brought to court. Simply put, this illustrates the importance of coordination between formal and informal institutions in ensuring family justice and harmony (Rojak et al., 2021). When a case reaches religious courts, it indicates that previous efforts have not resulted in an agreement acceptable to all parties. In such circumstances, the court assumes the role of providing a final decision enforceable with legal authority. This role shows that religious courts

operate within a network of social institutions jointly addressing family issues, with the advantage of issuing binding rulings.

From the perspective of social legitimacy, religious courts gain trust because they are seen as institutions that master both religious law and judicial procedures (Deinla, 2019). This trust becomes an important capital in encouraging parties to accept the decision, even when the outcome does not fully align with their initial wishes. In other words, public recognition of the court's authority also reflects the importance of social legitimacy in law enforcement (Warin, 2021). Decisions accompanied by understandable reasoning, references to religious teachings, and explanations of justice considerations are more easily accepted as final resolution. Here, it is evident that the authority of religious courts relies not only on coercive legal power but also on recognized scholarly and moral authority.

In the development of modern courts, religious courts face the demand to improve service quality without diminishing the religious spirit that underlies their authority. The use of information technology, simplification of procedures, and increased transparency of decisions are part of reform efforts (Ng et al., 2020). In general, this modernization must be balanced with attention to the social and psychological needs of families in dispute (Yıldız et al., 2021). However, these reforms must go hand in hand with strengthening judges' and court personnel's sensitivity to family values, confidentiality of sensitive cases, and respect for the dignity of the parties. In family disputes, rigid procedures without a human touch can exacerbate existing wounds. Therefore, religious courts are required to align modern professional standards with the empathetic values consistent with religious teachings.

From the perspective of peaceful dispute resolution, religious courts have the opportunity to develop a mediation model rooted in the long-standing tradition of deliberation within the community (Akhter et al., 2021). Mediation conducted in the court can take into account local wisdom, kinship structures, and the role of family elders, as long as it does not compromise the principles of confidentiality and mediator independence. In other words, an approach that respects local culture can strengthen the sense of justice and minimize recurring conflicts (Mardikaningsih, 2021; Mahmudah, 2021). Thus, religious courts can serve as a meeting space between formal procedures and deliberation traditions, producing forms of dispute resolution that are more in harmony with societal customs. The

development of such a model emphasizes that religious courts are not closed to innovations that align with family justice values.

Overall, the role of religious courts in resolving family disputes encompasses juridical, moral, educational, and social dimensions. In the fields of marriage, inheritance, and endowment, religious courts are tasked with enforcing legal provisions deemed valid by the parties while simultaneously upholding family justice and welfare (Htun & Weldon, 2011). The judicial and mediation processes conducted within the courts demonstrate efforts to combine legal certainty with humane resolution. By acknowledging the complexity of family relationships and the emotional burdens of the parties, religious courts have the potential to become a dispute resolution arena that affirms human dignity and community integrity.

Conclusion

This study concludes that religious courts play a central role in resolving family disputes through their authority to adjudicate cases of marriage, inheritance, and endowment, judicial processes that consider family relationship dimensions, and the implementation of mediation as a peaceful resolution effort. Such authority enables religious courts to offer legal certainty aligned with religious teachings, while judicial processes and mediation provide space for justice considerations that take into account the interests of children, women, and other vulnerable parties. Religious courts function not merely as institutions that formalize the end of relationships or distribute assets but also as guardians of the moral trust inherent in family institutions and religious assets. Thus, their role in resolving family disputes cannot be narrowly understood as procedural execution but as an institution that integrates judicial functions with social and religious responsibilities.

The theoretical implication of this study suggests that research on religious courts needs to view authority, judicial processes, and mediation as an interconnected whole shaping the landscape of family law. Practically, the findings underscore the importance of strengthening the capacity of judges and mediators in handling family cases laden with emotional and religious dimensions, as well as the need to design procedures that provide broader space for quality mediation. Recommendations include developing conceptual guidelines that emphasize family court objectives as relationship

restoration to the greatest extent possible, protection of vulnerable parties, and safeguarding of endowment trusts, as well as conducting further studies to map various innovative practices in religious courts for integration into learning models for similar institutions.

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The Role of Religious Courts in Resolving Family Disputes Through Adjudication and Mediation

(Zahid, R. A., A. S. M. Fajar, D. Darmawan, & M. Y. M. El-Yunusi)

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